

The grounds for administrative expulsion

Abstract

This thesis focuses on an important instrument of migration policy, which is administrative expulsion, or more precisely the grounds for which a decision on administrative expulsion may be issued to a foreign national. The Act on the Residence of Foreign Nationals exhaustively covers the individual grounds for administrative expulsion, but their content is not always clear at first glance. Although administrative expulsion is a specific instrument of immigration control, and not a tool for punishing the foreign national for violation of the established obligations, it has a tangible impact on the foreign national's life.

The main purpose of this thesis is to define and characterize the individual facts of the grounds for administrative expulsion and to organize them according to common features systematically. For these purposes, it is important to examine the individual facts using the terminology of the doctrine of criminal law i.e., in particular the definition of the typical features of the facts - object, objective aspect, subject and subjective aspect. The characterisation should reflect the meaning and origin of the legal regulation of the specific facts, the identification of the essential features of the undesirable conduct of the foreign national that is necessary for the fulfilment of the ground for administrative expulsion, as well as the concepts that are defining for the facts. For most of the facts, the relevant case law is also mentioned.

The thesis aims to answer the following questions. Are the individual facts of the grounds for administrative expulsion defined in accordance with the requirements of EU law on which their definition in the Act on the Residence of Foreign Nationals is based?

Is it possible to speak of a material feature within the characteristics of the grounds for administrative expulsion as in the case of the doctrine of criminal law?

The introductory part of this thesis is devoted to a general definition of the concept of administrative expulsion and related concepts in order to provide a broader context. Particularly important is the distinction between administrative expulsion and the expulsion penalty imposed in criminal proceedings and the definition of the types of residence of foreign national,

as well as the individual elements of the facts according to which the characterization takes place.

The focus of this thesis is on the second and third parts, in which the individual grounds for administrative expulsion are specifically addressed according to the common features of their factual bases. For the purposes of this thesis, the criterion for the division into the second and third parts is whether the person to be expelled is a third-country national or an EU citizen or a family member of an EU citizen.

The fourth chapter will offer an insight into the overview table processing the number of cases of administrative expulsion decisions of foreign nationals according to specific legal grounds in the years 2017-2021.

Key words:

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Administrative proceedings