

Action for protection against unlawful interference

Abstract

This thesis deals with the topic of protection against unlawful interference, instruction or coercion of an administrative authority pursuant to Section 85 et seq. of Act No. 150/2002 Coll., Administrative Procedure Code. The first chapter defines the key elements of a factual intervention as one of the forms of public administration activities, doing so primarily by theoretical comparison with an administrative decision. The chosen approach is primarily guided by the negative definition of factual intervention by an administrative authority contained in Section 85 of the Administrative Procedure Code, which contraposes it with an administrative decision. The first chapter also includes an in-depth analysis of three model examples representing atypical forms of public administration activity, against which, based on the conclusions of court practice, an action for interference may be brought. The second chapter discusses the position of an action for interference within the three basic types of administrative actions, and its relationship to an action against a decision and an action against the inaction of an administrative authority. It also does so on the basis of an analysis of the judicial interpretation of the concept of an administrative decision under Article 65 of the Administrative Procedure Code, which has undergone a not insignificant development over time. It also emphasises an important feature of an action for interference - its subsidiarity in relation to other legal remedies, both non-judicial and judicial. The third chapter aims at describing the procedural aspects of an interference action, and thus approaching its specific parameters from its filing to the moment of the court's decision, including remedies. The focus of this chapter is on the conditions of active and passive standing, the elements of the action itself, and the objective and subjective time limits for filing the action, compliance with which is a condition for the timeliness of the action. The third chapter then discusses the court's decision on the interference action, with an emphasis on whether or not the action will be heard on the merits. The third chapter concludes by setting out the possible extraordinary remedies against the decision on the application for judicial review, which are an appeal in cassation or an application for a retrial.

Key words

action against unlawful interference, factual interference, administrative justice