

## **Název diplomové práce, abstrakt a klíčová slova v anglickém jazyce**

### **Title**

Constitutional Regulation of the State of Exception in a *Rechtsstaat*

### **Abstract**

This treatise focuses on extraordinary reactive legal instruments designed for crises resolution, which include in particular the state of exception and also the right to resistance. The latter differs from the former in that it cannot be invoked by public authorities under a *Rechtsstaat*, but only by citizens who are subject to their authority. The aim of this treatise is to thoroughly examine the concepts of the state of exception and the right to resistance and their relation and to answer the question of whether the corresponding institutions should be regulated in positive law or otherwise recognized under a *Rechtsstaat*. In the chapter on the state of exception, I inquire into the concepts of crisis and state of exception, present various typologies of this institution, outline controversies, confusions and problems associated with it, present possible responses of public authorities to exceptional harmful situations and assess their advantages and drawbacks. Following the conclusion that the state of exception ought to be regulated in positive law, I ask the question of how it should be codified and propose a two-level regulation, which combines enumerative states of exception with a general one. However, since even broad regulation of the state of exception cannot rule out the need for *ultra vires* or *contra legem* steps, I examine whether and under what conditions a suprapositive state of emergency can be vindicated and on what grounds. The following chapter on the right to resistance opens with a series of necessary terminological distinctions and describes how the right to resistance has evolved throughout history from antiquity to the present. In order to determine whether such a right should be recognized or even positively codified under a *Rechtsstaat*, I present and evaluate the main arguments that can be made against the right to resistance and in its favour. Overall, I argue that the right to resistance has its place in a *Rechtsstaat* as the outmost means of its protection.

### **Keywords**

State of exception, state of emergency, right to resistance, crisis, *Rechtsstaat*