

The subsidy law in the Czech Republic and the selected issues of granting subsidies in the Czech legislation

Abstract

The aim of this rigorous thesis is to describe the current state of subsidy law in the Czech Republic, to point out the risk points of the subsidy regulation, to define some problems occurring during the granting of subsidies and to propose possible solutions.

The thesis is divided into two thematic units. The first one provides an overview of the Czech subsidy legislation and characters of the subsidy law, while the second part deals with selected problems of granting subsidies, formulates a desirable way of granting subsidies and proposes possible solutions to problematic application of subsidy legal norms.

The first part presents an introduction to the issue of Czech subsidy law. The opening chapter summarizes the most important milestones in the development of the subsidy legislation including some early legal norms from the Austro-Hungarian period up to recent history. Historical institutions of subsidy law are briefly explained and put into the historical context. Then the reasons for their adoption into the subsidy law are postulated and the problematic parts of the rules that later lead to changes are described. The chapter concludes with a characterisation of the effective subsidy regulations adopted in 2000 and their most important amendments as well as reasons for their adoption.

The following section provides a definition of subsidy law and describes its position in the system of law. All levels of sources of subsidy law are commented on, including statutory instruments, which represent an essential component of regulation pertaining to subsidies. The chapter is complemented by a basic overview of the relevant EU legislation and the form of granting subsidies from EU funds. The chapter also defines the basic institutions of subsidy law, related legal concepts and superordinate terms. The subsidy-law relations and its parties are explained in detail at the end of this section, as is the process of granting subsidies.

The last part introducing the second thematic section of the rigorous thesis focuses on selected problematic aspects of granting subsidies and proposes and examines solutions that could prevent the negative impact of problematic parts of legislation. In all the chapters of the final part, the problems of granting of subsidies are assessed from the economic point of view, including the necessity of economical, effective and efficient allocation of subsidy funds, and at the same time from the legal point of view requiring the fulfilment of procedural and substantive requirements for granting subsidies.

Violation of the 3E principles in the allocation of subsidy funds is considered as a serious problem in the granting of subsidies. The problematic sections related to public finances and public budget expenditures, including among other subsidies, are discussed. In particular, inappropriate decisions on the conditions of granting subsidies may cause problems, which negatively affects the market balance and the economy of the subsidy. Another identified problem is the failure to comply with the obligations resulting from the principle of transparency, which may lead to commission of several criminal offenses. Problems may also arise in the preparation of subsidy documentation that completes the legal framework for the granting of subsidies and is binding to the parties of the subsidy-law relation. Unclear or insufficiently defined rules in the granting of subsidies may lead to improper allocation of subsidy funds or originally unapproved wrongful use of the subsidy. The thesis also comments on various problems including the conditions of access of the parties in the subsidy-law relation, the public and other institutions to the possibilities of supervising the granting of subsidies.

Keywords: subsidy law, problems associated with the granting of subsidies, granting of subsidies.