

Abstract

The main question of this thesis is how a constitutional review in a modern *Rechtsstaat* should look like.

In the general part we define basic principles of a modern *Rechtsstaat* and look for particular patterns of constitutional review which do not violate these principles. The leading ideas are the principle of legality, the principle of people sovereignty, the principle of rule of good law (protection of human rights) and deconcentration of power. Moreover, we describe the historic development of this phenomenon in England, in the United States of America, in Austria and in Czechoslovakia.

At the beginning of the general part we compare in an international analysis cardinal aspects of constitutional review in the world and we postulate theoretical models. The core of this thesis is a legal analysis of the constitutional review in the Czech Republic. At the end we consider an ideal model of constitutional review in a modern *Rechtsstaat*.

This thesis finds out that constitutional review in the world and especially in the Czech Republic is performed by courts. This situation violates above all the principle of the sovereignty of the people. A legislative act is an expression of *volonté générale* and must not be declared void by a body which is not elected by people and not responsible to anybody. In any case constitutional review should not be executed by a court.

In the last chapter we show that many other forms of constitutional review are substantially more democratic and correspond more to the remaining principles of a modern *Rechtsstaat*.