

Abstract

This thesis deals with legal argumentation and legal interpretation as an integral part of the process of the application of law. The aim of the thesis is not only to point out the present indisputable importance of legal argumentation and legal interpretation of law, but also to explore the problems related to the application of law while using different methods of interpretation at an intrastate level and as well as within the interpretation of the European law.

Nowadays, the importance of legal interpretation and legal argumentation in the process of application of law is increasing, because the law system generally suffers especially from hypertrophy of legal rules, inner incongruousness, and occurring gaps in law. In the context of the recodification of private law in the Czech Republic, it is possible to rightly expect growing importance of judicature, which will help to interpret new legal regulations. The thesis firstly focuses on the survey of general theoretical discourse of the process of the law application, legal interpretation, and subsequently also legal argumentation. Individual chapters of the thesis include judicial precedents that are related to the analysed dilemma, both on the domestic as well as European level. Considerable part of the thesis focuses on the analysis of the methods of legal interpretation and theories of legal argumentation. The penultimate chapter practically discusses the changes in the judicature over time. The final chapter could be possibly considered as the most important chapter of this thesis. This chapter outlines the negative phenomena, or more precisely the methodological problems of the application of law. In addition, the author implies a possible way of avoiding the aforementioned phenomena through effectively chosen methods of legal interpretation and chains of argumentation.

Also from the hermeneutics point of view, the legal discourse in the area of the process of application of law is very vivid. However, it is possible to conclude that at the time of the present deconstruction of the law system, as many theorists perceive this phenomenon, the importance of legal argumentation and legal interpretation within the application process consists in impingement upon the observance the rules of law of a democratic state.