

SUMMARY MISDEMEANOUR PROCEDURE (DEVELOPMENT AND CURRENT REGULATION)

Misdemeanour procedure is a highly frequent kind of administrative activity which intervenes in legal relations of expressly determined physical entities. The object of this procedure is to decide the issue of guilt and possible penalty for committed deed, in which the misdemeanour is found as a kind of administrative offence. Misdemeanour procedure is envisaged as a part of discharge of public administration bound for rectification of obligors' behaviour and protection of public interest. This institute, being common in administrative practice, affects a considerable number of individuals. In accordance with the legal order, a great amount of administrative bodies is entitled to solve and sanction misdemeanours within the framework of various fields of human activities.

Misdemeanour procedure is designed as a specific sort of administrative proceedings built-up on the subsidiarity principle of the Act No. 500/2004 Sb. (Code of Administrative Procedure), which constitutes general rules about administrative proceedings. Deviations from the general provisions for administrative proceedings reasoned by the specificity of the object of the procedure are arranged in the Act No. 200/1990 Sb. (Misdemeanours Act) and in some other special acts.

The increasing number of perpetrated misdemeanours involves considerable administrative load on competent authorities. In the interest of quick and economical disposing of simple and less serious cases, the summary procedure has been established, which represents a simplified, budget-wise and less formal approach of competent authorities.

The purpose of the forementioned ways of dealing with misdemeanours is not only to tackle the increasing amount of delicts, but also to find more effective methods of solution to some sorts of misdemeanours in comparison to the common procedure as for educational effect on offenders.

In the Czech legal system, two traditional kinds of summary procedure are known: ticket procedure and mandate procedure. The general provisions for ticket procedure are inherent in sections 84 to 86 of the Misdemeanours Act, the Code of Administrative Procedure does not stipulate about ticket procedure by no means. Mandate procedure is arranged in section 87 of the Misdemeanours Act, which is a special enactment in relation to the mandate institute in section 150 of the Code of Administrative Procedure.

The summary procedure is drafted as a facultative way of misdemeanour hearing. Competent administrative body is allowed to approach this form of procedure if the conditions of its initiating are complied.

The principle of these procedures is to sanction some kinds of misdemeanours without conducting oral proceedings and bringing evidence. With regard to the character of the procedure, the band of sanctions which can be imposed in ticket and mandate procedure is restricted. In the summary procedure, not all procedural rights of the accused can be asserted. This fact is compensated for by the adjustment of special institutes applied only in the summary procedure. The initiating of ticket procedure is conditional on approval of the accused with this procedure; in case of mandate procedure, the accused can make use of a subsequent defence in form of a specific legal remedy – a protest.

The considerable radius of the forementioned category of public administration pursuit is one of the reasons why I have chosen the summary procedure as the subject of my thesis; another reason is the topicality of this issue in regard to the complex reform of the legal order in the sphere of criminal and administrative law in progress.

Besides the description of current legal regulation of the misdemeanour procedure and the development of the institute of the summary procedure, this thesis attempts to point out the deficiencies in the regulation and possible discrepancies in the application of its individual provisions.