

Abstract

The work discusses the institute of extreme emergency in the context of the provision of health services. Its goal is to find out whether the current legal regulation of extreme emergency is sufficient for the field of health law from a practical point of view. The work analyses individual conditions of extreme emergency from the point of view of civil law. For the better understanding, it includes frequent comparisons with other legal fields. In several places, there is a comparison with foreign legislation. The work also provides an insight into the circumstances excluding illegality, which are unknown for the Czech legal system.

The work is divided into four chapters. The first of them deals with the concept of illegality and the connection between civil law and criminal law regulations of circumstances excluding illegality. The second chapter presents the role of extreme emergency in the legal system. It focuses on the state of emergency in the Convention on Human Rights and Biomedicine, on the obligation to compensate for damage caused in an extreme emergency and on the apparent (putative) extreme emergency. For a closer understanding and determination of the correct approach of the courts to the extreme emergency, it analyses the decisions of the administrative courts in which health service providers appear as participants in the proceedings. The key part of the thesis is the third chapter, which presents extreme emergencies in the healthcare sector from the point of view of individual conditions in the Civil Code. For comparison, the principles arising from criminal law are also found in the relevant places of this chapter. The final chapter discusses the extreme emergency in the context of the COVID-19 disease pandemic and the scarcity of scarce resources. It also devotes his attention to the institute of conflict of obligations known mainly from German legislation.

The text of the thesis leads to the conclusion that the current legal regulation of extreme emergency is sufficient from a practical point of view only for textbook medical law cases. However, if an extremely critical situation arises, such as the COVID-19 disease pandemic, the legislator no longer offers health service providers sufficient legal support for their decision-making. This circumstance, same as questions regarding the interpretation of some conditions of extreme emergency, lead to legal uncertainty for doctors. They cannot know for sure whether in a specific situation the illegality of their act has been excluded, or whether they are threatened with the imposition of an obligation to pay damages for the chosen solution.