

Legal and Extralegal Factors in Argumentation and Decision-making of the Constitutional Court of the Czech Republic

Abstract

The thesis deals with the influence of legal and extralegal factors on the decision-making of the Constitutional Court of the Czech Republic. Particularly, it focuses on the questions of which preconditions for decision-making of the Constitutional Court are created by the external political and social environment, how this decision-making reflects the different attitudes and approaches of individual judges and how it is influenced by the composition of the judicial panels. The author first summarizes a wide range of factors whose influence on court decisions has been observed. These include not only the content of legislation, but also judicial philosophy, including activism and self-restraint, and various extralegal factors observed by the attitudinal and strategic model of judicial decision-making, but also by psychological and economic studies. Subsequently, the thesis focuses on the Constitutional Court of the Czech Republic. First, it deals with the preconditions for the influence of various factors on its decision-making and argues that the Constitutional Court can be considered a strong court due to its external conditions and its own decision-making activities. Then, with the help of statistical methods and analysis of the content of decisions, the work focuses on the presentation of Constitutional Court decisions through press releases, the role of the panel composition in deciding constitutional complaints, and the influence of different approaches of judges on panel decision-making and on voting in plenary cases. The author concludes that the diversity of individual judges and their attitudes and approaches plays a key role in court decision-making. In the panel decisions, this is reflected in the differences between the success rates of the constitutional complaints decided by different judges rapporteurs. Those differences are even more pronounced when focusing on the specific characteristics of the cases monitored. At the same time, the rapporteurs have a significantly dominant role in the panel decision-making compared to the other members of the panel. In plenary decision-making, the differences between judges are reflected in the growing number of split decisions. The work identifies a different degree of activism of judges as the dominant source of differences between individual judges. On the other hand, the ideological orientation of judges plays a significantly smaller role in this direction.