

Action for protection against unlawful interference

Abstract

This thesis which is called „The action against unlawful interference” deals with the procedure of judicial protection against unlawful interference, instruction or coercion of administrative authority and its effectiveness, particularly concerning the protection of public rights. The thesis is divided into seven chapters with an introduction and a conclusion.

The introduction sums up the aims of this work and briefly presents the content of each chapter. The first chapter describes the term interference as understood by the Code of Administrative Judicial Procedure and by legal theory. In this chapter, there is also a list of case law examples of unlawful interference. The second chapter contains a brief summary of the history of administrative judicial procedure in this region. The third chapter summarises the protection against unlawful interference legislation which is enacted in Article 82 and following of the Code of Administrative Judicial Procedure. The fourth chapter presents the problematic application of legal action against unlawful interference. The negative consequence of using the term administrative decision in the material sense and disunited judicial practise of the court’s obligation to instruct about the possible change of type of administrative action are described in detail. The fifth chapter formulates the primary aim of administrative judicial review which is the protection of public rights. In the sixth chapter, three case studies are presented. The negative consequences of current legislation for the plaintiff, especially his qualification duty was demonstrated in these case studies. The seventh chapter proposes three different amendments to current legislation. They are the ease of qualification, the shifting of qualification and the elimination of qualification. The French system was also presented as a source of inspiration in the matter of forming administrative actions. In the conclusion, all the particular conclusions of each respective chapter are repeated in their relation. As a last point, the evaluation of current legislation compared to its primary aim is provided.

Keywords

administrative justice, protection of public rights, factual interference, action for protection against unlawful interference