ADMINISTRATIVE JUSTICE IN EUROPE

Report of the Czech Republic

Questionnaire on the inventory and typology of review by the courts of administrative authorities in the 25 Member States of the European Union

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Preliminary Questions

1. Could you give the main dates in the evolution of the review of decisions and acts of Administrative authorities ?

1918 - an independent Czech Republic was formed; in the same year the Supreme Court based in Prague was established, which protected public entitlements. This Court then made decisions in all cases where somebody claimed that his/her rights were affected by an unlawful decision or measure of an administrative authority. Apart from the Supreme Administrative Court, other, special courts were established: patent, election, or cartel court.

1949 - the seat of the Supreme Administrative Court was moved to Bratislava; the Court operated from there until its cessation in 1952. The majority of functions of the Administrative Court were passed to the so-called prosecutor's supervision.

1952 - 1989 - the administrative justice in the Czechoslovak Socialist Republic was only applied very indistinctly, only with regard to the matters concerning pension insurance schemes, admissibility of institutional care for the insane, determination of customs value of goods, and insignificant issues of electoral law. This all took place within the general civil procedural code.

1989 - 2002 - the Charter of Rights and Freedoms established the institute of the general review of administrative decisions by the courts; as of the formation of the Czech Republic on 1/1/1993, the Constitution incorporated the Supreme Administrative Court to the court system; however, the Court had not been established yet. During 1992 - 2002, the judicial review was performed according to a special part of the civil procedural regulations (Rules of Civil Procedure) in the framework of the general judicial system, but not in full jurisdiction.

2001 - the Constitutional Court of the Czech Republic cancelled this special part of the Rules of Civil Procedure and forced the legislators to adopt a form of the administrative justice that would comply with the requirements of the European Court of Human Rights.

2003 - the Supreme Administrative Court was established and based in Brno. By this, the administrative justice received its supreme umbrella. Independent rules of procedure were

adopted (Rules of Administrative Procedure) for proceedings in administrative justice, and the preconditions for the performance of court protection of public entitlements of natural as well as legal persons against the unlawful intervention of the public administration were complied with.

2. Does the review by the courts of administrative acts and actions aim to submit administrative authorities to law and protect individual rights, in other words to the rule of law? Alternatively, is it only a review of the good functioning of the administration?

The basic form of the protection is the action against the unlawful decision. It can be filed by the person who claims that his/her rights have been prejudiced due to the decision of the administrative authority (either by the actual decision and/or by the fact that his/her rights have been prejudiced due to the breach of rights during the conducting of the administrative proceedings). In such a case the plaintiff demands that such a decision be vacated. The person who has been punished for an administrative delict (infraction) and is of the opinion that the penalty imposed is markedly inadequate can ask for the cancellation or reduction of the penalty.

In administrative justice, the principle of the "general clause" applies as a constitutional principle; it means that all resolutions are reviewable unless the law exclusively precludes it. The Rules of Administrative Procedure itself stipulate some of such exclusions of the procedural nature (for example the decision of a preliminary nature; decision, by which only the conducting of the procedure before the administrative authority is adjusted). Other exclusions are stipulated by special laws (for example the decisions on facultative sickness benefits are excluded from the review). The most important exceptions from the cognisance of the administrative courts are the cases when the administrative authority made the decision according to its legal competence about the matter of the private law.

In the proceedings regarding the action the administrative court particularly assesses legal issues; as opposed to the status in 1992 - 2002, following a motion it can even produce evidence by which it illuminates the factual issues regarding the matter which served as a basis to the administrative authority. The deficiencies of factual findings from the administrative proceedings, which in the past necessarily resulted in the vacating of the decision, can be today partly remedied by supplementing evidence before the court. The law enables the court to make the decision without ordering the proceedings - either following a common consent of both parties of the dispute, or in the cases where the decision of the administrative authority suffers from essential faults and it is necessary to vacate it.

The judgement is the outcome of the proceedings before the court; by the judgement the action is either dismissed, or the challenged decision is annulled and the matter is returned to the administrative authority for further proceedings. If penalties are imposed for an administrative delict, following the motion the court can express that it desists from the imposed penalty, or reduce the penalty. In cases where the court does not make the decision regarding the actual matter, the proceedings are concluded by issuing a resolution, for example about the rejection of the action or the discontinuance of the proceedings.

The action against the inactivity/failure to act of the administrative authority forms a new legal institute. It can be filed by a person who applied to the administrative authority for the issuance of a decision or certificate, the administrative authority failed to act, and the applicant exhausted in vain the means the rules of procedure (usually the Rules of Administrative Procedure) provided to it for the protection against inactivity.

The protection against unlawful decisions and the protection against the inactivity are supplemented by the protection against the interventions, which are not decisions, but in spite of it they affect the legal sphere of the plaintiff. In practice this can include a wide range of various interventions of the public administration authorities (for example unlawful police intervention).

As of 1/1/2003, all electoral issues are also concentrated at administrative courts.

Special proceedings in matters concerning political parties and political movements apply to the motion for the registration of a political party (or the registration of the changes in the party rules), should it have any deficiencies.

The Supreme Administrative Court decides about a dissolution or suspension of a political party or about the renewal of its activities. It also conducts the proceedings about the competence actions between a state administration authority and a self-government authority, or between individual self-government authorities (for example between the authority of a village and that of a region) with regard to who should issue a resolution in a specific matter.

3. What is the definition of an administrative authority in your country? Does this definition include all public legal entities and private legal entities exercising public authority?

The administrative authority is defined in the law (Rules of Administrative Procedures) and includes the authority of the executive power, the authority of a territorial autonomous unit, but also such an entity (a natural or legal person) that was entrusted with making decisions about the rights and obligations of other entities in the sphere of public administration. The theory as well as the judicial practice divides the administrative authorities to the authorities, which act in the position of a state administration authority, and the authorities of self-governing public corporation. It also distinguishes the central state administration authorities headed by the member of the government (ministry) and the so-called other central state administration authorities (for example the Industrial Property Office; Statistic Office; or the Office for the Protection of Competition). The theory also knows the organization of the territorial public administration with the general scope of activity (municipalities, regions); territorially deconcentrated (specialized) state administration authorities (for example Labour Offices, Tax Authorities); and finally the authorities (entities) of the professional and interest self-administration (for example chambers of attorneys-at-law, doctors, tax advisors, etc.).

4. Is there a classification of administrative acts in your country?

The theory divides administrative acts to normative and individual ones. The normative administrative acts are issued by the public administration authorities; they contain generally binding rules of conduct and execute the law. Failure to observe them may be sanctioned. On the other hand, the individual administrative acts (constitutive and declaratory) are the outcome of the decisions of the administrative authority; they are perceived as the acts of the administrative law application.

I – WHO REVIEWS ADMINISTRATIVE ACTS ?

A – COMPETENT BODIES

5. Is the review of administrative acts undertaken by general bodies related to the administrative authorities, and similar to courts?

No, in the Czech Republic the review of administrative decisions is undertaken only by courts.

6. Could you describe the organization of the court system in your country, indicating which courts or tribunals are competent to hear disputes concerning acts of the administration? If possible, try to respect the pattern hereafter.

There is a 4-degree court system consisting of: 86 district courts, 8 regional courts (with 5 branches), 2 high courts, the Supreme Administrative Court, and the Supreme Court of the Czech Republic. The judicial reviews of administrative decisions are undertaken only by the regional court at the level of the first degree and the Supreme Administrative Court as the Court of Cassation. Other degrees of the judicial system get involved in these issues only if the administrative authority decision regarding the private law is concerned. At the level of the first degree, the regional court is competent to try actions against the decisions of the administrative authority, actions against inactivity, actions against unlawful intervention, and electoral matters.

The Supreme Administrative Court solely is authorized to conduct proceedings regarding political parties and political movements, adopt decisions with regard to competence actions, and vacate the measures of a general nature. The regional courts are established as the general courts; judges specialized in the area of administration adopt decisions there as regards the matters concerning administrative justice (similarly to judges specialized in criminal or civil matters at the same court). The judges adopt decisions either in panels or as single judges. The Supreme Administrative Court makes decisions about remedies against the decisions in the matters regarding administrative justice.

The Constitutional Court is the court for the protection of constitutionality, and stands apart from the justice system. It is authorized to adopt decisions regarding the constitutional complaints against the final decisions (inter alia) of courts, which adopted the decisions in administrative justice. From the point of view of the compliance with the Constitution of the Czech Republic and the Charter of Rights and Freedoms it is thereby authorized to vacate the decisions of the Supreme Administrative Court which adopted these decisions as the court of cassation, but also as a court of a single instance.

B – RULES GOVERNING COMPETENT BODIES

7. If the review of administrative acts and action lies within the competence of the ordinary courts, is that competence delimited by texts (such as a Constitution, or parliamentary legislation) or by case-law?

If the matter regarding the review of the administrative act is being decided at the level of the regional court, the competence of these courts is strictly established by law; as to the matters regarding administrative justice, the applicable laws are particularly law no. 150 from 2002 named "Rules of Administrative Procedure". The Constitution only provides a general framework for the division of competences among the courts; detailed division of the competences is done by the laws of procedural nature (Rules of Criminal Procedure; Rules

of Civil Procedure; Rules of Administrative Procedure). In the Czech Republic, the *case-law* in its doctrinal form is not applied.

8. If the review of administrative acts is carried out by administrative courts or tribunals, are the existence, competence and duties of those courts or tribunals, governed by specific rules? Are such rules set out in texts or in the case-law?

The same principles as in the case Re 7 apply to the decision-making of the Supreme Administrative Court too; also this Court adopts decisions on the basis of competences bestowed by the same law (Law No. 150 from 2002).

C - INTERNAL ORGANIZATION AND COMPOSITION OF COMPETENT BODIES

9. If judicial review is assumed by ordinary courts, describe their internal organization and specify if they comprise specialized chambers, and how these are composed.

The regional courts are usually internally divided into the departments of civil, criminal, trade, and administrative law. It means that besides the criminal, civil, and trade panels, there are also administrative panels; however, in some matters also single judges adopt decisions in administrative matters. As a rule at these courts there is a vice-president for the matters regarding administrative justice.

10. If judicial review is assumed by administrative courts, present their internal organization. Distinguish between the highest and the lower courts. Could you provide a chart or a diagram?

The specialized justice only exists at the level of Supreme Court instances. In the given case it is the Supreme Administrative Court; the Supreme Court of the Czech Republic then adopts decisions as regards the civil, criminal, and trade matters. For the internal organization of regional courts, an establishment of individual court departments is typical (for the civil, criminal, trade, and administrative matters). The Supreme Administrative Court has its own internal organization: it is headed by the president and vice-president, who are both appointed by the President of the Republic with the countersignature of the prime minister. The Court is divided into two divisions: financial-administrative and social-administrative - according to the nature of prevailing agenda; every division has its president. Every judge (including judicial officials) is included in a 3-member panel, and this panel forms a part of one of the divisions. The Supreme Administrative Court should have 42 judges; however, this number has not been reached yet.

D – JUDGES

11. Do the judges who review administrative acts belong to a specific category? Specify whether different categories of judges exist according to the various kinds of control of administrative authorities.

All judges (active in civil, criminal, trade, or administrative matters) have the same positions in the constitutional system of the Czech Republic; there is no specific category of the administrative judges. There is no definition either of the judges according to the types of the authorities foreseen by the law; their decisions are reviewed.

12. How are judges in charge of judicial review of administrative authorities recruited?

The general prerequisite for an appointment of a judge is university qualification in the sphere of law acquired at the university in the Czech Republic, and the pass of a vocational justice examination. A judge is appointed by the President of the Republic. The judge can be allocated to perform this function at the regional ("administrative") court only after at least five years of experience (legal practice or scientific or pedagogical activity) in the fields of the constitutional, administrative, or financial law. The judge can be allocated to perform this function at the Supreme Administrative Court only after performing such an activity for at least ten years. The law has stipulated some transitional provisions according to which the judges of high courts, who reviewed administrative decisions according to the previous legal regulations, came to the Supreme Administrative Court. Until the end of 2007, the judge does not have to comply with the above 10-year legal experience to be allocated to the Supreme Administrative Court or the regional court.

13. What is the professional training of judges in general?

The judges have an opportunity as well as obligation to educate themselves for the duration of their careers. The institution providing the education is the Academy of Justice, or the Supreme Administrative Court. The Academy of Justice prepares ongoing training of judges and provides for the organizational and specialized issues. The actions organized particularly include those focused on the increasing of the vocational level of the judges. The training is delivered by lecturers chosen from the ranks of judges, university academics, and other significant specialists.

14. How is their career structure organized?

As regards the professional career, there is no fixed system; the appointment to the judicial functions or allocation to higher courts takes place following a discussion of the council of judges and the president of the respective court. There is only a fixed salary order, which considers the levels of the court system and the duration of court experience included.

15. How is their professional mobility organized?

The judges of regional courts can be temporarily allocated to the Supreme Administrative Court to acquire experience, and also for assessing their capabilities for their possible later transfer to this Supreme Court institution. Such temporary practice lasts between 6 to 12 months. A different situation is if there is a change in the organization of courts or in the court districts; then it is possible (in administrative justice) to transfer the judge to another court of the same degree even without his/her approval; however, this must not be done repeatedly. The judge must not judge and have a function in the state administration at the same time, or must not perform another paid activity; however, there are some exceptions (pedagogical and publication activities).

E – ROLE OF COMPETENT BODIES

16. What are the different kinds of recourse against administrative acts and action in your country?

An administrative decision can be challenged already in the process of administrative proceedings by way of: ordinary remedies (appeal, remonstrance, objections, protest, complaint), or extraordinary remedies (re-opening of the case and review outside the appeal proceedings). Remedy can be claimed at the court by filing an action. For filing an action it is sufficient to exhaust ordinary remedies offered by the process of the administrative proceedings. If the action is justified, the court can cancel the challenged decision due to its unlawfulness or faults in the proceedings. The court cancels the challenged decision for unlawfulness even if it ascertains that the administrative authority overstepped or abused the limits of the administrative consideration stipulated by law. It can also declare the nullity of the administrative decision. The court can desist from the punishment or to reduce the penalty. In further proceedings the administrative authority shall be bound by the legal view the court expressed in its judgement. If the court produced evidence itself, the administrative authority will include this evidence in the materials for adopting a new decision in further proceedings. In the proceedings the court in administrative justice only makes decisions regarding the costs of the proceedings and is not meritoriously concerned with the compensation for damages.

This issue is dealt with by a special law regarding the liability for damages caused during the execution of public power by the decision or incorrect official procedures; this is done in civil proceedings. Under the conditions set by this law the state is liable for damages caused by the decision issued in civil judicial proceedings, administrative or criminal proceedings, and also caused by applying incorrect official procedures. The right for the compensation for damages caused by an unlawful decision is attributed to the parties of the proceedings in which a decision by which they incurred damages was made, but also to the party which was not included as a party of the proceedings, even though it should have been done, always under the assumption that it utilized a proper corrective remedy in the administrative proceedings.

17. Do mechanisms exist for the delivery of a preliminary ruling? (apart from the procedure under Article 234 of the Treaty establishing the European Community)

If a motion for commencing the proceedings has been filed and it is necessary to provisionally adjust the circumstances of the parties due to a threatening serious damage, following the motion the court can make a ruling to impose preliminary measures on the parties to do something, to refrain from something, or to sustain something. For the same reasons the court can impose such an obligation on a third person. The motion is inadmissible if the action can be awarded a dilatory effect or if such an effect arises out of the law. The court can cancel or change the decision about the preliminary measure if the circumstances change; the preliminary measure ceases at the latest on the day when the court's decision, by which the proceedings are terminated, becomes enforceable.

18. Does a competent body have only judicial functions or does it also have an advisory role vis-à-vis the executive or the legislature? In the affirmative, specify the various aspects of these consultative functions, and if they are exclusive to the body or the highest jurisdiction.

The regional courts and the Supreme Administrative Court only play a judicial role. The individual judges can be occasionally invited as experts to work in advisory, particularly legislative bodies of the government. However, there is a special case when the court influences the acting of the administrative authorities via the so-called essential resolutions (see item 19).

19. Where the body plays both a judicial and an advisory role, how are its respective duties organised?

If the panel of the Supreme Administrative Court during its decision-making reaches again a legal opinion that is different from the legal opinion regarding the same legal issue, which serves as a basis for the decision of the administrative authority, it can submit this legal issue for evaluation to a special panel, which can accept this opinion as a basic ruling. This ruling is then published in the Collection of Rulings of the Supreme Administrative Court and sent to the administrative authority, which was concerned by the decision, and to the relevant central administrative authority. So this activity is an activity of the court foreseen by the law, not that of individual judges.

F – ALLOCATION OF DUTIES AND RELATIONSHIP BETWEEN COMPETENT BODIES

20. Do the highest appeal courts have an instrument or a procedure to ensure the harmonised and uniform application and interpretation of law?

The Supreme Administrative Court has several means how to effectively ensure uniform application and interpretation of law. First of all it is the decision-making about a cassation complaint against the decisions of lower, i.e. regional courts. Decisions significant for the decision-making practice are published in the Collection of Rulings of the Supreme Administrative Court. Apart from this, the Supreme Administrative Court has a possibility to unify different opinions of individual panels of this court by means of the so-called 'extended panel', which in such a case independently makes a decision about the matter; during further decision-making, the judges follow the expressed legal opinion. The President of the Supreme Administrative Court or the presidents of the divisions or the extended panel can propose the opinion on the basis of the assessment of final rulings of the courts to the respective division to be adopted. For adopting an opinion the consent of the majority of all division members is needed. If the issues in question concern more divisions or represent a dispute between them, the President of the Supreme Administrative Court can propose an opinion to be adopted by the plenum.

II – HOW ARE ADMINISTRATIVE ACTS AND ACTIONS REVIEWED BY THE COURTS?

A - ACCESS TO JUSTICE

21. How significant are the pre-conditions for access to the courts in your system of control of administrative authorities?

For keeping the access to the courts it is absolutely essential that proper remedies in the proceedings before the administrative authority be exhausted (compare with Re 16). This

applies to the proceedings concerning the action against the decision of an administrative authority and protection against the inactivity. In other cases (see item 6), it ensues from the nature of the matter that such a condition is not given.

22. Who may bring a case before the court? (natural persons, legal entities such as associations, companies, etc., local authorities or other administrative bodies or authorities).

A case against the decision of the administrative authority can be brought before a court by anybody whose rights were prejudiced in the previous proceedings as a result of the administrative authority decision; it means that an action can be filed by a natural or legal person. If the matter regards public interest, the action can be filed by the Supreme Public Prosecutor. In the matters which concern self-governments the action can be filed by an administrative authority against the decision of the local self-government; and vice-versa, the body of the local self-government can file an action against the decision regarding the dissolution of the assembly. In electoral matters the action can be filed by a natural person or a political party. If a competence conflict is involved, the action can be filed by the affected administrative authority, but also by the administrative authority about whose rights a decision should be made. If measures of a general nature are involved, the motion for the cancellation can be again filed by anybody who claims that his/her rights have been prejudiced, but also by the Ministry of Interior or a municipality.

23. For every situation, specify the conditions that must be satisfied in order for an application for judicial review to be admissible?

In the case of proceedings regarding the action against the decision of an administrative authority an authorized person must claim that his/her rights were prejudiced by an act of an administrative authority, and that by issuing a challenged decision the law or another legal regulation was infringed; the public prosecutor must find public interest. The action must always contain an accurate designation of the parties of the dispute or of the administrative decision including the date of its delivery, the designation of the statements of the administrative decision being challenged, and the common counts of charges, which should clearly indicate factual and legal reasons of the action and the proposal as to what decision should be adopted. The law also requires the suggestion of evidence proving the claims of the plaintiff. The action should also contain the signature and the date. In the proceedings regarding the protection against inactivity, particularly the matter, possible evidence, and the proposal of verdict should be indicated.

24. Is recourse to the courts subject to time-limits?

The action against the decision of the administrative authority must be filed within two months of the delivery of the decision; this term is kept if the action is filed with the administrative authority against whose decision it is aimed; the public prosecutor can file an action, which is in the public interest, up to 3 years. Since this is the means of judicial control, it is not the obligation of the administrative authority to inform of the possibility of filing an action with the court against the administrative decision; the authority has this obligation only with regard to its own administrative proceedings. In the case of the actions against inactivity, the objective period is the period of one year; in the proceedings regarding the protection against the unlawful intervention of the administrative authority there is a subjective period of two months, and an objective period of two years. The law stipulates that the failure to comply with this period cannot be pardoned. The principles for calculating

the periods are stipulated in the Rules of Administrative Procedures; the period determined according to weeks, months, and years finishes at the end of the day whose designation is identical to the day which determined the beginning of the period. If there is no such a day in the month, the period finishes on the last day of this particular month. If the last day of the period is Saturday, Sunday, or holiday, the last day of the period is the closest working day.

25. Are there certain administrative acts or actions that are not open to review by the courts?

The following acts are excluded from the judicial review: the acts of the administrative authority which are not decisions, acts of the preliminary nature, and acts which amend the conducting of the proceedings before the administrative authority; it also applies to the acts the issuing of which is exclusively dependent on the assessment of health condition of persons or technical condition of things; the acts of not granting the qualification to or deprivation thereof from natural persons, if they themselves do not represent a legal obstacle for the performance of occupation or job or another activity, and finally such acts the review of which is determined by a special law. In the proceedings regarding the protection against unlawful intervention, the proceedings concerning mere determination that the intervention was unlawful are excluded from the judicial review. From the point of view of the access to the court the law makes no differences between whether an action is filed for a severe or marginal violation of law by the administrative authority. Neither does it exclude the cases, which contain classified materials of the state or trade nature; for such situations the law enables the exclusion of the public, but the action must be heard.

26. Are applications for review by the courts subject to screening procedures? Distinguish between first instance, appeal, and highest jurisdiction.

On principle, the law stipulates that verbal hearing is ordered and parties to the proceedings summoned only if a case with the actual matter is heard; in such a case, the decision is usually in the form of a judgement. In procedural matters, the decision can be then made without ordering the hearing. In the proceedings regarding the actions against the decisions of the administrative authority the hearing before the regional court (1st judicial instance) is public on principle; however, if all parties to the dispute agree or suggest it themselves, the decision can be made even without the hearing; the conditions are stipulated by law. If the court reaches the conclusion that it is not necessary to order the hearing regarding the actual matter, it submits this alternative for consideration to the parties of the proceedings; the 'court' in this respect means the single judge or panel of judges - according to the nature of the matter heard.

The resolution by which the call of the court is made does not have to contain any reasons; it is only a question addressed to the parties of the dispute; the court does not have to get back to it in the justification of the decision regarding the matter either, an expressed consent is sufficient. The deadline for sending such a call is not set; it is usually send at the time when the courts start dealing with the matter meritoriously. Without the hearing the court makes decisions in the matters regarding lists of electors (up to 3 days), matters of electoral registration (up to 15 days), invalidity of the elections, the cessation of the mandate (up to 20 days), and the matters regarding a local referendum (up to 30 days). The Supreme Administrative Court makes the decisions about the remedy - cassation complaint - usually without the hearing, but it can order it. The issue of complying with the principle of the verbal hearing is essential during the assessment of the lawfulness or constitutionality of the court procedures and can be reviewed by the Supreme Administrative Court or the Constitutional Court.

27. How must the application be presented? Are there specific forms or is the applicant free to choose the format?

The action must be filed in writing; if it is verbal, it must be recorded in a report; if in an electronic form it has to bear an electronic signature. If such an application is made in a different form, it must be confirmed by a written application of the same content or its original must be submitted within three days, otherwise it is not considered. If such an act is undertaken by a collective body or a person on whose behalf the collective body acts, a transcript of the resolution of such a body, in which the consent with the content of the application was expressed, has to be attached to it. The law specifies no other requirements as regards the form of the action.

28. Has the possibility of bringing proceedings via the Internet been envisaged in your country or is it already possible? Are there reflections or plans for the introduction of tele-procedures or e-procedures (e-registry office)?

The possibility of conducting proceedings electronically has been considered; but so far even the court's rulings have not been sent out electronically as it was not possible to receive the confirmation of receipt of such a ruling. The Czech Post Office has offered this possibility, but files, and particularly the administrative files, have not been processed in the electronic form. Remote trials using the tele-bridging have not been considered yet.

29. Is there a pecuniary charge for lodging an application for judicial review (in the form of stamp duty, tax, or registry fees)?

A court fee in the form of duty stamps amounting to 2,000 CZK (68 EUR) is paid for an action against the decision of the administrative authority. As regards the political party rules, the fee amounts to 5,000 CZK (170 EUR), as regards the renewal of the political party, it amounts to 10,000 CKZ (340 EUR), and in other cases 1,000 CZK (34 EUR). For a cassation complained heard by the Supreme Administrative Court 3,000 CZK (102 EUR) is paid.

30. Is recourse to a solicitor / lawyer or counsel compulsory?

A plaintiff has to be mandatorily represented by an advocate only in the proceedings regarding a cassation complaint before the Supreme Administrative Court, unless he/she or his/her employee, who acts on his/her behalf, has university education in the field of law. In other types of proceedings and in proceedings before the regional court the representation is facultative. If the application concerns this sphere of activity, the representing person is an advocate or a person that performs specialized legal consultancy services (patent or tax advisor). The representation could be also provided by a trade union organization or an organization involved in the protection against discrimination for a number of reasons. The entrusted employee or member of this entity then acts on behalf of such an entity. It is also possible to be represented by an authorized natural person; however, he/she cannot provide the representation repeatedly in different matters.

31. As regards the costs of the proceedings, can they be paid through legal aid?

In terms of the plaintiff who is likely to comply with the conditions for being freed from court fees and in cases where it is necessary for the protection of his/her rights, the court can appoint a representative, who can also be an advocate. In such a case the cash expenses

of the representatives and the remuneration for the representation is paid by the state by way of the court. The freeing from paying the court fees is recognized and awarded if the situation of the party justifies it and if this does not represent wilful or probably useless applying or protecting of the right. The court compares the earnings and property conditions of the plaintiff with the amount of the court fee and possibly other costs related to the proceedings before the court. The obligation to document the lack of funds lies on the plaintiff.

32. Is there a fine for abusive or unjustified applications?

The law does not stipulate any sanction for the abuse or unjustified application; it is only possible to impose a sanction for abusive application up to 50,000 CZK (1700 EUR).

B - MAIN TRIAL

33. Which fundamental principles govern the main trial hearing ?The right to *inter partes* proceedings, the rights of the defence/the right to a fair hearing, the balance of written and oral elements in the proceedings. Do these principles derive from national law (legislation or/and case-law) or European law (Convention for the Protection of Human Rights and Fundamental Freedoms for example) or both?

The judicial proceedings are governed by the following fundamental principles: the principle of equality of arms between the parties expressed by the right to be present during the hearing before the court; the disposition principle, which restricts the review activities of the court to the applied grounds for the action and enables the plaintiff to withdraw the charge; the principle of concentration applied in actions against the decisions of administrative bodies and in cassation complaints, where the action can be only extended within the term for filing an action or cassation complaint.

Other principles are as follows: the principle of an official approach according to which the court is obliged to further proceed in the commenced proceedings; the principle of the unity of the proceedings and of the arbitration order expresses that the order of individual acts is not exactly stipulated by law, but is determined by the court depending on the course of the proceedings; the principle of economy of the court's activity so that the decisions are reached as fast as possible; the principle of free assessment of the evidence; the principle to hear; the principle of prohibiting ex parte investigation and hearing, according to which the court only produces evidence during the hearing when the parties are present; the principle of verbalism of the hearing before the court of the first degree; and before this court, also the principle of a public nature. As regards the so-called general clause principle, see item 2.

34. How is the judicial impartiality ensured in your country?

The judicial impartiality is ensured by the law, the Rules of Administrative Procedures, according to which the judges are excluded from the hearing and decision-making regarding a matter if, after considering their attitude towards the matter, parties or their representatives, there is a reason to have doubts about their unbiased approach. Excluded are also the judges who were involved in the hearing or decision-making regarding the matter in the administrative authority or in the previous judicial proceedings. The circumstances consisting in the progress of the judge in the proceedings regarding the discussed matter or in his/her decision-making in other matters are not the grounds for excluding the judge. The decision about excluding the judge for the reasons indicated in the law represents the exception from the constitutional principle, according to which nobody can be withdrawn from his/her

legitimate judge; the jurisdiction and competence of the court and of the judge are stipulated by law (Section 38, Para. 1 of the Charter of Rights and Freedoms). The judge who ascertains the reason for his/her prejudice will notify of this fact the President of the court, who will appoint another judge or another panel to his/her place according to the work schedule. However, if the President is of the opinion that the judge is not biased, the Supreme Administrative Court is the one to make the decision about the exclusion; if this applies to the judge of the Supreme Administrative Court, and another panel makes this decision. Also the plaintiff can contest the unbiased approach of the judge; this can be done within one week of the day when he/she learned about this bias or during the proceedings. This objection must be justified and specific facts indicated which gave rise to its existence. The judge can express his/her opinion of this objection, and then the Supreme Administrative Court makes the decision. A similar amendment refers to the bias of a judicial person, interpreter, or expert.

35. After the application has been lodged, can the applicant rely on legal arguments raised for the first time in the course of the proceedings?

No, the principle of concentration of the proceedings applies; the court reviews the action only in the scope indicated in the action within the term stipulated by law. This principle applies to the proceedings before the court of the first degree as well as the Supreme Administrative Court.

36. Which other persons can intervene during the main hearing?

The law knows the institute of the so-called 'persons participating in the main hearing' whose rights or obligations were directly affected by the contested decision or by the fact that the decision was not issued, if they want to apply their rights during the main hearing. Such a person is entitled to submit written statements, see the files, be notified of the hearings ordered, and ask for the floor during the hearing. He/she is delivered the decision by which the proceedings before the court finish; however, it cannot dispose its subject.

37. Is there a representative of the State ("ministère public") who may submit pleadings in cases concerning administrative law?

The Supreme Public Prosecutor (see item 22) is authorized to submit pleadings, but not the defence.

38. Is there, in your legal system, an institution or a person who plays a role analogous to that of role played by the French "commissaire du gouvernement" before the Conseil d'Etat, that is to say, who is completely independent and impartial and who delivers an opinion in open court, analysing the legal arguments and suggesting how the case ought properly to be disposed of in a case?

In our legal system, there is no similar function to that of the "commissaire du gouvernement" or "advocate general".

39. How can proceedings come to an end before a decision is reached by the Court?

The court stops the proceedings if the plaintiff withdraws the action if it was not filed by more persons, or if the plaintiff declares that after the lodging of the application he/she was fully satisfied with the procedure of the administrative authority. The court also stops the

proceedings if it ascertains that after the filing of the action the unlawful intervention and/or its consequences no longer last and there is no threat of their recurrence; the approach is the same if the court fee is not paid, and finally in the case of an application for an asylum, when it is not possible to ascertain where the applicant for the asylum lives. If a natural person dies or legal person winds up, the proceedings are interrupted and it is dealt with the legal successor; if there is no legal successor, the proceedings factually comes to an end.

40. Does the court registry itself forward the various written applications and pleadings to the parties?

The court of the 1st degree sends the action to the responding administrative authority and requires that it express its opinion of it. This answer is then sent to the plaintiff whom the court can ask for the so-called "rejoinder" - his/her opinion concerning the statement of the responding authority. In the proceedings regarding the cassation complaint, the cassation complaint is delivered to the counter-party, and this counter-party is enabled to express its opinion. This statement then does not have to be delivered to the parties.

41. Who is responsible for providing the evidence? The parties or the court?

By providing the evidence the court can specify what the facts of the case are which served as a basis for the decision of the administrative authority. Over this framework, it can also ascertain new facts of the case as a basis for the court decision-making within full jurisdiction, but in such a scope so as not to substitute the activities of the administrative authority. It bases its activities both on the evidence produced by the administrative authority and on the evidence it has produced itself. It can also produce the evidence, which was not suggested by the parties. The responsibility for acquiring the evidence lies on the court; however, there is a broad obligation of cooperation of the parties and third persons.

42. How is the hearing conducted? Is it public? Can it take place *in camera* and in which circumstances ? Who can take part in the hearing and how (in writing, orally)?

The verbal hearing is public (compare with item 26). The parties and the persons participating in the hearing are summoned to the hearing of the actual matter. The hearing is commenced and conducted by the presiding judge. In its resolution, the panel makes decisions regarding the objections against the measures adopted by the presiding judge during the conducting of the hearing. The presiding judge leads the parties so that they also express those factual and legal issues, which are, in the opinion of the court, crucial for the ruling, even though they were not applied in previous applications of the parties. During the hearing the judges and, subject to the approval of the presiding judge, the parties and the persons participating in the proceedings can ask questions of the parties, witnesses or experts, and/or ask them to express their opinion regarding the matter.

At the end of the hearing the parties should be given the floor to express their views of the final proposals. The judgement must be pronounced on behalf of the Republic and publicly. As soon as the court pronounces the judgement, it is bound by it. A report is made regarding the hearing. The judge makes a decision about whether or not it is possible to take pictures or make video or audio records at the court room during the judicial hearing. However, should the way of their taking or making disturb the course of the hearing, the presiding judge or the single judge can ban these activities; this is specified in the internal regulation of the Ministry of Justice.

43. When and how is judicial deliberation conducted? Who can take part in it?

If a verbal hearing is ordered, after it is finished the court issues a decision following the deliberations with the exclusion of the public; only a recorder is present, who, however, does not take part in the process of adopting the decision - the judicial deliberations. Only the judge or the panel are those who make deliberations and decisions. The law on courts and judges places an obligation on the judges to interpret the legal regulations according to their best knowledge and belief and on the basis of facts ascertained in accordance with the law.

C - JUDGEMENT

44. How are the grounds of the decision given? In details or more briefly?

The decision must be in writing and include the designation of the court, the names of all judges who participated in decision-making regarding the matter, the designation of the participants, their representatives, matters heard, statement, justification, instruction regarding the remedy, and the day and place of the pronouncement. In practice this depends on the type of the decision; the decisions of the procedural nature are only justified briefly, the decisions, which touch the facts in issue are relatively detailed. The decision usually deals with every objection raised. The issues related to some administrative standards are so specific that they do not enable any other than detailed and highly technical approach. This also applies to the decisions of the Supreme Administrative Court; here the natural or legal person is represented by an advocate, and therefore his/her help directed to the client can be anticipated. The courts adopted this practice also on the basis of the experience with the requirements of higher courts including the Constitutional Court. The ongoing objective of the Supreme Administrative Court is to achieve clarity of decisions issued in administrative justice.

45. What are the reference norms [international norms, European norms (Convention for the Protection of Human Rights, Community law), constitution, law, jurisprudence, personal conviction]?

When reviewing the decisions of the administrative authority, the court is primarily governed by the law, the Constitution, and the international treaties on human rights, which prevail over the law. It also takes into consideration legal regulations that stand under the law (governmental regulations, decrees of ministries or local self-government authorities); however, here the judge can assess the compliance of these standards with the law quite autonomously. If it comes to a conclusion that the law opposes the Constitution, a procedure is set according to which the court submits the matter to the Constitutional Court for evaluation. In practice regional courts are governed by the decisions of the Supreme Administrative Court; all courts then take into consideration also the decisions of the Constitutional Court and the European Court of Human Rights. As far as the decisions of the European Court of Justice are concerned, if they impact on the heard matter of a communitarian nature, this judicature is also used as a basis; the same applies to the application of the regulations of the EU bodies.

46. Which criteria and methods of review are used by the court?

The court can vacate an administrative decision also if the administrative authority overstepped or abused the limits of the administrative consideration; if this concerns a penal sanction, it can even replace the administrative decision. The court can supplement the

factual findings from the administrative proceedings including the production of new evidence and assessing "old" as well as new evidence, which also includes the assessment of factual as well as legal issues. The administrative consideration cannot be replaced by an independent judge's consideration; the courts vacate the administrative decisions if the administrative authority overstepped the limits of the administrative consideration, but not if it ascertains that the administrative authority did not utilize this consideration sufficiently, correctly, or effectively. The court removes an unlawful decision, but it cannot substitute it with its own decision with the exception of the above penal sanction. However, it binds the administrative authority by its legal view.

The disadvantage of this approach is the length of the proceedings; it is extended by the phase of the repeated decision and possible other remedies. On the contrary, the advantage is the respecting of the limits of the constitutional delegation of powers when the court does not substitute the activities of the executive power and does not take on a direct responsibility for the enforcement of the decision, which would be an administrative decision by nature. Over the scope of the action the regional court reviews a possible nullity (absolute invalidity) of the administrative act. Over the scope of the cassation complaint the Supreme Administrative Court reviews possible confusion of the proceedings before the court, but also the stated nullity of the administrative authority's decision.

47. How are legal costs apportioned?

The state pays the costs related to producing evidence; it is entitled to the reimbursement of the costs of the proceedings it has paid by the unsuccessful party unless this party is exempt from paying the court fees. Each party pays its respective costs. The party, which was successful in the matter, is entitled to the reimbursement of the costs incurred by the unsuccessful party. As to the matters regarding pension, sickness, and social insurance the administrative authority is not entitled to the reimbursement of the costs of the proceedings. However, even in other cases the judicature usually does not award the reimbursement of the costs of the proceedings.

48. Is it more usual for the case to be decided by a single judge or by a number of judges?

At the regional court a panel consisting of the presiding judge and two judges makes decisions regarding all matters with the exception of the matters concerning asylum granting, and pension, sickness, and social insurance, in which the decisions are made by the single judge. The decisions at the Supreme Administrative Courts are always made by the panels.

49. Where the case is heard by several judges, is the expression of individual judicial opinions allowed (dissenting opinions?)?

The office rules enable that the report regarding the voting contains an opinion, which is different from the opinion of the majority; it is stated there in full wording with brief justification. But this different opinion is not published publicly.

50. Is the decision delivered in writing, or orally?

The judgement is delivered orally, if the matter was heard and at least one party and/or the public are present during the pronouncement. Otherwise the judgement can be pronounced by displaying the shortened written copy without the justification on the court's official notice board for the duration of fourteen days; this is usual particularly at the Supreme Administrative Court. The decision regarding the matter must be written and

delivered to all those who participated in the proceedings. The decisions of the procedural nature are only delivered to all parties in writing if the proceedings are terminated by it or if an obligation of some sort is imposed. The court makes out the ruling within one month of its pronouncement and then delivers it.

D - EFFECTS OF DECISIONS AND EXECUTION OF JUDGEMENT

51. What is the authority of the decision? Res judicata, stare decisis?

The decision of the court is the final decision regarding the rights of the parties; as far as they are concerned, it represents an absolute obstacle to the subsequent action in the same matter or for the same grounds of action; it does not have the *erge omnes* effects. The principle *stare decisis*, according to which - if the court sets a legal principle for certain merits, it will follow this principle in identical cases also in the future - it is put forward factually as a result of the process of unifying the judicature by legal means, particularly by the provisions and activities of the so-called extended panel.

52. Can the court limit the effects of the judgment in time?

The law does not provide a possibility of pronouncing that the decision only refers to a certain period in the past or in the future with one exception which relates to the measures of a general nature; there the court specifies the day as of which it will cancel this measure. The court's decision is always based on a legal and factual status valid at the time of the decision-making of the administrative authority, and the court states whether the procedure of the administrative authority was in compliance with the law or not at that time, regardless of the fact that currently a new law is already valid. However, it is not possible to decide that the conclusions of the judgement can be observed only after the lapse of a certain period of time.

53. Is the right to the execution of judicial decision guaranteed in your country? Specify if it is informally guaranteed, or through a specific judicial procedure. Indicate if there is a distinction between implementation of the judgment by administrative authorities and implementation of the judgment by private persons. Specify if the court has the power of injunction, possibly completed by coercive fine, in order to secure compliance with the judicial decision.

In terms of the execution of the judicial decision the following applies: If the obligation is imposed on an administrative authority, which is the body of the executive power, its relevant structural unit is obliged to fulfil it on behalf of the state. If the administrative authority is a natural or legal person, to which the law delegated the execution of the state administration, this person is obliged to fulfil it. And finally if this concerns the public corporation, this obligation has to be fulfilled by this public corporation. The judicial decisions are executable if the period for their execution has lapsed; however, if such a period is not set, then they are executable at the moment of them acquiring legal validity. The coercive execution of the imposed obligation is delegated to the civilian courts. The law, in case that the decision of the administrative authority is vacated, charges the administrative authority with the obligation of making another decision; while doing so, it has to observe the legal opinion expressed. In practice no case is known when the court opinion would not be consciously observed by an administrative authority.

54. Is there a policy in your country to reduce the length of time needed for the proper disposal of cases before the courts? If so, how is that policy implemented?

The constitutional Charter of Rights and Freedoms gives everybody the right to have his/her matter dealt with without unnecessary procrastinations. The law does not stipulate any periods in which the decisions should be made, with the exceptions indicated in item 26 and matters which have a preference over the others and which in general have to be dealt with preferentially regardless of the order of delivering the matters to the court. The adequacy of the duration of the proceedings is assessed in accordance with the decision-making practice of the European Court of Human Rights (for example Frydlender against France [big panel], no. 30979/96, Section 43, ESLP 2000-VII), that is on the basis of the circumstances of the given case and with regard to the criteria arising from its own judicature, which particularly include the complexity of the matter, conduct of the complainant, and procedure of relevant authorities, as well as the importance of the dispute for the affected persons.

E - REMEDIES

55. How are various functions or/and competencies shared out between the lower courts and the supreme courts?

The majority of the disputes start at the level of the regional court: this applies to the action against an unlawful decision. In the proceedings regarding the action, the administrative courts of both degrees usually assess legal issues; the evidence is usually produced by the regional court, while the Supreme Administrative Court only produces the evidence in exceptional cases. The verbal hearing also takes place before the regional court, before the Supreme Administrative Court very rarely. The regional court dismisses the action and/or cancels the challenged decision of the administrative authority, and returns the matter to the administrative authority for further proceedings. The Supreme Administrative Court makes the decision regarding the judgement of the regional court, which means that it rejects the cassation complaint and/or vacates the judgement of the regional court and returns the matter to this court for further proceedings.

Also the regional court makes decisions regarding the action against the inactivity of the administrative authority, and regarding the action for the protection against unlawful intervention of the administrative authority. For these matters the Supreme Administrative Court then acts only as a cassation court. At administrative courts, also all election-related matters are concentrated; the competences here are divided into the regional court and the Supreme Administrative Court (see item 2). The Supreme Administrative Court exclusively conducts proceedings concerning competence actions either between the body of the state administration and the body of the self-government, or between individual self-government bodies (for example between the municipal body and the regional body) with the objective of deciding who should issue a decision in a certain matter, and finally it conducts proceedings about the cancellation of the measures of a general nature. The differences thus arise from the nature of the actual matters, but not from whom, i.e. what authority made the decision and from what level.

56. Are there remedies to challenge a judgment before a higher court? Describe these remedies and their functioning.

No regular remedy is admissible against the decision of the regional court; however, against the final decision it is possible to lodge an extraordinary remedy - cassation complaint - within the period of two weeks; there are some exceptions to this rule (for example electoral

issues). The cassation complaint is then dealt with by the Supreme Administration Court. By means of the cassation complaint, which is widely used, remedy can be claimed in material as well as legal issues and in the area of correcting a defective trial. It can be lodged both against the decisions in the actual matter and against the majority of procedural decisions (dismissal or refusal of an application; discontinuation of the proceedings), but always only for some reasons listed and exactly specified by the law. The complainant must be represented by a qualified person, usually by an advocate. The Supreme Administrative Court is bound, with the exception of the facts indicated in item 46, by the scope of the cassation complaint; it usually deals with it as is in a non-public meeting of the panel, and makes out a written decision. The second extraordinary remedy is the reopening of the proceedings, admissible only in the proceedings regarding the actions against unlawful intervention and in proceedings regarding the issues of political parties, it means in the cases when the court itself ascertained the factual questions of the matter.

F - EMERGENCY PROCEEDINGS AND SUMMARY JURISDICTION/ APPLICATIONS FOR INTERIM RELIEF

57. Are there emergency and summary jurisdiction proceedings?

There are two tools serving for this purpose: a preliminary measure, and a dilatory effect of an action or a cassation complaint. No verbal hearings are held and the application has to be dealt with preferentially. The same judge (panel), who will deal with the actual matter, makes the decision. The court may impose on the parties or even a third person an obligation to do something, to refrain from something, or to sustain something (for example a temporary restriction of the property handling). Of course, if an action can be awarded a dilatory effect, or if this effect arises by law, then the motion for the preliminary measure is not admissible by the law.

The regional court as well as the Supreme Administrative Court awards a dilatory effect to the action, again without a verbal hearing and in the preferential mode, if the execution of the decision would mean an irrecoverable harm for the plaintiff, and if it does not affect the rights of third parties and is not contradictory to the public interest. For both institutes it applies that the court can vacate them (as regards the preliminary measure, it can even change it) if the situation changes, and also that they act before the court until the proceedings before the court are finished.

58. What types of requests can be made to the emergency and summary jurisdictions? Ascertainment of a situation? The obligation for administrative authorities to communicate a document? The suspension of the execution of an administrative act? The payment of a provision?

The main prerequisite for issuing a preliminary measure is to file an action regarding the actual matter and the occurrence of the need to provisionally adjust the situation of the parties because of the threat of serious harm. For the proposal of the preliminary measure, the court asks the other parties for their views. There is a charge for the proposal amounting to 500 CZK (17 EUR); however, in matters regarding pension, social, or sickness insurance, the proposal is exempt from this payment. In practice we do not encounter such proposals very much. In terms of administrative decisions, the institute of the dilatory effect of the action concerning the proposal of the plaintiff is applied more often, which is not subject to any charges.

59. Are there different kinds of summary jurisdiction? General or specific to certain litigants?

Regardless of the order of the delivery of the matters to the court, the court preferentially deals with the motions for preliminary measures, motions for awarding a dilatory effect, the motions for the exemption from court fees, and motions for appointing a representative. It also preferentially deals with motions and actions regarding asylum matters, the decision regarding the securing of a foreigner, the decision to terminate special protection and to help witnesses and other persons in relation to the criminal proceedings.

III – CAN ADMINISTRATIVE DISPUTES BE SETTLED BY NON-JUDICIAL BODIES ?

60. Can disputes be settled by administrative authorities themselves? How?

Disputes can be settled by administrative authorities themselves. A new institute of the “applicant satisfaction” serves for this purpose. It enables the administrative authority, after the issuing of the decision and its challenging by means of the action at the court, to make another decision regarding the matter so that the plaintiff is satisfied with the new decision.

61. Can administrative disputes be settled by independent bodies (offices, agencies, ombudsman, mediators, and regulation authorities)?

Legal disputes can be settled by the ombudsman. The scope of his activity covers the administrative authorities. The administrative authorities are obliged to provide information and explanations, submit files and other written materials, communicate a written opinion regarding the factual as well as legal issues, and produce evidence which the ombudsman suggests. All state bodies and persons executing public administration are obliged, within the scope of their respective activities, to provide him the required assistance during the investigations.

62. Can administrative disputes be resolved by means other than recourse to the courts?

The ombudsman can suggest to the administrative authority to commence the proceedings regarding the review of the final decision, act or procedure of the authority, to undertake steps to remove inactivity, to commence disciplinary proceedings, to commence the prosecution for a crime or offence, or to provide the compensation for damages or to claim damages. Within 30 days the authority is obliged to communicate what measures for remedying the situation were adopted. If the authority does not comply with its obligation or if the measures for the remedy are insufficient, the ombudsman notifies the superior body or the government; it can inform the public.

IV – ADMINISTRATION OF JUSTICE AND STATISTIC DATA

A - Financial resources made available for the review of administrative acts?

63. On average, what proportion of the State budget is allocated to the administration of justice? Specify for administrative justice when it exists and is distinguished from ordinary justice.

According to the law regarding the state budget for 2004 the total expenses of the state budget of the Czech Republic in 2004 amounted to 869 050 652 thousand CZK. Out of this, the expenses for justice totalled 1.22%. The expenses of the administrative justice are not monitored separately. The average cost of one employee of the Supreme Administrative Court in 2004 was 246 thousand CZK.

64. Specify the total number of magistrates and judges working within the legal system concerned.

Approximately 2879 judges and 793 judicial officers work in the Czech justice system.

65. What percentage of judges is assigned to the review of administrative authorities?

One hundred and twenty judges (4%) and 11 judicial officers (1.5%) work in administrative justice.

66. Apart from registry staff, are judges helped by assistants in their research and decisions? Specify the number of assistants (overall and per judge) and their professional training (university, the Bar, etc.).

According to the law, the judge of the Supreme Administrative Court can be helped by at least one assistant. At the moment 25 assistants work at this Court; it means that each judge has one assistant. They all are graduates of the faculty of law; for 7 of them, this is the first job, the others have worked in different jobs - either in advocacy or at different bodies of state administration.

67. Do you have a library, and what kind of works and documentary resources can be found there?

The library of the Supreme Administrative Court was established in 2003. It is a specialized library, non-public one, and serves only to the court employees. It has the subscription for 60 magazine titles; out of them 3 are foreign ones. At the moment the library fund has 2,500 volumes and is continuously supplemented by current production from the publishing houses Beck, Linde, ASPI, LexisNexis, and others; it also has antiquarian legal literature. The publications issued before 2003, which are not included in this library because of its short existence, can be borrowed at the University library. Every month a bulletin is published which provides the information on new titles.

68. Do you have access to information technology? In which proportion? And for which kind of task (file management, data bases, computer assistance for writing decisions?)

The Supreme Administrative Court uses modern information technologies in the considerable part of processing judicial agenda. The fundamental source of information within the court is the internal Intranet portal, which collects all information the court employees need for their work. Apart from the actual registers of judicial schemes it also contains judicature, minutes from meetings, organizational documents, and lists of references to selected portals of other justice and administrative bodies. The interconnection between the court and the justice network makes it possible to remotely access databases of other departments of all ministries. There is a plan to innovate the whole system in 2006.

69. Do competent bodies and courts have a website to publicise themselves and to communicate with the public?

The Supreme Administrative Court develops and maintains its own Internet sites separate from the sites of the Ministry of Justice. Thanks to the close link to the internal Intranet portal of the Court based on the Internet platform the system enables to publish selected information from internal databases directly at the Internet sites of the Court. At the moment a module is being prepared for the publication of decisions and standpoints of the Court on the Internet sites; this also applies to the mentioned change of the technological core of the system to be carried out in 2006.

B - Other statistics and figures

70. How many new applications are registered every year with the court registry or the authority in charge of registering them?

As to the Supreme Administrative Court, 4243 applications were registered in 2003 and 5684 in 2004. As to the regional courts, 20,629 applications were registered in 2003, and 12,875 in 2004.

71. How many cases are heard every year by the court or other competent bodies?

In 2003 the Supreme Administrative Court made decisions regarding 2749 matters, and in 2004 regarding 4247 matters. In 2003 the regional courts made decisions regarding 17,686 matters, and in 2004 regarding 15,318 matters.

72. Could you provide figures concerning cases currently lodged with courts or competent bodies which have not yet been disposed of?

By the middle of 2005, 3246 matters have not been disposed of at the Supreme Administrative Court. At regional courts, 7597 matters have not been disposed of by the middle of 2005.

73. What is the average time taken between the lodging of a claim and judgement?

The duration of the proceedings before the Supreme Administrative Court is approximately 6-12 months. The duration of the proceedings before regional courts is not statistically monitored, and can be determined only approximately from available data at about 6-12 months.

74. Indicate the percentage and rate of the annulment of administrative acts decisions against administrative authorities by the lower courts.

Regional courts annulled 10% of administrative decisions from all applications.

75. Could you indicate the volume of litigation per field (asylum, foreigners, tax, urban planning, etc.)?

The litigations in 2003 at the Supreme Administrative Court concerned the following fields: 10% financial, 15% social insurance, 15% asylum, 20% others, and 40% of procedural

nature. In 2004: 15% financial, 5% social insurance, 55% asylum, 10% others, and 15% of procedural nature.

The litigations in 2003 at regional courts approximately concerned the following fields: 15% financial, 20% social insurance, 50% asylum, and 15% others. In 2004: 30% financial, 30% social insurance, 30% asylum, 15% others.

C - The economics of administrative justice

76. Do studies by researchers or work produced by practitioners demonstrate particular concerns by the courts, for example about orders for damages; do they deal with the influence of heavy awards against administrative authorities on public budgets? Do they consider the implications of their decisions in terms of costs for public finances?

In the materials, which manage the expenses of public finance these issues are not emphasized, nor do they appear in the argumentations by which possible changes of valid standards are justified.