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**Abstract:**

This article presents the discussion on the character of precontractual liability (so-called *culpa in contrahendo*) on grounds of the Code of Obligations of 1933. Since the beginning of this regulation being in force, the concepts of tortious and contractual character of this liability were being disputed. Also the issue of the compensation related to this liability was subject of discussions (the differences concerned in particular the admissibility of inclusion of the lost profit – *lucrum cessans* - within the scope of the so-called negative interest of the contract). The author systematized the views of the authors of that period regarding this contentious issue, indicating that the then model of discourse could inspire the contemporary science of private law, while reference to historic arguments could enrich and deepen the discussion on precontractual liability in Poland.