

RESUMÉ

Petra Lomozová:

Principles of Criminal Justice in the Proceedings on Minor Offences

This paper addresses to basic principles of criminal proceedings as expressed in § 2 of the Czech Code of Criminal Procedure. It seeks to find out the scope in which these principles apply to the proceedings ruled by the Act on Minor Offences, which is part of Czech administrative law. The distinction between criminal offences and administrative offences has a long tradition in Czech and Austrian law. The criminal offences are essentially part of criminal law and underlie the jurisdiction of courts, while the proceedings on administrative offences, including the minor offences, are led by public authorities. However, this distinction doesn't rely upon firm and definite theoretical foundations and is managed differently in different European countries. That's why the Czech courts use to emphasize, that the basic principles, which apply to criminal proceedings, should also be applicable to proceedings on administrative offences.

The question is treated with regard to Article 6 of the European Convention on Human Rights. This Article guarantees the right to a fair hearing to everyone charged with a criminal offence. „Charge“ as well as „criminal offence“ have to be understood in their autonomous meaning which differ from their particular national definition. The protection of Article 6 would attract every offence which is criminal by its very nature or which would lead to punitive sanctions, i. e. also the minor offences. Three basic principles, applicable also to minor offences, are established by Article 6: (1) the right to an independent and impartial tribunal and the right to be tried within a reasonable time, (2) the presumption of innocence principle and (3) the minimum rights of defence. There are also other principles which the European Court derives from the fair process requirement.

The general part of this paper begins with a historical introduction to the distinction between criminal and minor offences, then it explains pursuant to which arguments the court can use the basic principles of criminal proceedings in the administrative law. It continues with basic principles in the meaning of a source of law and finally it discusses the right to an independent and impartial tribunal – as required by the Convention – in the perspective of Czech administrative justice.

98

The special part concerns with the particular basic principles, explains their meaning in Czech criminal proceedings, mentions related requirements of the Convention and the European Court and defines the meaning and the role of the particular principles in the administrative proceedings on minor offences.