

Abstract

After the concept of human dignity has spread into a large number of constitutions from all over the world, detailed examination of this phenomenon is steadily gaining importance. This thesis finds three autonomous approaches to human dignity in constitutional law, namely a subjective human right, the source of human rights and an objective constitutional value. Each of these approaches is based on a particular historical view on human dignity. The key argument of this thesis states that the connection of the three aforementioned legitimate approaches leads to the creation of dangerous and undesirable hybrid forms of human dignity. These forms tend to be axiomatic, preventing from the rational legal argumentation as well as from the use of the proportionality principle. The implementation of the concept of human dignity in such an axiomatic way is an argumentative foul, unfortunately so frequently made by both judiciary and doctrines.

The thesis further focuses on the examination of the axiomatic human dignity phenomenon with respect to the Constitutional Court of the Czech Republic decision-making specifically. Using quantitative methods, it first comes to the conclusion that the problem of axiomatic human dignity-related argumentation does not only exist in the Constitutional Court's decision-making practise, but also that it is even on the increase over time. Simultaneously, the influences of the presence of human dignity-based axioms on the Constitutional Court's decision-making itself were investigated.

The results of the quantitative analysis demonstrate that the relation between the presence of axiomatic version of human dignity and the distribution of possible types of the Constitutional Court's decisions was statistically significant, which means that the influence of axiomatic human dignity concept on the Court's decision-making is highly probable. The second important outcome observed is the unifying effect of axiomatic human dignity concept on the decision-making of individual judges. From these results it can be deduced that even though the axiomatic version of human dignity influences the decision making of individual judges, the outcome of this influence tends to always be very similar.

The results of the quantitative research are further discussed and more deeply analysed through qualitative methods. This part of the research is focused on the investigation of possible reasons for using axiomatic argumentation, the examination of individual types of axiomatic human dignity and the exploration of impacts of using axiomatic human dignity on both the argumentation and the decisions of the Constitutional Court. Five general reasons for using

axiomatic argumentation were found, namely an attempt to make the argumentation more persuasive, an attempt to elevate the importance of the decision, an attempt to simplify the decision-making or its reasoning in hard cases, the adoption of axiomatic argumentation from the motion and finally bringing the axiom by mistake. As far as the impacts of axiomatic human dignity are concerned, the absolutization of specific arguments, deformed proportionality tests and aforementioned unifying effect on judges' decision-making can be emphasized.

In conclusion it has to be stated that the thesis has the potential to enhance jurisprudence in three important ways. First, it offers quite an unusual methodological approach, combining commonly used qualitative methods with more exact quantitative research, which makes it possible to reach both more objective and deeper understanding of the explored phenomenon. Second, it provides a new, more complex view on human dignity concept, based on yet quite uncommon functional approach, which is more appropriate for an abstract terminus, such as human dignity, than the traditional content-based approach. Finally, this thesis reveals a general and widely spread problem of axioms in legal argumentation, which requires further research.