

Decisions in Pre-trial Proceedings

Abstract

The rigorous thesis named Decisions in Pre-trial Proceedings deals with decision-making, acquiring the effects of decisions and their notification to the addressees in pre-trial proceedings. Pre-trial proceedings including shortened pre-trial proceedings is the first stage of criminal proceedings. Since we are at the time of preparations for the recodification of the Code of Criminal Procedure, the chapter on pre-trial proceedings defines the pre-trial proceedings *de lege ferenda*. A decision from the point of view of legal theory is an individual legal act and a product of the decision-making activity of the state. Decisions in pre-trial proceedings are issued by authorities involved in criminal proceedings - the police authority, the public prosecutor and the court - with a reminder that in exceptional cases other entities also make decisions in pre-trial proceedings, e.g. the President of the Republic. The problematic selection of the court and the public prosecutor's office in the preliminary proceedings that have territorial jurisdiction is analyzed in the case of David Rath. The Constitutional Court orders the interpretation of legal regulations that will not allow the supervising public prosecutor to choose, in principle, any court that is located in the territory of his jurisdiction to decide on the complaint.

The following are the prerequisites for issuing a decision. These are certain basic principles that must be followed when issuing a decision. These most important principles are the principle of officiality, including exceptions to this principle, the principle of proportionality and restraint, and the principle of speed with regard to the observance of time limits, the speed of conducting pre-trial proceedings and also with regard to the institution of the restoration of the time limit.

A resolution is the basic type of decision in pre-trial proceedings, which must first be resolved, then announced, made in writing and notified to its addressees. The notification of the decision is associated with the beginning of the time limit for filing an appeal. The Constitutional Court clearly favors the beginning of the time limit from the notification of the resolution in form of service of the copy of the resolution over its initial oral announcement, which enables the addressee to better decide whether to file a complaint against the resolution. In these cases, the resolution cannot come in force, as stipulated by

law. This contradiction should be resolved by the upcoming recodification of the the Code of Criminal Procedure.

Another type of decision are the decisions of their kind that include orders. The recodification will bring simplification by introducing a uniform legislation of the order. The measure is not a decision, it lacks requisites of a decision, even after the recodification it will still be a procedural, rather technical-organizational act.

Keywords: pre-trial proceedings, decision, Code of Criminal Procedure