

Resume in English

Name of the thesis: Abuse of law in Czech legislature and judicature

Abstract:

The submitted thesis analyses the development and the way of using, the principle of prohibition of abuse of law, in the field of Czech tax law. The thesis is dedicated not only to the development but also to the subsequent use of this principle in the judicature and legislation. Emphasis is placed on the judicature, which has undergone considerable progress. The thesis chapter defines fundamental terms and provides the essential explanation of them. This is needed for the further interpretation of the concept of the prohibition of abuse of law. Furthermore, the thesis deals with the regulations in force, which might be connected to this principle. Next topic in the thesis is the probable effect of this principle with other legal ideologies or institutes, such as legal certainty, legitimate expectation, and others. The subject matter of the thesis is dedicated to the study of the principle in present day application with a reflection to the common appearance in the individual fields of tax law and to the specifics of them. Considering the membership of the Czech Republic in the European Union, an analysis of the principle is made on the scope of the regulation within this context. The principle is used as an interpretative guideline of the European Union legal resources. Additionally, it deals with the conflict of this rule with the fundamental freedoms regulated on the primary level. An extensive part of the thesis is dedicated to the union judicature. Analysis of the principle, based on the development throughout the years, is provided and its subsequent usage in the judicature is shown. The degree of harmonisation is considered to make a clear argument in this thesis.

Conclusions: aforementioned in the thesis, are the results and solutions that proves sufficiently, the hypothesis stated by the author. The principle cannot be rigidly regulated on the grounds of preservation. Flexibility is needed in individual cases.

Key words:

Abuse of law, judicature