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Remedies against the silence of the administration (the administrative passivity)

According to the Administrative Procedure Code (§ 49), in simple cases, especially if it is possible to decide on the basis of documents submitted by the party to the proceedings, the administrative authority must decide without delay. In other cases, (unless a special law provides otherwise) the administrative authority is obliged to decide on the matter within 30 days from the commencement of the proceedings, and in particularly complex cases it must decide within 60 days at the latest. If, in view of the nature of the case, it is not possible to decide within that period, the appeal body may extend it accordingly. If the administrative authority cannot decide within 30 or 60 days, it is obliged to notify the party to the proceedings, stating the reasons.

As stated above, the administrative authorities must proceed without undue delay and comply with the statutory deadlines. If the administrative authority does not act within the statutory time limit or within a reasonable time limit (if the statutory time limit is not specified), the members of public or parties to the proceedings may use the provisions of several laws to protect themselves against the inaction of the administrative authorities.

Action by the appellate body against administrative inaction:

According to the Administrative Procedure Code (§ 50), if the nature of the case allows it and if redress cannot be achieved otherwise, the administrative authority, which would otherwise be entitled to decide on the appeal, will decide the case itself if the administrative authority of first instance competent to decide did not initiate proceedings, even though it was obliged to do so, or did not decide within the statutory time limit. Thus, if the administrative authority of first instance is inactive, the party to the proceedings may inform the appellate authority and ask it to act and decide.

Administrative action against the inaction of an administrative authority:

According to the Administrative Procedure Code, a party to the administrative proceeding may file an administrative action in court against the inactivity of the administrative authority.

Inaction of the administrative authority may relate to the obligation to issue a decision or measure, or to perform an act, or may relate to the obligation of the administrative authority to initiate administrative proceedings ex officio.

However, the condition for filing an administrative action in court is the prior filing of a complaint for inaction of an administrative authority pursuant to Act no. 9/2010 Coll. on complaints, or the prior filing of a complaint for inaction of an administrative authority pursuant to Act no. 153/2001 Coll. on the prosecutor's office. The party is required to file at least one of these remedies (complaints) before filing an administrative action in court. It is not necessary to file a repeated complaint.

An administrative action may also be brought by the "interested public" if a public authority is inactive in an administrative proceeding concerning environmental matters and at the same time the "interested public" has unsuccessfully filed the above-mentioned remedies (complaint, complaint to the prosecutor's office).

The law does not set any time limit for filing a lawsuit - a lawsuit can be filed for the entire duration of the inactivity of the administrative authority.

If the administrative court, after review, finds that the administrative authority has been unlawfully inactive, it will impose in the decision an obligation for the administrative authority to act and decide, issue a measure or perform an act, or initiate administrative proceedings ex officio within a period specified by the court. The issuance of this

court decision does not end the court proceedings and the inactive administrative authority is obliged to deliver to the administrative court within the specified time limit the issued administrative decision, measure or notification of the performed act, or of the commencement of administrative proceedings.

If the administrative authority does not terminate its inaction within the time limit specified by the court, the administrative court may impose a fine on it.

Penalties that the judiciary or any other independent and impartial body (information commissioner, ombudsman, prosecutor, etc.) can impose on the public administration for failing to provide effective access to justice

Penalties for the de-facto contempt of the court, e.g. when the judgment of the court is not followed and respected

If, after issuing a decision of the administrative court by which the court imposes an obligation on the administrative authority to act and decide (in the case of unlawful inaction of an administrative authority), the administrative authority does not terminate its inaction within the period specified by the court, the administrative court may impose a fine on it.

In case of damage caused by an unlawful decision of the public authority or another unlawful maladministration (including unlawful inaction) of the public authority, the victim can ask for redress before the civil court according to Act no. 514/2003 Coll. on liability for damage caused in the exercise of official authority.

Pursuant to Section 326 of the Criminal Code (Act No. 300/2005 Coll.), a public official may be punished for the criminal offence of abuse of power of a public official. This criminal offence is committed by a public official if he fails to fulfil an obligation arising from his jurisdiction or from a court decision (intending to cause harm to another or to obtain an unjustified advantage for himself or another). For committing this crime, a public official is punishable by imprisonment of two to five years. A public official will be punished by imprisonment of seven to twelve years if he fails to fulfil an obligation arising from his jurisdiction or from a court decision in order to prevent or impede another's exercise of his fundamental rights and freedoms.

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