ANSWERS TO THE QUESTIONNAIRE ON
ADMINISTRATIVE JUSTICE IN EUROPE
(Report for Spain)

1. The administrative branch for justice began to develop in Spain starting in 1888 with the approval on September 13 of the Law for Administrative Litigation Legal System. This Law established a mixed system between the Anglo-Saxon legal model and French administrative model, aided by the creation of a formally separate Council of State Court, composed at once by government officials and judges, with deputy jurisdiction. This Law which gradually leaned towards the French model, did not allow for control of discretionary powers, and required violation of a subjective right in order to have access to the legal system. A few decades later, in 1956, thanks to approval of a new Law for the Administrative Litigation Legal System, the system became completely legal, this implying specialisation of magistrates. Within the new context, it was possible to dispute regulation standards and to have control of discretionary powers at the same time as the right to act was also extended to holders with legitimate interest. In 1998, approval of a new Law for the Administrative Litigation legal system based on the 1956 model but improved upon in certain concrete aspects, such as the mode for carrying out sentencing, standards applicable to provisional measures and the possibility that lack of administrative activity be a reason for appeal.

2. In Spain, "authorities are subjected to the Constitution and other legal system standards "(article 9.1 of the Constitution). In concrete terms, in the case of Public administration, the latter "serves general interests and acts objectively in accordance with principles for effectiveness, hierarchy, decentralization and coordination and is fully subjected to law" (article 103.1 of the Constitution). In this constitutional context, fundamental right to "effective protection of judges and courts in order to exert rights and protective interests, without the possibility of this protection being refused whatever the case may be" is also established (article 24 of the Constitution).

Consequently, Spanish administrative justice has the purpose of conciliation of two mandates: legality of activity of authorities and the guarantee of protection of rights and protective interests of citizens. On the basis of these principles, administrative justice established a system of legal review and control, under which terms existence of a questionable administrative decision is necessary, but this is reconciled with a high degree of subjective protection. Aiming to extension of legal protection to all holders of subjective rights and protective interests, the legal system admits as questionable administrative activity, lawful standards and acts (even assumed), administrative inactivity and assault and battery.

3. Spanish Public Administration is defined as a bureaucratic organisation endowed with a legal entity, dependent on Government and obliged to carry out the law and to serve general interest objectively. Public Administration is subjected to a branch of the legal order, administrative law. At the same time, Public Administration is not a unit reality, but must be also understood in its territorial dimension. Therefore, each Spanish autonomous Community, as a territorial entity of regional size, has an autonomous government with a corresponding autonomous public administration. The same situation reproduces itself, with nuance, in the local sphere. In any case, it is important not to confuse Public Administration with "public sector ", because the latter includes entities with legal status, created by various Public Administrations, but which can be of

civil nature and, therefore, are not subjected to administrative law and do not, consider themselves as an integral part of "Public administration", *stricto sensu.*

4. Spanish administrative law has recognized distinction between general and individual acts; between resolutive acts (final, which put an end to administrative procedure) and of preparatory acts; between favourable and unfavourable acts.

5. The control of administrative acts is exerted by jurisdictions incorporating judicial power, composed of judges and magistrates with a career in law.

6. Legal control of administrative acts is exerted by courts and judges of the administrative litigation legal system, namely, judges (provincial) of administrative litigation, central judges of administrative litigation, Chambers of administrative litigation of Higher Courts for Justice (for autonomous Communities), Chamber of administrative litigation for the National Court (*Audiencia Nacional*) and Chamber of administrative litigation for the Higher Court.

Right of appeal and unconstitutional questions relating to constitution of laws are referred to the Spanish Constitutional Court. Control of administrative acts is exerted in a direct way when the Constitutional Court adjudicates positive litigations of competence between the State and autonomous Communities, and also through individual review right of protection (*amparo*) for violation of rights and freedoms recognised in articles 14 to 29 of the Constitution.

7. Control factors are the Constitution, originating and derived Community legislation, international treaties signed and ratified by Spain, law, executive and independent lawful standards, general principles for rights and the consensual acts adopted between Public Administration and third parties. Jurisprudence, insofar as it is limiting for judges and magistrates, indirectly became one of the control factors of administrative activity when identical decisions were adopted by the Higher Court. In addition, decisions by the Constitutional Court have a normative value because interpretation of the Constitution which this court makes is limiting for all judges and courts.

8. The standards which regulate the existence, the competence and the functions of the judges and the courts of the administrative litigation order are standards set by the law. Firstly, the Constitution establishes the right to effective legal protection, and also the provisions concerning the structure and organization of the Judicial Power (Bond VI of the Constitution). The essential legal framework of all the jurisdictional bodies is defined in the Organic Law of the Judicial Power (Organic Law 6/1985, July 1) and, in the case of the administrative litigation jurisdiction; its specific standards of operation are established by the Law of 29/1998. Regarding the Constitutional Court, the texts where this jurisdiction is defined are the Constitution (Title IX) and the Organic Law of the Constitutional Court (Organic Law 2/1979, October 3).

9. The jurisdictions which form part of the administrative litigation order are enumerated at subparagraph 6. The courts (*Juzgados*) are formed by a single judge. The Chambers of the Superior Courts of Justice ("Tribunales Suiperiores de Justicia"), of the National Court ("Audiencia Nacional") and of the Higher Court are composed of several judges, including their chairman. Certain chambers are subdivided into sectionsby

specialisation. The composition and competences of the sections are given and published each year by the bodies of internal government of the corresponding Court.

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11. The judges who sits in the tribunals and the courts of the administrative litigation order can belong to the first ("juez"), second ("magistrado") or third ("magistrado del Tribunal Supremo") category, of the single legal profession. The conditions of nomination as a judge and the legal statute of the judges are identical in all the jurisdictions, with certain nuances for the magistrates of the Higher Court.

12. The access to the initial category is made by the ordinary system of judges recruitment, e.g., by public examination between the people having completed law studies in a faculty.

13. Initial formation is necessary for the examination, more demanding than that of the remainder of lawyers. There is an effective program of continued training (classes, seminars, etc.) of judges throughout their career

14. Later promotions and nominations are made by the General Council of the Judicial Power on the basis of objective criterion which combines the seniority and the merit, according to the vacancies. 1/5 of the judges of the Supreme Court can be nominated in a discretionary way by the General Council of the Judicial Power.

15. The mobility of the judges in other jurisdictions is possible, always on a voluntary basis. Mandatory transfer (except in disciplinary action) is prohibited. A judge cannot become a civil servant of the administration except if he/she gives up (definitively or temporarily) his/her legal function

16. The administrative acts can be cancelled by the jurisdictions of the administrative litigation order because of reasons of absolute nullity or cancellation. The judge can cancel the act or the regulation (without, however, modifying the latter) and, at the same time, he/she can grant "the recognition of an individualized legal situation and the adoption of the suitable measures for its full re-establishment, and among other things, compensation for damages". Moreover, if the court is aware of inactivity in Public administration, it can condemn it to achieve its obligations in the terms established by the law.

In Spanish law there is a distinction between the contractual liability and the contractual extra responsibility for the Public administrations. The contractual liability is defined in the Law of the contracts of the Public administrations and, additionally, in the Civil Code. There is a specific mode for contractual extra responsibility of the Public administrations, established by the Law for legal status of the Public administrations. Except if the litigation is subjected to standards of private law, the jurisdictional bodies dealing with this type of litigation are those which form part of the administrative litigation order.

17. The prejudicial procedure closer to the community prejudicial question is the question of unconstitutionality which can be introduced by the ordinary jurisdictions before the Constitutional Court. Although there are common characteristics, the two

procedures are substantially different. The question of unconstitutionality has as an aim to guarantee the concentrated system of constitutional justice, in which only the Constitutional Court has the capacity to decide on the constitutionality of standards with the force of law. The question of unconstitutionality can be introduced only when the procedure has concluded and within the time established to give the decision- The judge must make concrete: a) the law or standard with the force of law whose constitutionality is questioned and the transgressed constitutional principle, and b) to specify and justify the extent to which the decision of the lawsuit depends on the validity of the disputed law.

18. The jurisdictions of the administrative litigation order do not have advisory functions of any type. The Constitutional Court, which is not part of the judicial power, has a limiting advisory function, under the terms of which it will be able to make a Statement on the constitutionality of International Treaties which have not yet received the assent of the State.

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20. The instrument permitting higher authorities of the administrative litigation order to harmonize or standardize the application and the interpretation of the law, is appeal to the Higher Court (articles 86 to 95 on the Law of the Administrative Litigation Jurisdiction) before the Chamber of administrative litigation of the Higher Court. An appeal to the Higher Court can be justified, among other things, by infringement of the "applicable jurisprudence to solve questions which are the subject of debate" (Article 88.1.d), but also, within the framework of the cassation for the unification of doctrines: an appeal can be requested against the decisions given by the lower administrative litigation bodies "when, concerning same the litigants or other differences in identical situations, and based on substantially similar facts, right and allegations, we would have obtained a different decision".

21. The applicants can request the appeal before the jurisdictions of the administrative litigation order against acts which put an end to the preliminary administrative means. The exhaustion of this way is a condition of admissibility for jurisdictional appeal (except in the case of regulations). When an administrative act is adopted by an authority against which no administrative appeal is possible, the law guarantees the individual the possibility of requesting an administrative appeal a protest before this authority.

22. Article 19 of the Law of the Administrative Litigation Jurisdiction establishes that all persons or entities that have a right or a legitimate interest can bring a complaint before the judge. Moreover, the right to act is accorded to affected companies, associations, trade unions, groups and entities legally entitled to protect legitimate rights and collective interests. This right to act is also extended to all citizens who make use of the "popular action" whenever the law establishes expressly this possibility (for example, in matters of town planning, environment, etc.).

Regarding the public entities, the general Administration of the State can dispute the acts of the autonomous and local Administrations. These autonomous and local Administrations, in order to guarantee their autonomy, can also dispute acts of the general Administration of the State. Finally, the entities of public law having their own

legal entity, which belongs to the "Institutional Administration", have the right to act against the acts or the provisions which affect them.

23. The administrative litigation appeal can be inadmissible when we undoubtedly note that the jurisdictional body seized for lack of competence; that the applicant is not entitled to act; that the administrative activity which is the subject of the appeal is not contestable, or that the time to lodge an appeal expired. When the judge considers that there is one or more of these reasons, he/she notifies the parties of the reason for inadmissibility so that they plead, within a deadline of ten days, the relevant observations.

24. The deadline to bring the administrative litigation appeal is two months, either as from the day following to the publication of the disputed provision, or starting from the notification or the publication of the act which puts an end to the preliminary administrative means. When the act is assumed, because of administrative silence, the deadline will be six months as from the day following the one in which the supposed act occurred. In addition to the general rule, there is an exception when the purpose of the appeal is an assault.

25. The principle that the acts of the Government of a political nature are not, in theory, contestable before the jurisdictions was adapted into 1998 to the requirements of the basic right to effective legal protection. Thus, according to article 2 of the Law of the administrative litigation jurisdictions, those which can be submitted are questions created concerning "the jurisdictional protection of basic rights, the elements provided by the law and the determination of relevant damages, all compared to the acts of the Government or the Councils of the Government of the Autonomous Communities, whatever the nature of these acts".

26. In the Spanish law there is no discretionary filtering procedure for the appeal, but the procedure of admissibility (mentioned in the answer to question number 23) achieves the same function in all the proceedings. The admissibility of appeals in cassation is subject to stricter rules.

27. The appeal is formalized with the presentation of a report, which must include a series of formal conditions. The report must be accompanied by a document which authorizes the representative of the applicant; the documents which certify the right of the applicant to act (by way of heritage or under another unspecified title); a copy of the provision or act being the purpose of appeal and the documentation which certifies the achievement of conditions required to enable entities to bring proceedings.

Once the admission procedure is finalized, and twenty days after the administrative file was returned to the applicant, this latter will have to submit his/her request which will contain the facts, the legal practical grounds put forward, and the corresponding claims.

28. At the moment, only projects which envisage introduction of appeal by e-mail exist.

29. A tax (variable according to the litigious amount) must be paid by entities, except if they are not for profit or they are exempt from company income tax.

30. The assistance of a lawyer is mandatory in all lawsuits before all the jurisdictions except for the public civil servants in the litigations concerning their status.

31. Article 119 of the Constitution sets out that justice is free for all those who justify insufficiency of their resources for legal proceedings. They are entitled to ask for legal aid (totally or partially) for Spanish citizens, the nationals of the member States of the European Union and foreigners who are in Spain, when they certify that they have insufficient resources to plead. In accordance with Law 1/1996, January 10, on legal aid, the latter is granted by an administrative Commission (under legal controls) whenever a person lacks sufficient means to plead, e.g. when his/her economic resources and total income, calculated annually per family unit, are not higher than twice the inter-professional minimum wage in force at the moment the procedure was introduced.

32. When a party brings an appeal insincerely or with temerity, the jurisdictional body can condemn him/her at the cost of the lawsuit (the amount can be the totality, a part thereof or even a maximum figure for costs) and, in circumstances rather rare to impose a penalty.

33. The principles of contradictory, equality and defence rights are principles of constitutional value which guarantee the right to effective legal protection. These principles are guaranteed at the same moment as access to the judge, the reason for which the legal order provides for mechanisms to facilitate this access. If the principles of the lawsuit in Spain are, in general, defined by the Spanish law, we must indicate that principles of contradictory, equality and defence rights, in their demonstration of access to the judge, are those that have fuller potential to obtain decisions by the European Court of Humans rights. The regulation of these principles is in the Spanish normative texts.

In administrative litigation under Spanish law the place for oral examination is reduced (regarding the hearing, see question 42) and almost all the lawsuit proceeds in writing.

34. The principle of impartiality is linked, initially, to the principle of the independence of the judge. The judges cannot be influenced excepting in extraordinary cases provided for by the law. During the lawsuit impartiality is also ensured thanks to the possibilities of challenge and abstention established by the law. The 16 causes of existing abstention and challenge in the Spanish law are provided for by article 219 of the Organic Law of the Judicial Power. Among these causes are, for example, the bonds because of marriage or relationship; being sanctioned because of a disciplinary proceedings initiated by one of the parties, or, finally, to have a direct or indirect interest in the lawsuit.

35. The legal means of the parties must be appealed upon in the request and opposition reports. A later *mutatio libelli* is not possible, nor can questions, raised in cassation be discussed in the procedure. However, the judge in authority, before pronouncing his/her decision, can propose the possibility of making observations on legal means not raised *ex officio* to the parties.

36. The parties of the administrative litigation lawsuit are, in theory, the administration against which the appeal is addressed and the applicant. Nevertheless, if a person or

entity is titular of a subjective right in question or of a legitimate interest to adhere to the administration position, it can intervene in the course of the lawsuit.

37. The legal defence of the public administrations in Spanish law is given to a body of lawyers of the State ("Abogados del Estado") or the Autonomous Communities that reach their position by means of a public examination. In addition to these lawyers, the Public Ministry can intervene in certain lawsuits (in general, whenever the rights of minors or incapacities can be affected or, in a specific way, in the expropriations of the assets whose holders are not recognised by ordinary mechanisms).

38. In Spanish law there is no institution comparable to the government commissioner. The Public Ministry can exert, however, similar functions in certain special appeals before the administrative litigation jurisdictions concerning the violation of basic rights.

39. It is possible to put an end to the lawsuit before the decision in the cases of withdrawal in the course of proceedings, acquiescence by the administration to the claim, extrajudicial recognition by the defendant administration and conciliation.

40. The service of the clerk's office proceeds with the communication of the requests and memorandum of the parties

41. Proof is proposed usually by the parties but the judge can decide it *ex officio*. The administration of proof falls to the judge, according to general rules of the civil procedure; consequently there is a specific deadline for the litigation (15 days for the proposal of evidence and 30 days to carry it out). The Law provides for delegation to a magistrate.

42. In practice there is no hearing in the ordinary procedure. On the other hand, the hearing is mandatory in the "summary proceedings". Nevertheless, the parties can require – either initially moment or after the administration of the proof – that a hearing take place. This possibility is also conferred to the judge, exceptionally.

The hearing is public and it is not held in camera, because there is a general principle of openness of jurisdictional activity. The participation of witnesses in the administrative litigation is not frequent in practice, even if this possibility exists and the standards which apply to control it are those of the civil procedure. A specific provision exists in the Law for the "summary proceedings": the judge can limit the number of witnesses in circumstances provided for by the law.

43. The deliberation is held once the lawsuit is concluded, at a moment which takes place after the hearing (if there was one) or after the written conclusions, or directly without a hearing and conclusions.

Only the judges who belong to the Court will present at the deliberation, which is secret. The rules which govern the deliberation are fixed by the normative texts.

44. The decision is pronounced, if necessary, initially on the admissibility of the appeal, either about the evaluation or the rejection of the appeal. It must answer all the key questions raised in the requests. The decision must also be pronounced on costs of the lawsuit. Usually the decisions express debates selected in detail.

The decisions must be written in separate and numbered paragraphs, in which the facts and the reasons for the decision are exposed. The relevant standards and the jurisprudence which support the decision should be mentioned (its omission can be allowed in certain cases), but there is no precise requirement as to the details of the decision and or regarding the comprehensibility of the decision for the applicants. Nevertheless, the mechanism must be clear, leaving no room for doubts relating to the impact of the decision.

45. The reference standards in jurisdictional practice are strictly Spanish standards. The Community standards and the European Convention of Human Rights are also normative parameters for reference but their application is much less common.

The Constitution is the first standard of reference, due to its fundamental and founding standards. The laws and the regulations are the standards more usually appealed upon by the parties and the judges in their decisions. Jurisprudence is also a source of reference because its importance in practice is uncontested.

46. The control exerted by the administrative judge is a control of rights and not of appropriateness. This way of acting also applies to the control of the discretionary power exercise by the administration. The judge normally exerts his/her control on the aspects regulated without analyzing the appropriate reasons which led the administration to adopt its decision. He/she cannot establish alone, in cases of nullity of the act, further discretionary contents of the latter.

In some fields, as in the case for basic rights or regional planning, the judge can use the technique of weighing up interests. This technique is required also by Law for the decisions taken in the summary proceedings.

In theory, there is no difference in method between the lesser jurisdictions and the higher jurisdictions. Nevertheless, because of the role of the latter as protection of correct application of the legal order, they adopt a discursive style with a vocation for general validity.

47. A decision must be pronounced on the expenses and costs of the lawsuit. In first and single hearing, the judge must impose the expenses on the applicant party which acts insincerely or in temerity. In certain cases, if the lawsuit might loose finally, the judge can impose the expenses on the party whose appeal was rejected. In the other proceedings, the judge must normally impose the expenses on the applicant, if his appeal is completely rejected, but the judge can decide differently according to the circumstances. The imposition can include the totality of the expenses or only a part. The Public Ministry cannot be condemned to payment of the expenses. In practice, the administrative judge imposes on the parties the payment of their corresponding expenses.

48. The tradition in Spain was the collegial formation. Since the reform of Law of the Administrative Jurisdiction (1998) one judge courts were created, with judges of first authority. The first authority, therefore, is in general attributed to one judge, while the appeal is recognised in collegial formations. There are, nevertheless, certain lawsuits in

first or unique hearing before the Higher Courts of Justice of the Autonomous Communities, the National Audience and the Higher Court.

49. Separate opinions are authorized when the decision is given by a collegial formation at all the levels of the administrative jurisdiction. This possibility is open for the decisions and the ordinances, insofar as the type of ordinance allows it. If the judge who wants to formulate a separate opinion is the reporting judge, he must give up the report writing of the decision in favour of another judge of the collegial formation. Although he/she formulates the separated opinion, he/she is obliged to sign the decision.

50. The judgement is pronounced by writing within ten day as soon as the lawsuit was declared concluded. It can be pronounced within a broader time if the judge gives a sufficient motivation. The law admits the possibility of an oral delivery of the decision in certain cases. The decisions are notified to all the parties, as well as interested persons.

51. The authority of the decision is the authority of the judged matter. The effects of the judged matter move towards the judge and the parties, but they can also assign to third parties: it is possible to apply, without a new lawsuit, firm decisions in matters of taxes and public function to third parties in identical situations for applicants supported by the judgement. The authority of the precedent in Spain finds an application limited in theory, but in practice it has importance because of the authority of the Higher Court.

52. In principle, the judge cannot limit in time the effects of the decision which he/she gives. Nevertheless the effects of the decisions by the Constitutional Court on the validity of the laws can be pushed back at a later time, in order to avoid prejudices in beforehand existing legal situations.

53. The execution of the court decisions is ensured by the Constitution which obliges all authorities to carry out the judgements. The specific procedure for the execution of the administrative litigation decisions of the judges and the courts is centred on execution by the administration. Due to the fact that they are appeals against the activity or the inactivity of the administration, execution by private individuals is not provided for. There is the possibility for the judge to impose obligations on the administration which does not achieve the decision as well as the possibility of addressing injunctions to the administration. The administrative and penal responsibility can be involved.

54. There is a policy of fight against the excessive delay for decisions, so the results were not until now too satisfactory. The major political parties signed in 2001 a Pact for Justice in which reduction of the delay was provided for.

Damages for prejudices resulting from the excessive delay of judgements is extraordinary and it derives either from a special procedure on the responsibility of judges because of the faulty operation of justice, or of a decision which notes an incision of the right to an effective jurisdictional protection.

The law provides for more specific mechanisms to face the excessive delay of decisions, as is the case of the extension of decision effects to legally established similar cases (see answer 51), the accumulation of different appeals in a single lawsuit or the "privileged " treatment in time of a typical appeal or a test appeal.

55. The competences of the administrative jurisdictions are delimited by the Law of Administrative Jurisdiction (arts 8-13). A general criterion of delimitation relates to the importance of the cases whose jurisdictions must, as well as the administrations recognise which activity is the purpose of the appeal. Thus, the "Juzgados de lo Contencioso-Administrativo " have general competence in unique or first hearing to recognise appeals against the activity of local entities, except for the normative acts and the instruments of urban planning. They have also competence in the appeals against the activity of the administration of the Autonomous Communities regarding the public service, administrative sanctions and responsibility for the administration, so this competence is restricted by law. Their competence also extends to the activity of the peripheral administration from the State and the Autonomous Communities, as well as with the activity of certain organizations and entities which do not act throughout all the national territory. In this third category there are quantitative and material limits (the questions of public domain, public works of the State, expropriation and special properties are not under the competence of the administrative courts). Finally, they have also competences in electoral matters, regarding authorization to residenc and also for the authorization of some medical measures.

The "Juzgados Centrales de lo Contencioso-Administrativo" have limited competences – in unique or first hearing– regarding the appeals against the activity of certain bodies of the central administration. The responsibility in unique hearing on the activity of the central administration of the State is affected to the "Audiencia Nacional" which is also qualified to receive appeals against the decisions of the central administrative courts.

The Chambers of the Administrative Litigation of the Superior Courts of Justice ("Tribunales Superiores de Justicia ") have competence, in unique hearing, to control the adequacy of the legal order for activity of the Autonomous Community administration and certain bodies which deal with administrative services. They have also competences in appeal against decisions by the "Juzgados", as well as cassation capacities (regarding the rights of the Autonomous Communities) and of revision.

The Chamber of the Administrative Litigation of the Higher Court is qualified to receive appeals against the activity of the high bodies of the State, such as the Council of Ministers, the General Council of the Judicial Power, as well as appeals against certain acts of management of the parliamentary chambers, Constitutional Court, Court of Accounts and Ombudsman. The Higher Court has the responsibility for cassation capacities and revision appeals.

56. Under Spanish law several appeal means are designed to dispute a decision before a higher jurisdiction. The appeal before the Superior Courts of Justice is possible against the decisions by the "Juzgados"; before the National Hearing against the decisions by the "Juzgados Centrales". Cassation is possible before the Superior Courts of Justice "for the unification of doctrines" and "in the interest of the law " in matters of rights of the Autonomous Communities and, of course, before the Higher Court.

In its appeal decision the jurisdiction has the capacity to take up the entire litigation again, including the factual elements, while in cassation the examination is limited to control of the points of law.

57. The Law of the Administrative Jurisdiction of 1998 founded a new system of summary proceedings: the proceeding judge –unique or in collegial formation - is always the one who will have to rule on the substance. In the collegial formation there is no delegation to one of the magistrates. The rules to rule on the summary proceedings are identical for all levels of the administrative jurisdictions.

58. The capacities of the administrative judge after the adoption of the Law of the Administrative Jurisdiction of 1998 were increased, which also have an impact on the summary proceedings. The summary proceedings are employed normally with a finality of conservation of the litigation purpose. Although the possibilities offered by the law are very broad (the legislator invites the judge to order all the measures necessary to guarantee the effectiveness of the decision), the Spanish judge usually does not order any other measures than the suspension of the contested act and the conservation of the purpose. An innovation of the law would be the possibility of adopting summary proceedings against the assaults by the administration. Here, the summary proceedings play the role of a summary lawsuit which exists in right of the civil procedure and which was imported in the administrative procedure. Fundamental freedoms are guaranteed by a special lawsuit provided by the Law.

59. There are no differences in the direction mentioned in the question. Nevertheless, we must indicate that there are differences in procedure between the summary proceedings which we can call "common summary proceedings" (including those in which there is a "extraordinary urgency" which can be distinct temporarily *inaudita altera parte*) and the "special summary proceedings" which apply in cases of assault and administration inactivity. Moreover, we can notice differences in jurisprudence regarding the criteria of adoption for the summary proceedings, according to legal fields in which the litigations were formed.

60. The administration has the possibility of regulating the problems (not exactly "litigations") by itself in the preliminary way. An ordinary appeal exists ("recurso de alzada"), which is mandatory in cases provided for by the law and which takes place before the more senior in rank body of the authority which adopted the act being the purpose of the appeal. There is also a protestation appeal ("recurso de reposición"), which takes place before the same body which adopted the administrative decision. Finally, there is an extraordinary revision appeal which can be used in restricted cases provided by the law.

61. The "independent" bodies such as the offices, the agencies or the authorities of regulation form part, in Spanish law, of the administration: they cannot, therefore, "regulate" the administrative litigations *strictly speaking* because their decisions are contestable before the administrative jurisdictions. The mediator does not have only extrajudicial functions. We can assess a trend to establish arbitration mechanisms in concrete sectors, such as, in particular, the consumption law or the tourism law, even if one of the litigation parties is an administration.

62. The Law of the Administrative Procedure provides for the termination of the administrative procedure by means of alternative modes. The pacts, agreements, conventions or contracts are admitted, except if the matter cannot be the purpose of a transaction. Thus, the transaction, the conciliation and the arbitration can be included

under this heading. These possibilities are provided for the administrative procedure, but nothing prevents their application in the process of administrative appeal.

The alternative solutions for regulation are not the standard in administrative practice, thus their importance increases in certain sectors in which the legislator provided for mechanisms of this type.

63. The "Justice" program of the State Budget (2004) is of 1,095,204,120 Euros, i.e., 0.496 of the general budget. There is no separate budget for the administrative justice.

64. The total number of judges and magistrates in Spain (2004) is 4,225, all categories included.

65. 455 magistrates were assigned to the administrative litigation jurisdiction in 2004: 171 in the "Juzgados" (161 in the "Juzgados" and 10 in the "Juzgados Centrales"), 252 in the Chambers (220 in "Tribunales Superiores de Justicia" and 32 in "Audiencia Nacional") and 32 in the Higher Court.

66. The judges can benefit from the work of chief clerks who, if necessary, help them in their information retrieval but only in the Higher Court. The administrative litigation Chamber of the Higher Court is globally assisted (there is no chief clerk assigned to each judge) by 20 chief clerks, whose basic training is university and are recruited by competitive exams between jurists.

67. Libraries with legal works (legal texts, books, journals, etc) exist in all administrative litigation jurisdictions.

68. All the judges who sit at the administrative litigation jurisdictions have computer science means: an Intranet network, plus databases and access to the Internet. They also have access to software programmes for management of files.

69. There is a general Internet site at the Council of the Judicial Power, opened following public demand. There is no specific site for each jurisdiction.

70. Requests recorded in all administrative litigation jurisdictions:

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
140,056	143,996	162,911	161,598	177,206	171,287	187,686	194,065	200,681	215,381

Figures for each jurisdiction (2004):

Juzgados	109,394
Juzgados Centrales	5,015
Tribunales Superiores	81,239
Audiencia Nacional	8,338
Tribunal Supremo	11,395

71. Files settled by all administrative litigation legal systems:

1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
105,944	113,653	119,855	123,785	163,118	195,056	206,030	198,990	200,479	213,965

Figures of each jurisdiction 2004:

Juzgados	85,728
Juzgados Centrales	4,168
Tribunales Superiores	102,501
Audiencia Nacional	11,247
Tribunal Supremo	10,321

72.	The files remaining at the end of 2004 are	Juzgados	Juzgados Centrales	Tribunales Superiores	Audiencia Nacional	Tribunal Supremo
	Total: 294,918	63,028	2,092	192,164	13,112	24,522

73.	Average delays for decisions (in month)	Juzgados	Juzgados Centrales	Tribunales Superiores	Audiencia Nacional	Tribunal Supremo
	2000	6.06	6.37	32.35	17.90	21.22
	2001	5.96	4.67	36.22	15.50	20.25
	2002	5.95	4.40	40.76	16.05	20.33
	2003	6.05	4.54	32.53	17.56	20.65
	2004	5.94	4.00	29.16	17.77	22.52

74. There are no valid statistics on this subject.

75. The percentages of the most significant litigations relate to foreigners (27% in Juzgados), administrative sanctions (20%) and matters relating to civil servants (between 12 and 20 %, according to the jurisdictions).

76. General studies exist on economic impact of law and justice, but not specifically on administrative justice. There are very few studies on economic incidence of decisions by public administrations.