

Proceeding of Action against Decision of Administrative Authority

Abstract

The subject-matter of this dissertation thesis is the analysis of the legislation providing protection to public subjective rights in proceeding of action against the decision of an administrative body defined in Code of Administrative Justice, and assessment as to whether the protection provided to public subjective rights by the legislation is sufficient, including certain recommendations of possible changes. The basic method applied consists of the logical methods in combination with the normative approach, involving a detailed analysis and synthesis of the existing legislation and empirical examination of the offered protection in the problem areas on the basis of past judicial proceedings and also comparison of the discussed concepts with foreign legal regulations. The first model was the “traditional” German administrative justice legislation, which is the legislator’s usual source of inspiration. In relation to this issue, one must not also disregard the newly adopted legislation on administrative justice in Slovakia. Even though stemming from the historical roots of the judiciary of the First Czechoslovak Republic, the Slovak approach to a number of concepts is different. The administrative justice system by far exceeds the standard of the Czech system. In spite of that I managed in the examination performed to analyze the problem areas of the Czech administrative justice system which include in particular the change in the organization of the administrative justice system, the definition of a decision of an administrative body, duplication in administrative justice, special right to bring proceedings in administrative justice, scope of competence exceptions, concentration of counts in connection with the fact that administrative courts are bound by these counts, and the impossibility to seek the nullity of a decision after the expiry of the time limit for bringing the action. Even though the individual problem areas have their individual solutions, which I outline, it is apparent that the full protection of public subjective rights cannot work without reorganization of public administration as a whole. This should in particular involve the adoption of a personal liability of officials for the quality of their decision-making in connection with changes in the remuneration of the attorneys for the persons whose subjective rights have been infringed upon with view to the actual value of the violated rights. This will not only result in balancing the positions of participants, when the successful plaintiff will be compensated for effectively expended costs at an appropriate amount, but above all this will lead to prudence and moderation on the part of administrative bodies when issuing their definitive decisions. This motivation will lower the burden resting on

administrative courts, which will gradually create space for limiting the exceptions from the protection provided by administrative justice.

Keywords:

Administrative subject – matter jurisdiction, public subjective rights, administrative justice