

A comparison of Czech Administrative Procedure Code with the Administrative Procedure Codes of Swiss Confederation and the Fribourg Canton

Summary

This master thesis is dedicated to comparison of Czech Administrative Procedure Code with the Administrative Procedure Codes of Swiss Confederation and the Fribourg Canton at the occasion of the 10-year anniversary of the Code of Administrative Procedure. Since Swiss Codes also regulate proceedings before administrative courts, it treats also some aspects of the Czech judicial review (especially access to judicial protection via legal action). The study is based not only on laws, but also on jurisprudence and court's decisions.

The first part is focused on description and analysis of the Swiss administrative procedure laws and related topics: history of administrative procedure laws, brief description of public institutions. The second part compares contents of Czech and Swiss Codes and their main divergence – the Czech Code is more instructive than its Swiss counterparts, Swiss Codes are not general codification of all administrative. Then, we analyze selected legal issues related to administrative procedure: definitions and conception of participants in proceedings, different conception of review proceedings, Swiss administrative procedure is not always carried before two instances of administrative authorities (especially on the federal level), Czech and Swiss types of legal action in administrative law.

The conclusion is that the Swiss model may serve as an inspiration for a little de-formalization of the Czech administrative procedure. On the other hand, it is found good that the Czech administrative Code regulates not only decision making but also the other forms of administrative activities. The Swiss procedure in judicial review, which is inspired by the French model, is found less complicated than the Czech counterpart, which is derived from the German model.

Key words:

Czech administrative procedure – Swiss administrative procedure – Czech judicial review – Swiss judicial review – comparative law