

The impact of the political question doctrine on decision-making of judges of the Constitutional Court of the Czech Republic

Abstract

The thesis deals with the influence of the political question doctrine on decisions of the Constitutional Court of the Czech Republic. It explains the meaning of the political question in the United States, describes what the possible Czech political questions could be and outlines reasons for judicial restraint in the cases lying on the boundary of law and politics.

The first part of the thesis briefly presents relations between constitutional law and the part of politics which is closely connected to the constitutional judiciary. This relationship is explained by a phenomenon called the judicialization of politics which describes the growing role of constitutional courts in solving political controversies and policy questions. Moreover, to better understand the impact of the political question doctrine on decision-making of Czech constitutional judges, the second part of the thesis deals with the origin and an establishment of this doctrine in the Supreme Court of the United States, and indicates its future development.

The third and fourth part of the thesis focuses on defining the Czech political question, its limits and also on its application by the Constitutional Court of the Czech Republic. The thesis analyses the influence of the American doctrine primarily using case law of the Czech Constitutional Court from the years 1993–2021 and also interviews with current and former constitutional judges.

The thesis concludes that there is no doubt that the influence of the U. S. political question doctrine on the Czech Constitutional Court is there and it defines thematic areas of case law which relate to the possible Czech political questions.

Keywords

political question doctrine, Constitutional Court of the Czech Republic, constitutional review