ABSTRACT

The purpose of my research is to analyse the territorial self-government in Japan and the Czech Republic from a comparative perspective and provide an outline of the main differences and similarities between the legal conception of local and regional self-government in these two countries. The thesis is composed of ten chapters, each of them dealing with some typical features of the Japanese self-government, such as the constitutional foundations, the personal and territorial dimension of Japanese prefectures and municipalities etc. While the odd chapters are mainly analytical, the even chapters focus on a more detailed comparison of the aforementioned legal issues with their respective equivalents in the Czech law.

The first two chapters deal with the question of the constitutional foundations of the territorial self-government in both countries, finding great similarities in both legal conceptions, the main difference being the express provision for direct election of mayors and governors in the Japanese one.

Subsequently, the author gives an overview and detailed analysis of the so called basic elements of the self-government, namely population, territory and legal personality including the right to self-government. While the fundamental features of them may overlap in both countries, differences arise in the scope of persons entitled to the status of a municipal (or regional or prefectural) citizen, in their rights resulting from this status, as well as in the process of possible territorial changes and the conditions under which these may happen, some of them being unique to Japan owing to the fact that it is an island country (e.g. creation of a new island in the sea, land reclamation etc.).

Next, the differences in the range of the competences of the local public bodies are explored. While the older Japanese system of the so-called „delegated functions“ finds its
similar equivalent in the Czech law, after the reform of the local-self government in Japan and the introduction of the distinction between „statutory entrusted functions“ and „local autonomy functions“ it became apparent that both legal conceptions started to drift away from each other. The obvious desire to strengthen the role of the territorial self-government in Japan and its practical realization are subject to a detailed analysis in the thesis.

The author then concentrates on the various types of the local public entities both in the Czech Republic and Japan, namely municipalities, towns, cities, statutory cities, the capital city and regions in the case of the former, and municipalities, towns, cities, designated cities, core cities, special cities, prefectures and their subclassification, special wards, local public cooperatives and property wards in case of the latter. Each subchapter describes how they differ from one another as well as from their relevant equivalents in the respective countries.

Finally the thesis addresses the issue of the inner organisation of the municipalities, regions and prefectures and explains the main differences thereof, which predominantly result from the Japanese conception of strict division between legislative and executive powers within the scope of the local self-government – an approach which was not followed by the Czech legislator.

Conclusions are drawn in the last chapter of the thesis. The author briefly summarizes the fundamental dissimilarities in the legal status of the local public bodies in both countries and expresses possible amendments to be made based on the findings of his research.