

Generally binding regulations of municipalities for securing local issues of public order

Abstract

This master thesis deals with generally binding regulations of municipalities for securing local issues of public order in pursuance of finding out to what extent and quality the municipalities do use the authorisation for lawmaking in independent competence while regulating the activities that disrupt public order; and also in pursuance of finding out how the individual municipal councils base their decisions on the knowledge of the local environment. In the introductory part the essential terms for better understanding of the area are defined. There are terms as municipality, public order, public place and generally binding regulations, while the understanding of the imprecise legal concept of public order is compared to the interpretation in neighbouring countries. Furthermore, the history of municipal self-government from the year 1848 up to the present day is summarized while presenting its importance and focusing on municipal lawmaking in independent competence. Considering that the approach of the Constitutional Court to the enabling provision of Article 104, paragraph 3 of the Constitution of the Czech Republic has developed, this thesis also analyses this genesis that is nowadays important for the case law.

The following part deals with current legislation regarding the procedure of adopting generally binding regulation by the local government and also with the following possible judicial review by the Constitutional Court that uses the so-called four-step-test. The essential part for the subject is the one that concentrates on the individual areas of legislation that are most frequently regulated by municipalities. At the end the master thesis deals with the consequences of not carrying out the duties that the generally binding regulation sets. The final part consists of summarization and evaluation of generally binding regulations of the statutory city of Jihlava.

The statistical data of the Ministry of the Interior, the Department of Public Administration, Supervision and Control are integrated into the text. The municipalities send the approved and published generally binding regulations for preliminary control of legality to this department. This thesis has concluded that given the evolution of the case law of the Constitutional Court, the amendments and the dynamics of the local circumstances in various places, the municipalities make use of

the given possibility of passing the generally binding regulations for securing the issues of public order on relatively large scale and are simultaneously forced to adjust them according to present needs.

Key word: generally binding regulation, public order, municipal lawmaking