

Administrative action in the context of the imprisoned person's rights

Abstract

The thesis deals with the constitutionality of excluding judicial review of decisions to impose a disciplinary penalty of the convicted person serving an unconditional prison sentence. Firstly, it deals with the categorization of administrative action, in the context of the rights of convicted persons. It addresses the manner in which public subjective rights are interfered with and secondly, how the division of types of administrative actions influences their rights, in the light of current jurisprudential developments. It does so within the framework of assessing the specific environment of filing administrative actions by convicted persons serving a sentence, where it deals more with circumstances worthy of special consideration, such as the information deficit.

Furthermore, the imposition of disciplinary penalties in prisons is being discussed. It examines the regulation of the judicial review regime, depending on the type of disciplinary penalty imposed. The thesis analyses the jurisprudential development, concerning the specification of which decisions will be reviewable in the administrative judiciary, and which will not.

Regarding the above, the author asks the question whether the given regulation is constitutional, specifically in the case of excluding judicial review of the decision to impose a disciplinary penalty in the form of a reprimand. The case law has concluded that the imposition of a reprimand does not interfere with the rights of the convicted person in such a way that would validate the need for judicial review. The author seeks to detect if the judicial exemption for decisions on reprimands might affect convicted person's rights to fair trial and person's right to equal access to court. This might be considered in case of broader consequences of sentencing the reprimands, for example within requesting for conditional release from imprisonment. Not only does the thesis study law requirements, it brings focus to the practical consequences administrative law and process pose on the execution of imprisonment, and on the criminal process in general.

Finally, she attempts to infer whether other solutions would be sufficient for protecting the rights of the convicted person and does so in terms of the standard of Article 36(2) of the Charter.

Klíčová slova: administrative action, exclusion of judicial review, disciplinary penalty