

Decision, interference and inactivity of an administrative body in the Code of Administrative Justice and the choice of the type of action

Abstract

This thesis is focused on the concepts of *decision*, *interference* and *inactivity* which determine the material scope of the corresponding actions: action against decision (§ 65 of the Code of Administrative Justice), action against unlawful interference (§ 82 of the Code of Administrative Justice) and action due to inactivity (§ 79 of the Code of Administrative Justice). In this context, the overlaps between such actions arise as a result of problematic interpretation of these concepts: while *decision* often cannot be distinguished from *interference*, the type of *inactivity* and the subsequent choice of action depends on the nature of an act that is not performed. The thesis consists of five parts gradually acquainting with the problematic aspects of the structure of such actions. The introductory part is devoted to the historical context which focuses on a short period in the development of the regulations of administrative justice – between the years 1992 and 2002, i. e. the period immediately preceding the entry into force of the Code of Administrative Justice. The second part of this work is focused on the action against decision considering the concept of *decision* in the context of two basic approaches applied in the decision-making practice of courts, material and material-formal concept. In the third part, the concept of *decision* is contrasted with the concept of *interference* which is another form of public administration activity. In particular, the features the courts use to distinguish between these acts are followed and examined. The fourth part of the thesis deals with *inactivity*; firstly, it refers to the possible overlap of the action against decision and the action due to inactivity as in practice it is often not clear whether the administrative body really decided or it has just been inactive. Subsequently, the issue of choosing between the action due to inactivity and the action against unlawful interference is clarified. The thesis is concluded with the fifth part that focuses on selected approaches that promote a change in the legal regulation of these actions, and on the attitude of the courts to facilitation of the position of an applicant when choosing an action.

Key words: decision – interference – inactivity