

Abstract

The aim of this thesis is to analyse the issue of horizontal effect of human rights, i.e. whether and how they affect the fundamental rights and freedoms of individuals in private law relationships. With the development of society associated with expansion of the catalogue of human rights and with strengthening of their protection, we are witnessing infiltration of human rights into other legal areas than they were present in previously. This raises many questions about their application in such areas, especially questions about the holders of the obligations resulting from those rights.

The thesis is divided into three chapters. In the introductory chapter the author describes the theoretical basis of human rights, the concept, development, and especially their specific nature and function compared to conventional legal norms, which is relevant for subsequent correct understanding of their application in horizontal relationships, which is the theme of the second chapter of the thesis.

In the second chapter, the author focuses on the horizontal effect of human rights itself. The chapter describes the application of human rights in horizontal relationships, and then focuses on horizontal legal relationships and recipients of human rights as holders of the obligations resulting from those rights. The main content of the second chapter is the analysis of individual models of horizontal effect of human rights. In this context, the author discusses the four basic models, namely the direct application model, the indirect application model, the non-application model in which human rights do not operate in horizontal relationships and the judiciary model based on the doctrine of state action. The introduction of every model is always followed by an analysis of its pros and cons and then by examples of legal systems of the countries in which the model is applied.

After partial summary and evaluation of these models, in the third chapter the author addresses the case law of the Constitutional Court of the Czech Republic which contains an element of horizontal effect. In those decisions the author is trying to identify the approach of the Constitutional Court to the issue of the horizontal effect of human rights, to find out whether the Constitutional Court recognizes their horizontal application and if so, what the method for dealing with it is. The goal is to draw general conclusions for decision making on the horizontal effect in the Czech legal environment.

Finally, the author mentions the recent adoption of the new codification of private law and its potential implications for the horizontal effect of human rights.

The author concludes that the question whether human rights apply in private law

cannot be answered simply by yes or no. From the analysis of the models, it is clear that human rights can apply in horizontal relationships in many forms, or even not at all. At the same time it can be concluded that none of the models does represent an ideal and complex solution that would reflect the whole issue of the horizontal effect of human rights and deal with it sufficiently. As the Czech legal environment is concerned, the author concludes based on the analysis of the case law of the Constitutional Court on the issue of horizontal effect that human rights apply primarily in vertical relationships. In horizontal relationships these rights also apply, however they do so only indirectly through the interpretation and application of norms of sub-constitutional law. Thus, indirect horizontal effect of human rights in the Czech legal system can be described as an application of the values enshrined in the fundamental rights to private relationships, particularly vicariously through legal norms of sub-constitutional law. Given the relatively large emphasis on human rights in the new Civil Code, it can be assumed that, compared to the old Civil Code, the new Civil Code provides more space for the indirect horizontal effect of human rights, which have the possibility to apply more significantly also in private law relationships through explicitly stipulated constitutional interpretation, supported by value bases of the new Civil Code.