

## **Abstract:**

The subject of this paper is the issue of the pecuniary satisfaction as a legal instrument of protection of the personality in civil law. It is obvious that the main object of this work is the question of personal rights and its protection, which has its part in constitutional laws.

This paper also analyses the definition of law on protection of personality, an entitlements to sue and to be sued relating to protection of personality.

This essay is divided into five chapters with relatively separated thesis. In the first part the issue of conception of personality is analysed. What is personality in the terms of law? There are two different views - in first personality is identical with human existence, in second view personality is only role assigned to human by system of law.

This part of the work analyses especially socialistic view of person and its protection and iusnaturalistic conception of personality. Both of them have practical impacts on legislation in Czechoslovakia and in Czech Republic as well. Anthropological conception respects new proposal of Civil code, while socialistic view and its basics exerts influence up recent Civil Code nr. 40/1964.

Second part of this work analyses generally personality rights and sources of laws of personality and monistic and dualistic theory.

In third part of this work author presents insufficient legal regulation of legal terms of damage and harm. Recent jurisprudence disagrees with Czech inclusion. This terminological nonsense creates a lot of new misunderstanding. From this view author recommends as correct formulation, formulation incorporated in the Principles of European Tort Law: "Damage requires material or immaterial harm to a legally protected interest." Author also pointed on proof of damage and also on the issues of the causation in law.

Fourth part is concentrated on special instruments that can be used in the case of infringement of personal rights. Czech civil law system separates this special instrument into three relatively independent claims – dilatory claim, restitution claim and satisfaction claim. Satisfaction could be moral, but in some cases, when moral satisfaction is insufficient judge could decide that satisfaction would be pecuniary. In

this part author tries to analyse recent case law relating to disputes on protection of individuality. Work also study problems of postmortal protection of Personality.

Last and key part of this work deals with problem of pecuniary satisfaction. It concentrates on the problems of limitation periods, question of adequacy and other problems, which take their place in court's decisions.

As a *de lege ferenda* problem this paper also takes its consideration a conception of a new Civil Code proposal. Referents of this new code take their inspiration in the fundamental masterpiece of European tort doctrine – Principles of European Tort Law and also in Civil Code of Québec.

Will this new wording be problematic? What kind of questions would have to be solved in future? The time will show, but it is sure now that even the new wording has its own problems and some of them will be (in the case of accepting this code by legislative power) the object of jurisprudence debates.