

Abstract

Human Rights of Persons with Disabilities

The thesis deals with the current development of human rights of persons with disabilities from the perspective of constitutional law. The work first maps the historical changes of the legal status of persons with disabilities - from antiquity to the tragic experience of denying human dignity in the first half of the 20th century. Furthermore, the thesis shows the development of the human rights of persons with disabilities in the second half of the 20th century. A key driver of this process is the value of human dignity, which, following the adoption of the Universal Declaration of Human Rights, has become the main starting point for the protection of human rights (not only) persons with disabilities.

The changes in the concept of human rights of people with disabilities are related to the shift from the medical to the social concept of disability, on the basis of which the UN Convention on the Rights of Persons with Disabilities (CRPD) was adopted in 2006. This convention embodies a new approach to human rights of persons with disabilities, who should no longer be subject only to charity and social security regulations, but above all they should be recognized as they are – as an equal legal subjects and full members of the society. The Czech Republic is a contracting party to the CRPD and is bound by it; the obligations arising from the CRPD are gradually penetrating Czech constitutional law, through various mechanisms, which the thesis describes in detail. It is primarily the operation of the CRPD through the legislative activity and case law of the Constitutional Court, both directly on the basis of the text of the Convention, but also through the accompanying soft law apparatus. The obligations arising from the CRPD are also indirectly reflected in the case law of the European Court of Human Rights (ECtHR) and the law of the European Union, which is also a party to this Convention.

The thesis identifies a number of areas in which Czech constitutional law does not comply with the obligations arising from either the CRPD or the case law of the ECtHR concerning persons with disabilities. The author demonstrates the ongoing and outlines possible future development of human rights of persons with disabilities along with potential consequences in three areas: restricting legal capacity of persons with disabilities, right to access information and right to live independently and to participate in the society.