

ADMINISTRATIVE EXPULSION PROCEEDINGS

ABSTRACT

The diploma thesis entitled as "Administrative expulsion proceedings" deals with the institute of administrative expulsion, especially its procedural side. The thesis aims to define and analyse chosen aspects of administrative expulsion proceedings from their beginning to deciding on remedies against administrative expulsion decisions. Within these, the work focuses mainly on examining the issue of the proportionality of administrative expulsion in relation existing family or private life of the expelled alien. The work is divided into four chapters. The first chapter defines the fundamental terms and clarifies the institute of administrative expulsion. First, the concept of expulsion is generally defined and then, a distinction between administrative expulsion and the penalty of expulsion is made. Furthermore, the term alien is defined because only alien can be subject of expulsion. Last but not least, the first chapter defines the concepts of family and private life, which are dealt with in detail in the third chapter. Finally, the first chapter presents national, EU and international legislation on administrative expulsion and on the fundamental right to respect for family and private life. The second chapter deals with selected aspects of administrative expulsion proceedings under the Act on the Residence of Foreign Nationals in the Czech Republic. First, it deals with main subjects of the proceedings which are the Police of the Czech Republic - as an administrative body - and a foreigner as a participant in the proceedings. Another subject is the Ministry of the Interior which, during the administrative expulsion proceedings, has a status of a concerned authority. Furthermore, each phase of the administrative expulsion procedure and selected actions of each subject of the proceedings are described. This chapter ends with a treatise on issuance of a decision on administrative expulsion. The third chapter deals with family and private life as one of the obstacles to administrative expulsion. This chapter is based on the analysis of the case law of the European Court of Human Rights on the problem of the proportionality of expulsion in relation to family and private life of the alien. First, a five-level proportionality test, applied by the European Court of Human Rights in violation of not only Article 8 of the Convention, is presented. Furthermore, the work deals with relevant criteria for assessing the need for expulsion and, last but not least, with expulsion of long-term foreigners. The fourth and final chapter briefly describes the national mechanism for reviewing administrative expulsion decisions - first on appeal and then on review in the administrative judiciary. The aim of this chapter is to find an answer to the question of whether the Czech legal system provides aliens with effective

means of protection against expulsion within the meaning of Article 13 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Key words:

Administrative expulsion

Administrative proceedings

Family and private life