

# **The position of the Constitutional Court in the system of separation of powers**

## **Abstract**

The thesis deals with defining the position of the Constitutional Court in the system of separation of powers in the Czech Republic. In order to understand the role of the Constitutional Court, it is important to understand the historical context, therefore the first part of the thesis deals with the development and concepts of constitutionalism and constitutional justice. In this part, the thesis will focus on important thinkers who have influenced the way of thinking about the modern state and the separation of powers. Subsequently, constitutional justice is concentrated and diffused.

The second chapter deals with the development of the Constitutional Judiciary in Bohemia, from the Habsburg Monarchy, through the period in Czechoslovakia in 1918–1938, then the period from 1945–1989 and finally the Constitutional Court which was established in 1991.

The third chapter will focus on the Constitutional Court of the Czech Republic, its establishment and legal regulation, the characteristics of the court as an institution, the function of a judge of the Constitutional Court, the specifics and individual types of proceedings before the Constitutional Court and the manner and binding nature of the Constitutional Court's decisions.

In chapter four, the thesis starts with a general description of the separation of powers and the reflection of the separation of powers in the law of the Czech Republic. It then describes the role of the Constitutional Court in the system of the separation of powers, defines its relationship to other components of the separation of powers, and demonstrates on selected rulings of the Constitutional Court both the relationship of the Constitutional Court to the system of the separation of powers and how it perceives the separation of powers, what its position in it is, as well as its transformation over time. The thesis concludes with an assessment of judicial activism, first by defining the concepts of judicial activism and judicial restraint in general terms, then in relation to the Constitutional Court, by mentioning the trend of the Constitutional Court's decision-making on the analysis of the control of the norms' constitutionality and the control of the court decisions' constitutionality, as

well as its position and perception of the issue of judicialization of politics and the possible reasons that may lead to judicialization.

**Key words: constitutional court, separation of powers, judicial power**