

# Abstract

## United States Supreme Court case law on campaign finance

The diploma thesis deals with the development of US Supreme Court case law on the issue of electoral campaign finance while paying special attention to the question of the constitutionality of expenditure and contribution limits. Its main goal is to provide a comprehensive analysis of these cases to demonstrate how regulation of campaign finance works there, which is considerably different from systems found not only in the Czech Republic but also in Europe. At the same time, the author focuses primarily on providing insight into the more recent part of American case law, which has significantly loosened the whole regulatory system, especially regarding the financial participation of legal entities in electoral campaigns.

The author divides the work into four parts. In the first part, the reader is introduced to the basic institutes and concepts that relate to the American campaign finance law and then compares them with their Czech counterparts in order to facilitate the understanding of the following three parts, which already cover the concrete cases. In particular, it analyzes various concepts of corruption. This part also deals with *de lege ferenda* issues, i.e., the effectiveness of the financial limits imposed on candidates that run for office, their impact on the competitiveness of elections, and the value-based approaches that lead to their adoption, respectively, against them, and how these approaches manifest themselves among the members of the US Supreme Court.

The second part provides a detailed analysis of the famous Buckley v. Valeo ruling from the 1970s, which struck down expenditure limits as unconstitutional, with the dissents of individual judges included. In this part, the author points out the problematic segments of this decision and criticizes some of the, in his opinion, erroneous assumptions on which this precedent is based, while demonstrating them with examples from real American politics.

The third and most important part is then devoted to the question of the role of legal entities in the system of American campaign finance and the developments that preceded the Citizens United ruling in 2010, in which the US Supreme Court struck down all the financial restrictions on these entities. Specifically, the decisions addressed here are First National Bank of Boston v. Bellotti (1978), FEC v. Massachusetts Citizens for Life (1986), Austin v. Michigan Chamber of Commerce (1990), McConnell v. FEC (2003), FEC v. Wisconsin Right to Life

(2007), and *SpeechNow.org v. FEC* (2010). This part also deals with the specifically American issue of so-called "issue ads". Then the author grants a special space to the analysis of the *Citizens United* decision while emphasizing and criticizing the problematic aspects of this ruling, which make it highly controversial. The following separate sub-chapter describes the practical consequences that this decision had for the world of American electoral campaigns, which primarily concern so-called "super PACs", which enable the flow of almost unlimited amounts of money into these campaigns and do it in a highly non-transparent way.

The final fourth part is then focused on the analysis of the American phenomenon of *soft money*, which has made it possible to massively circumvent the federal contribution limits since the end of the last century. The author describes the problems with corruption that this phenomenon helped spread to the highest levels of American politics and its subsequent suppression with the adoption of the so-called BCRA Act by the US Congress in 2003. He also describes the latter return of its phenomenon in a different form after the ruling *McCutcheon v. FEC* from 2014, which abolished aggregate contribution limits and enabled national parties to continue in similar practices.

The author concludes that the United States is an example of how campaign finance regulations cannot work effectively if the aforementioned spending limits are absent. The thesis emphasizes the importance this type of limit has for the whole system of regulation and underlines the significance of the limits on campaign expenditures made by third persons, because, without them, other financial limits can be easily circumvented. The author also sees the contribution of this thesis in the fact that the provided description of the American system can be used to demonstrate the role that corporate money can have in campaign finance, and he thinks that some of the concepts formulated in American jurisprudence can be inspiring even for the Czech Republic and can also be transferred to domestic discussion.

**Key words:** [*Americans for Prosperity Foundation v. Bonta*, BCRA, *Buckley v. Valeo*, *Citizens United v. FEC*, campaign finance, electioneering communications, elections, express advocacy, financial limits, *FEC v. Massachusetts Citizens for Life*, *FEC v. Wisconsin Right to Life*, *First National Bank of Boston v. Bellotti*, issue ads, legal entity, *McConnell v. FEC*, *McCutcheon v. FEC*, contribution limits, volby, volební kampaň, expenditure limits, Nejvyšší soud USA, USA, právnické osoby, soft money, *SpeechNow.org v. FEC*, super PAC]