

Protection against delays in administrative proceedings and in proceedings before administrative courts

Abstract

The subject of this work are delays in administrative proceedings (where its legislation marks them as inaction) and before administrative courts. A delay is a state in which a certain act in the proceedings for some reason is not undertaken at the time within which it should be done. Reasons for delays may vary. They may be objective, which may consist of a number of cases that a person decides, whether it is due to insufficient staffing of the authorities in charge of the proceedings, or because of the deficiencies in the organization of work with that authorities, or may consist in the necessity of following the sequence of a process involving the necessity to perform an act that precedes the given operation. Reasons for delays can also be subjective, due to the lack of speed of work, either due to laziness or incompetence.

The Charter of Fundamental Rights and Freedoms speaks of the duty to discuss the matter without unnecessary delays. This obligation applies both to administrative proceedings and to proceedings at the administrative courts. Since this is a law regulation, which applies to constitutional order, other legal norms can not contain a rule that would be inconsistent with the principle of dealing with the case without needless delays, and all other legal norms must be interpreted in accordance with this principle. Thus, the law can not provide a longer period for a decision than that which corresponds to the principle of dealing with the case without unnecessary delays, but it may set a shorter period.

All the deadlines for dealing with a case would be meaningless if there were no means to defend against delays and which would be able to force the extending authority to act. Such medium in the case of administrative proceedings, is a protection against inaction under Section 80 of the Administrative Procedure Code, which is an accusation against the inaction of the administrative authorities and, in some cases, an action on protection against unlawful interference. In the case of proceedings on the administrative courts, only the proposal for determining the time limit for the execution of a procedural act can be used to eliminate delays.

In this work I deal both with the appropriate length of the procedure, respectively with the duration of the individual actions, and the means of protection against delays. In doing so, I evaluate the current legislation and the opinions contained in the professional literature and case law, I assess them from the point of view of suitability and possibly propose changes de lege ferenda.

Key words: delays, unaction, period