

Selected Aspects of the Right to a Fair Administrative Process

The author being lawyer for the municipality of the city of Olomouc, Czech Republic deals with the administrative proceedings in the Czech Republic regarding their selected aspects. The Czech administrative proceedings themselves stand for a subtype of the administrative process, i. e. a qualified proceeding of public authorities while deciding on certain rights or duties of an expressly determined person which deal with a public interest. The aim of that proceedings shall be issuing an administrative decision. The administrative proceedings are controlled by procedural principles, which may differ according to their legal power. On one hand, the proceedings are influenced by constitutional principles as well as by principles of the international law, on the other hand by principles arising from The Code of Administrative Proceedings (2004) and other "simple" laws dealing the administrative proceedings. The intention of those principles is to ensure the right to a fair trial within the frame of the administrative proceedings. The proceedings shall be administered only according to a law-based procedure and by an appropriate authority. This request has been reflected by the Code of Administrative Proceedings and/or the special procedural laws, to which it is in a subsidiary relation.

The basic procedural principles are made more detailed by the The Code of Administrative Proceedings, as far as they are used for controlling the Czech administrative proceedings. The Code itself sets the positions, rights and duties of the administrative bodies and persons concerned, as well as the character of proceedings. Within the procedure, the right to be heard and pose statements has been regarded as the most important one besides the equity of participants. Issuing a decision in a reasonable time limit (and announce it in an appropriate way, obviously) is a very important duty of administrative bodies. They are therefore under a duty to act in law-based time limits and have certain instruments to assure the participants to act in the same way as well. On the other hand, there is plenty of instruments in the hands of participants and persons concerned to make the authority decide in a reasonable time limit, after an ingression of a superior administrative body. Participants of administrative proceedings can also pose an remedy against an administrative decision which they find as not regarding to law, adequate situation or simply their expectations.