

The political context of the selection of the judges of the Constitutional Court of the Czech Republic

Abstract

The thesis deals with the political context of the selection of judges of the Constitutional Court of the Czech Republic. The research question is whether the Senate's rejection of the President's nominees is more a manifestation of political power or a corrective to the high moral and professional quality of the Constitutional Court judges. Along with this, the thesis examines whether it would be appropriate to change the current legal regulation of the selection of constitutional judges.

The first part of the thesis initially summarises the previous academic reflections on the topic, which mostly pointed out the inappropriateness of the possibility of reappointing constitutional judges, together with the linking of their terms of office to the president's, and the somewhat haphazard approach of senators to the assessment of candidates. Furthermore, this part of the thesis contains a definition of the research question consisting in a narrow conception of politics in the sense of policy.

The second to fifth parts of the thesis are devoted to the terms of office of individual presidents, with a review of their unsuccessful nominations to the Constitutional Court, although in the case of Václav Havel these are not included in the research because these were acts of the Chamber of Deputies provisionally exercising the powers of the Senate. The information from the parliamentary verbatim records is supplemented with observations from the media and the academic literature to capture the reasons for the non-approval of the nominees as objectively as possible.

The sixth part of the thesis evaluates the results of the research, and out of fifteen unsuccessful nominations, only in two cases does it talk about the manifestation of political power. The fact that both of these nominees were re-nominated constitutional judges confirms the inappropriateness of the possibility of re-nominating constitutional judges, as some senators explicitly punished them for their decisions, which is highly problematic from the perspective of separation of powers. The paper therefore concludes that it would be advisable to abolish the possibility of reappointment, optimally together with the extension of the mandate of constitutional judges to, for example, twelve years. As regards the inconsistency of the senators' approach to the assessment of nominations, in the first year of Petr Pavel's term of office the thesis observes a significant rise of criticism of some of the nominees, along with the new

phenomenon of conflicts of interest between senators from the ranks of advocates or other counsels and the nominated judges of the two Czech supreme courts.