

## **Interference with bodily integrity**

### **Abstract**

This master's thesis deals with the interference with bodily integrity of a person, focusing mainly on interference with bodily integrity in the provision of health services. The main aim of this thesis is to theoretically analyse the issue of interference with bodily integrity in the light of current Czech legislation and relevant conclusions of judicial practice of Czech and European courts. The sub-objective is then to explain the basic theoretical concepts, introduce sources of law in the field of interference with integrity and to provide a possible *de lege ferenda* solution to the practical problem of the defendant health care provider's burden of proof.

The thesis is divided into six parts. The first part deals with human integrity and its protection in general. Specifically, it deals with the general aspects and general principles of the protection of the right to integrity. The second part identifies the basic theoretical concepts that will be used extensively in the context of the whole thesis, namely the notion of interference with integrity, the notion of the patient, the physician, and their relationship with each other. The third part introduces international, European and the Czech sources of legal regulation in the field of interference with bodily integrity and its related institutes. The fourth and the most extensive part of this thesis is dedicated to the analysis of the individual legal justification for interfering with a person's integrity. It is considered by the author to be crucial, as the author considers informed consent as the most important legal justification for intervention. The author defines the elements, the form and revocation of informed consent, the eligibility of its granting, as well as informed dissent and the institution of therapeutic privilege and previously expressed wishes of the patient. The fourth part also presents the legal exceptions to the informed consent requirement. More specifically, the provision of emergency care, emergency hospitalisation of patients with mental illness or intoxication and related restraints and detention. Finally, cases of compulsory toleration of interference with integrity of a person under the Public Health Protection Act, protective treatment and examination and expert examination in the context of legal proceedings. The fifth part is related to unjustified interference with bodily integrity during health care services and the claims of the injured patient arising therefrom. In the conclusion of the thesis, the author deals with the theoretical basis for answering the question and possible practical solution of the problem, which is the burden of proof of the defendant health care provider.

**Key words:**

personal integrity, interference with integrity, medical intervention, informed consent, burden of proof