

## **Theoretical bases for the limitation of fundamental rights and freedoms in the Czech Republic**

In the Czech Republic, the conception of fundamental rights and the conditions for their limitations are the result of a specific interpretation of the Charter of Fundamental Rights and Freedoms by the Constitutional Court, which in turn reflects its own views on constitutional theory. Despite being presented almost dogmatically, the confrontation with foreign literature suggests that the so-called external theory of the Constitutional Court finds strong opponent in the so-called internal theory. Internal theory sheds doubts on such hallmarks of the Court's doctrine like the wide conception of fundamental rights, the principle of proportionality or the very existence of conflicts of constitutional values. In this thesis, it is argued that although the internal theory cannot substitute for the external theory at the moment, it represents an opportunity for the Constitutional Court to reassess its current position in order for it to better depict the aims of the constitution-maker, to respect the policies of the legislator and - above all - to take fundamental rights seriously.

In particular, it is claimed that the optimal model of the limitation of fundamental rights dully distinguishes between *definition* and *restriction* of fundamental rights. The process of definition is marked by the intermediate definitions, the constitutionally immanent definitions and by the derived constitutional norms. Restriction of rights, on the other hand, is only conceivable by, as well as prescribed for the acts of the legislator. In accordance with conditions for their limitations, the fundamental rights can either be absolute, unqualified or qualified. It is distinctive for all limiting conditions that they determine both the level of protection of a particular fundamental right and the use of either the proportionality test, or the reasonable basis test.

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