Resumé

Legal status of the judges in the legal order of the Czech Republic

The purpose of my thesis is to analyse legal status of the judges in the legal order of the Czech Republic and to review actual questionable opinions on this theme. The reason for my research is my longtime interest in the function of judge.

The thesis is composed of two parts, each of them dealing with different aspects of status of judge. Part One deals with legal status of judges in the legal ordre of the Czech republic. This part is subdivided into five chapters. Chapter One characterises the status of judge in general purport.

Chapter Two analyses the legal requirements for becoming a judge. This chapter explains the selection procedure to be judicial candidates. The chapter refers to the legal status of judicial candidates in France and in the Netherlands. Then, it is focuses on appointment of judges in context of addition to age. By the amendment of Act No. 6/2002 Collection of Law the minimal age of judge is thirty years. The President Václav Klaus in 2005 refused to appoint the judicial candidates who have not been of this age.

Chapter Three examines discretions and duties of judges. The chapter consist of four subchapters. The first subchapter concentrates on problems resulting from the professional qualifications of judges and the judgement of Constitutional Court No. 349/2002 Coll. The second subchapter explores the judicial responsibility. It is devoted to the judicial ethics and ethical codex, to the disciplinary proceedings and to the criminal and civil responsibility. The section „The disciplinary responsibility“ illustrates the breaches of duties incubents upon judges. Next section characterises the Judicial Union of the Czech Republic, who is professional association of the judges in our country.

Chapter Four deals with the termination of judicial function. Following chapter refers to the Conception on the Judiciary Reform in 2008–2010 in view of the status of judge.

Part Two is subdivided into four chapters and examines the judicial independence. Chapter Six defines the judicial independence and next chapter is mentioning international documents conversant this problem. Chapter Eight expains the independence of judges. It is concentrates on the clash of the independence of judges
within situations of conflicts inside the society and the legal guarantees ensuring the independence of judges. Chapter Nine analyses the independence of courts and the state court administration in Czech Republic. The chapter describes the cause JUDr. Brožová. In this case, president Václav Klaus recall the Chief justice. Then it is addressed to the judicial autonomy.

Almost any chapter includes my opinions and conclusions. Their recapitulation is in the end like a recommendation de lege ferenda. The main aim of thesis is to prove true my initial hypothesis that misconducts of judges partakes of judicial system functioning. I suggest that legislation should to assure discretions of judges for the due course of law. In this case it is the Supreme council of Judiciary, which should to secure the rights of judges better than authority of state administration. The judiciary would become be equivalent to the authority of state administration.

To each of professional misconduct have to approach differently. It is necessary inquire into their reasons. The judge can’t influence duration of proces. Some judges be without self-reflection. The judge must be constructively, not formalistic.

Finally is important to say: „What will be judge, such will be the justice for public and for judges themselves.”

Keywords:
Judge. Responsibility. Independence

Klíčová slova:
Soudce. Odpovědnost. Nezávislost

References: