

**CASE NOTE:  
REPUBLIC OF SLOVENIA**

CASE CITATION:  
**I Up 505/2003**

NAME AND LEVEL OF COURT:  
**The Supreme Court of the  
Republic of Slovenia**

DATE:  
**18 June 2003**

**The plaintiff filed an appeal against the decision of the dean through which the plaintiff's appeal against his exam grade was rejected.**

The procedural provisions of the *General Administrative Procedure Act*<sup>1</sup> are applicable if other acts do not prescribe otherwise. The appeal was filed in a written form. The plaintiff waited for the decision for some time, but no decision on his appeal was issued. The plaintiff subsequently wrote an e-mail message and sent it to the publicly announced e-mail address of the dean's office, and there was still no reply. The plaintiff finally filed an action under the provisions of the Administrative Dispute Procedure, which is regulated by the *Administrative Dispute Act*.<sup>2</sup> This Act is meant for the judicial protection of the rights of the individual against the decisions and actions of administrative bodies. The Administrative Dispute Act permits an individual to take action in circumstance where the individual has requested a decision from an administrative body, but no decision has been made within two months of the request. The individual must file a new request for a decision before applying under the provisions of the Administrative Dispute Act, and can make the application if they have not received a decision seven days after the request has been made.

The court of first instance decided that the second condition, that is the condition regarding the new request for issuing the decision, was not fulfilled by sending an e-mail message with the request for issuance of the decision to the e-mail address of the dean's office. However, on appeal, the Supreme Court of the Republic of Slovenia decided that the condition of filing a new request for issuing a decision was fulfilled by sending the e-mail message to the dean's office. The Supreme Court reasoned that the validity or value of proof of data in electronic form is not to be refused validity just because it is in electronic form, and that an electronic message is capable of being derived from the sender where: the sender himself sends it, if the person

authorized by the sender sends it, if it is sent by an informational system, programmed by the sender or programmed with the authorization of the sender so that it is automatically active, if the recipient used, in advance, agreed technology and a procedure of confirmation of the source of the message between the sender and recipient.

The Supreme Court explicitly stated that validity or value of proof of the electronic signature is not to be refused because it is in electronic form, or because it is not based on a qualified certificate or the certificate of an accredited certifier, or because it is not formed by means of 'safe' electronic signatures.

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<sup>1</sup> *Official Gazette of the Republic of Slovenia*, no. 80/1999, 70/2000, 52/2002, 73/2004, 119/2005, 105/2006.

<sup>2</sup> *Official Gazette of the Republic of Slovenia*, no.

50/1997 as amended. *The new Administrative Dispute Act (Official Gazette of the Republic of Slovenia, no. 105/2006) came into force on 1 January 2007.*