

Abstract

The public administration itself is bound by applicable legal provisions. Therefore, in case of breach of individual rights stemming from the legal system of the Czech Republic, every person is guaranteed a strict legal procedure with corresponding legal mechanisms, which aim to remedy the status caused by unlawful action or inaction of the public administration.

The object of this dissertation focuses, in particular, on analysis of individual means of protection of rights in public administration (i.e. the issue of the protection of public subjective rights) and their mutual relationships between them at level of legal regulation *de lege lata*. However, certain space had to be dedicated also to the procedures of public administration in matters related to private subjective rights as even the public administration decides on certain matters of private law. As regards the protection of private rights by public administration I mentioned the dualism of the review of decisions of public bodies and certain examples of public administration deciding on matters of private subjective rights. Further I stressed the issue of civil liability related to the conduct of public administration, i.e. liability for damages caused by unlawful decision and unlawful procedure. Pursuant to the act on liability for damages a successful plaintiff is allowed to request damages and compensation for other harms under certain conditions set by law.

The most extensive part of the dissertation focuses on the issue of the protection of rights in the course of the administrative proceedings. The issue of procedural rights of the party to the proceedings and the means of remedy are in particular pointed out. The dissertation follows the course of legal doctrine and the adequate interpretation was focused firstly on remedy measures – i.e. appeal, remonstrance, complaints against executions and protest against injunction. As regards irregular means of remedy, the legal regulation of the renewal of proceedings initiated upon the proposal of the party to the proceedings is described.

Final part of this section deals with aspects of certain supervisory instruments that are not in the disposal of the party to the administrative proceedings and that protect the objective rights. Using these subsidiary instruments may, to a considerable extent, lead to achieving a remedy of individual rights of a person. As a consequence, legal means designed to provide protection of law in objective sense (that is control of public administration or administrative supervision) are discussed to a minimal extent. Within the general overview I mentioned also the possibility of the following judicial review as the administrative proceeding does not represent the “finish line” for the party to the proceedings. Courts provide protection of public subjective rights (i.e. administrative courts) and/or the protection of subjective private rights (i.e. civil courts) on which the administrative body issued the decision. In the course of following judicial protection by administrative courts the dissertation puts emphasis on the protection of rights via an action against the decision of a public body, an action against the inactivity of a public body, an action against an unlawful interference, instruction or coercion of a public body and an action for the protection of public interest. The possibility of irregular remedy measures is also included. In case of the other area, i.e. civil jurisprudence and private law proceeding regarding matters, on which the decision by public body was issued, I focused on the possibility of filing an action pursuant to the section 5 of Civil Court Proceedings Code. The court issues a judgement on the matter (if the particular case should be decided in a different manner). The judgement replaces the appealed decision of the public body in such an extent in which it is concerned by the court’s judgement. Otherwise, i.e. if the case was decided correctly by the public body, the action is dismissed by the court. Also within the civil jurisprudence certain remedy measures can be used if the law establishes such instruments.

Under legally established conditions, another possibility represents the filing a constitutional complaint usually against a final decision of the Supreme Administrative Court on a cassation complaint. Even such a situation cannot be excluded in which by filing a constitutional complaint a final decision of

an administrative body which is excluded from the judicial review by a special act is challenged directly. With regard to a constitutional complaint, it needs to be noted that together with a constitutional complaint against a decision of an administrative body or other intervention of an administrative body a motion to cancel a legal regulation or its particular provisions, application of which led to the fact which is dealt with by/in the constitutional complaint may be filed.

After exhausting all national remedy measures and under other conditions set by the European Convention on the Protection of Human Rights and Fundamental Freedoms, a complainant may file a complaint to the European Court of Human Rights against alleged violation of its particular provisions. Under certain legally set conditions the protection by the Court of Justice of the EU cannot be excluded within the EU law.

As regards the issue of other means of protection of rights I focused on the issue of the protection provided by the legal framework for information provision or the protection of personnel data. As regards the so called complementary protective measures I focused on complaints pursuant to the Article 175 of the Administrative Procedure Code and complaints submitted to the Public Defender of Rights.

Individual chapter was dedicated to administrative supervision, i.e. supervision of objective rights, and in particular the issue of complaints against the control findings pursuant to relatively new legal framework.

Concluding section is dedicated to summarizing remarks and suggestions *de lege ferenda* in the area of the protection of rights in the public administration.

It needs to be noted that the aim of this dissertation is not only to evaluate applicable legal framework of legal measures to protect rights, to determine problematic issues and recommend possible solutions, but also to provide a comprehensive overview of possible measures for the protection of rights in the public administration. Conclusions, based on this analysis, should confirm or reject the hypothesis that existing legislation provides individuals with adequate and in particular

effective legal instruments for protection of their rights within public administration and to provide an overview of their mutual relation on the level of legal framework *de lege lata*.