

Summary

What is Binding in a Judicial Decision? (Czech-English Comparison)

The aim of my thesis is to answer the question what is binding in judicial decision in Czech-English comparison. It thus deals with the issue of bindingness of the judicial decision and also, which part of the decision constitutes its binding element in the Czech law and in the law of England and Wales. The initial impulse was given by the fact that in judicial decisions of Czech highest courts there relatively often appear terms which originally come from common law systems. Therefore I try to compare the role which judicial decisions play in the civil law and common law in general and then more in detail in the Czech law and the law of England and Wales.

The thesis is composed of eight chapters. Introductory Chapter states reasons for the choice of topic, aims and the method of research. Chapter Two examines the role of judicial decisions in civil law and consists of two subchapters. Subchapter One deals with the history of the role of judicial decisions. Subchapter Two then considers the significance and the normative force of judicial decisions at the present time. Chapter Three on the other hand examines role of judicial decisions in English common law and also consists of two subchapters. Subchapter One concisely describes important factors and milestones in the history of role of judicial decisions and second then generally deals with the theory of precedent.

Chapter Four then compares findings from two previous chapters and mentions additional differences and similarities with their causes. Chapter Five deals with the question from the thesis title, thus what is binding in the judicial decision in Czech law. It consists of two subchapters. Subchapter One generally considers normative effects of judicial decisions in the Czech Republic. The second one then discusses the issue which part is binding. Chapter Six deals with the question from the title, but now in the law of England and Wales. It is again divided into two subchapters, where the first one examines, which decisions of English courts constitute the bind-

ing precedent and the second, which part of the decision is binding. Chapter Seven then concisely compares findings from two previous chapters.

Final chapter gives a brief summary of the thesis. It answers the question what is binding in the judicial decision, thereby accomplishes the aim stated in the introduction. It is also suggested here that, although the role of judicial decisions in both legal systems shows certain similarities, it would be likely a mistake equating the terminology of both systems, since remaining differences are substantial.