

Relations between courts and public administration in statutory construction

Abstract

Judicial review of administrative decisions (and statutory construction contained in them) may use divergent standards (strictness). The classical continental concept of administrative justice follows from the notion that courts answer questions of law independently of the administrative body. The goal of the thesis is to cast doubt on this concept and to define situations where it can be considered that courts could be deferential towards the public administration, i.e. leave certain space to the administration for its own interpretation, which the court would accept even though the court itself might not see the interpretation as the best one.

The comparative part of the thesis shows that such an approach of administrative courts regarding interpretation made by public administration is not totally rare. That is mainly the case of the United States of America, where in the instance of ambiguous statutes or secondary legislation, the interpretation made by the agency charged with administering the law is rewarded with deference if such interpretation is at least permissible.

Czech administrative courts (and the Constitutional Court) also often concede that there is a plurality of equally convincing legal interpretations. In such cases, the case law reasons that the principle in dubio pro libertate, under which it is necessary to use the interpretation more favorable to the individual concerned, must prevail. However, the thesis shows that applicability of the principle is questionable in some situations, for reasons of unclear constitutional ground or practical problems. It is mainly the issue of „triangular relations“, where applying the principle in dubio pro libertate may lead to disadvantaging another individual.

Courts should reflect that there is a greater variety of double interpretation cases, and decide in favor of the public administration when the principle in dubio pro libertate is not applicable. However, in the interest of uniform administrative practice, not every interpretation of an administrative body in each case should get deference, but only that one expressed in a statement made by the central governmental authority which administers the law in question.

Keywords: judicial deference, administrative practice, statutory construction