

Public Disciplinary Offense of Civil Servants

Abstract

This thesis deals with the sub-area of administrative punishment, specifically disciplinary punishment of civil servants. Well-established rules of disciplinary punishment should guarantee both the protection of the public subjective rights of the civil servant and the stabilization of the civil service system, as well as its depoliticization and encourage deeper professionalization. Therefore, this sub-area forms an important area of the administrative law.

The main goal of this thesis is to analyze a disciplinary offense and disciplinary proceedings of civil servants in a broader context and to analyze principles applied in this area. This thesis critically analyzes the individual parts of the researched area and answers several research questions.

First, the author defines the basics of the topic, summarizes the law and provides the historical frame of disciplinary punishment of civil servants. He then examines whether the decision to take a disciplinary offense on a civil servant is a decision on a criminal charge within the meaning of Article 6 of the European Convention on Human Rights. He concludes that it is not and bases multiple findings on this conclusion. Subsequently, the substantive-law and procedural-law parts follow. In the last chapter, the author deals with the possibilities of judicial review of disciplinary decisions regarding civil servants and of the reprimand imposed for minor deficiencies in the civil service. At the end of each chapter, the author summarizes the answers to his research questions.

At the conclusion of his thesis, the author expresses the opinion that the regulation of disciplinary punishment of civil servants is relatively complex, yet clear. Of course, it shows individual shortcomings. Most of these shortcomings can be bridged by detailed and relatively complex interpretative methods; however, some of these are best to be dealt with by the amendment of the law. The author points out that the Civil Servant Discipline Law is on one hand a subsystem of “administrative criminal law”, but on the other hand it is a regulation of work relations within its own system, i.e. a system containing elements of "labor" law. Given the mixed nature of Civil Servant Discipline Law, it is therefore necessary to be careful in adopting concepts from administrative-offense law, which is, unlike disciplinary law, a criminal law in broader sense. Thus, not all institutes of administrative-offense law can be transposed into disciplinary law as they stand.

Keywords: civil servant, disciplinary offense, disciplinary proceedings