

# Proceeding of Action against Decision of Administrative Authority

## Abstract

The aim of the dissertation is to analyse the legal regulation providing protection of public subjective rights through the procedure of an action against a decision of an administrative authority, regulated by the Administrative Procedure Code, and to assess whether the legal regulation provides sufficient legal protection of public subjective rights, with a recommendation for its modification. The thesis deals with the foundations of the administrative justice system and its principles by looking at the historical development of the procedure of an action against a decision of an administrative authority and then analysing specific institutes of the administrative justice system. The analysis of the organisation of the administrative justice system, which significantly contributes to both the quality and the speed of judicial protection provided by the court, cannot be overlooked. For this reason, the thesis also includes an analysis of the organisation and approach of the Supreme Administrative Court, which decides on cassation appeals against final decisions of courts adjudicating in the administrative justice system, and related issues, including the compensation of costs in the administrative justice system, not only from a *de lege lata* perspective, but also *de lege ferenda* proposals.

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