

# Application of municipal and regional legislation in light of their right to self-government

## Abstract:

The topic of the thesis focuses on by-law regulations issued by local self-government units and especially the question of their application. According to Article 95 of the Constitution of the Czech Republic, the general courts are entitled to assess the compliance of a by-law with the law. In the thesis, the author deals with the question of how administrative authorities should proceed if they find themselves in a similar situation.

The author summarises the existing discussion on the binding of administrative authorities by sub-legislative regulations and extends it to considerations in relation to sub-legislative regulations issued by local authorities. He concludes that Article 95(1) of the Constitution of the Czech Republic must be interpreted as meaning that if the administrative authority finds that it is entitled to do so, it may not apply a by-law regulation of a local authority when issuing a decision. Account is taken of the international legal impact, in particular the impact on European Union law. The author compares the question with the case-law of the Czech Supreme Administrative Court, according to which an administrative authority is obliged to assess the compatibility of the national law it applies with European Union law. The author also elaborates on the implications of this case law for the topic at hand.

Last but not least, the thesis outlines *de lege ferenda* considerations on how to deal with a situation in which the state would cause and subsequently compensate for damages caused by an illegal legal regulation of a local self-government unit, or its application. As a possible solution, the possibility of extending the material scope of the Czech Act on State Liability for Damage so as to allow for the possibility of regressive reimbursement in such cases is presented.

However, the conclusions drawn should be seen as a non-standard solution, especially in cases where standard procedures for reviewing sub-legislative regulations of local governments cannot be used, which would be more protective of their right to self-government. These procedures are described by the author in the thesis and are

mainly supervision by the Ministry of the Interior of the Czech Republic, regional authorities or other central government bodies.

**Keywords:**

*secondary legislation; right to self-government; application of law*