

Act No. 150/2002 Coll.,

Code of Administrative Justice

**as amended by Act No. 192/2003 Coll., Act No. 22/2004 Coll., Act No. 235/2004 Coll.,
with effect from May 1, 2004**

The Parliament has adopted the following Act of the Czech Republic:

PART ONE

PRINCIPAL PROVISIONS

Chapter I

GENERAL PROVISIONS

§ 1

This Act provides for

- a) jurisdiction and competence of courts acting and making decisions in administrative justice and some of the issues concerning the organization of courts and the status of judges.
- b) procedure of courts, parties to proceedings (hereinafter “party”) and other persons in administrative justice.

§ 2

Courts in administrative justice provide protection to the individual public-law rights of both natural persons and legal entities in a manner specified by this Act and under the conditions specified by this Act or by a special law and make decisions in other matters provided for by this Act.

§ 3

(1) The bodies which hear and decide matters in the judicial review of administrative decisions (hereinafter “administrative justice”) are regional courts and the Supreme Administrative Court. In regional courts administrative justice is implemented by specialized benches and specialized judges sitting alone.

(2) Unless otherwise specified by law, the organization of courts and the status of judges making decisions in administrative justice is covered by general legal provisions.^{1) 1)}

Chapter II

JURISDICTION AND COMPETENCE OF COURTS

Jurisdiction of Courts

§ 4

(1) Courts of administrative justice decide on

- a) complaints against decisions made in the sphere of public administration by an executive authority, the autonomous unit of a local administrative authority, as well as by a natural

¹⁾ For instance, Act No.6/2002 Coll. (Collection of Laws; Sb. in Czech) on judges, courts, judges on the bench and the state administration of courts and on the amendment to some other acts (the act on courts and judges), as amended by Act No.151/2002 Coll., Act No.7/2002 Coll., on the procedure concerning judges and prosecuting attorneys, as amended by Act No.151/2002 Coll.

person or legal entity or another authority if entrusted with decision-making about the rights and obligations of natural persons and legal entities in the sphere of public administration (hereinafter “administrative authority”),

- b) protection against the inaction of an administrative authority,
- c) protection against an unlawful interference of an administrative authority,
- d) competence complaints.

(2) Courts of administrative justice furthermore decide on

- a) election matters and in the matters of a local referendum,
- b) matters concerning political parties and political movements.

§ 5

Unless otherwise provided for by this Act or by a special law, the protection of rights can be claimed in administrative justice provides only on the submission of a complaint and after the exhaustion of all appropriate remedial actions, if admissible under a special law.

§ 6

Courts of administrative justice are excluded from deciding on matters as specified by this Act or by a special law.

§ 7

Competence of Courts

(1) Unless otherwise provided for by this Act or by a special law, a regional court shall have subject-matter competence in proceedings.

(2) Unless otherwise provided for by this Act or a special law, a proceeding shall be within the territorial competence of a court in whose jurisdiction lies the seat of the administrative authority which issued the last-instance decision in the matter or otherwise infringed the rights of the subject seeking protection at the court.

(3) In matters of retirement insurance and social security, a proceeding shall be within the competence of a regional court in whose jurisdiction the complainant has his or her domicile or in whose jurisdiction the complainant stays.

(4) In matters of sickness benefit insurance, social security insurance and state policy employment benefits, a proceeding shall be within the competence of a regional court in whose jurisdiction lies the seat of the administrative authority which issued a first-instance decision in the matter.

(5) If a complaint in a matter of administrative justice is filed with a court which does not have subject-matter competence to deal with it, this court then refers it to a court with respective subject-matter and territorial competence. If a matter has been incorrectly referred to the Supreme Administrative Court, the Supreme Administrative Court shall remand it to the regional court which has referred it or it shall refer to a regional court with subject-matter and territorial competence.

(6) If the court at which a complaint has been made does not have territorial competence to deal with it, it shall refer the complaint to the competent court for decision. If the latter court does not agree with the referral of the matter, it submits the file to the Supreme Administrative Court to decide on competence. The decision of the Supreme Administrative Court on this matter is legally binding on the courts.

Chapter III

EXCLUSION OF JUDGES, TRANSFER OF A MATTER TO ANOTHER COURT, REQUEST

§ 8

Exclusion of judges and other persons

(1) Judges shall be excluded from the proceedings and decision on a matter if there is a reason to doubt their impartiality in view of their relation to the matter, the parties or their representatives. Also those judges shall be excluded who have taken part in the proceedings or decision on the matter at the administrative authority or in the previous court proceedings. Reasons for excluding the judge do not include circumstances that consist in the judge's actions in the proceedings concerning the matter or in his decisions in other matters.

(2) For similar reasons other persons shall also be excluded who immediately participate in the execution of judicial power (hereinafter "court official"), and also the interpreter and the expert.

(3) A judge who finds a reason for his bias shall report this fact to the presiding judge and for the time being shall take only such steps as do not allow delay. The presiding judge shall appoint another judge in his place or another bench of judges according to the work schedule. If the presiding judge concludes that there is no reason for the judge's bias or if the matter concerns the presiding judge himself, the decision on exclusion shall be made by the Supreme Administrative Court and, if the judge concerned is of the Supreme Administrative Court, by another of its benches.

(4) The court official, interpreter or expert shall report reasons for their bias to the presiding judge of the bench. The bench then decides on the exclusion. The provision of paragraph 3 is used accordingly.

(5) The party or person participating in the proceedings may object to the bias of the judge, court official, interpreter or expert. They have to raise the objection within a week from the day they learnt of the bias. If they find a reason for bias during the proceedings, they have to raise the objection during these proceedings. Objections raised at a later date shall not be taken account of. Reasons have to be given for the objection and concrete facts adduced from which it is inferred. The decision on the exclusion of the judge shall be made by the Supreme Administrative Court by a resolution after hearing the judge's opinion; if the objection of bias concerns the court official, interpreter or expert, the decision is made by the bench of judges after hearing their opinion.

§ 9

Transfer of a matter to another court

(1) The Supreme Administrative Court shall transfer the matter to a regional court other than the regional court with territorial competence if, due to the exclusion of judges from the specialized benches, the court with territorial competence is unable to set up a bench of judges.

(2) The Supreme Administrative Court may transfer the matter to a court other than the regional court with territorial competence if such is suitable for reasons of the speed and economy of the proceeding or another important reason.

(3) The parties are entitled to express their opinion as to which court the matter is to be transferred and in the case of paragraph 2 also as to the reason for the transfer.

§ 10

Request

Tasks which could be performed by the competent court only with difficulty or unnecessary expenditure, or which cannot be performed within that court's locally defined jurisdiction, shall be performed at the competent court's request by a district court or a specialized bench of judges of a regional court.

PART TWO
ORGANIZATION

Chapter 1

THE SUPREME ADMINISTRATIVE COURT

§ 11

- (1) There shall be set up the Supreme Administrative Court.
- (2) The seat of the Supreme Administrative Court is the city of Brno.

§ 12

(1) The Supreme Administrative Court, as the highest judicial authority in matters within the jurisdiction of courts of administrative justice, guarantees the unity and legality of decision-making by ruling on cassation complaints in cases prescribed by this Act and, furthermore, decides on other cases specified by this Act or a special law.

(2) The Supreme Administrative Court shall follow and assess the final decisions of courts of administrative justice and, on the basis of these decisions in the interest of uniform judicial decision-making, shall adopt a position on judicial decision-making in matters of specific kinds.

(3) In its decision-making, the Supreme Administrative Court may – in the interests of lawful and uniform decision-making by administrative authorities – make a ruling of an exemplary nature.

§ 13

(1) The Supreme Administrative Court consists of the President, Vice-President, heads of court divisions, presiding judges of benches and other judges.

(2) The President and the Vice-President of the Supreme Administrative Court (hereinafter “President and Vice-President”) are appointed from among the judges of this Court and removed by the President of the Republic.

(3) The decision-making function of the Supreme Administrative Court is exercised by judges. Apart from decision-making, the President and the Vice-President of the Supreme Administrative Court are entrusted with the state administration of the Supreme Administrative Court to the extent laid down by this Act. Apart from decision-making, the heads of the court divisions organize and direct the activities of the court divisions. Apart from decision-making, the presiding judges of the benches organize and direct the activities of the benches.

§ 14

(1) A judge of the Supreme Administrative Court is assigned at least one assistant. The position of a judge’s assistant (hereinafter “assistant”) is created by appointment and defined by the Labour Code, unless otherwise specified by this Act.

(2) A judge’s assistant is appointed and recalled from the position by the President of the Supreme Administrative Court at the proposal of the judge to be assigned the assistant. The position of the assistant is deemed to be terminated on the termination of the respective judge’s position.

(3) In order to be eligible for appointment, an assistant must be a citizen of integrity, a university graduate with a master’s degree in law earned at a school of law in the Czech

Republic. The condition of integrity is not fulfilled by those who have been lawfully sentenced for a criminal offence unless they are to be viewed as not sentenced.

(4) Assistants are bound to secrecy about matters which they may learn of in connection with the performance of their duties even after the termination of this position. The assistant may be released from the duty of secrecy by the President of the Supreme Administrative Court.

§ 15

(1) The judges of the Supreme Administrative Court shall be assigned in the work schedule to court divisions according to their main areas of activity.

(2) The number of court divisions is determined by the Plenum of the Supreme Administrative Court (hereinafter "Plenum") on the proposal of the President of the Supreme Administrative Court.

§ 16

(1) The Supreme Administrative Court makes decisions through benches of judges or extended benches of judges, unless this Act provides that a decision or specific action are to be taken by the presiding judge of the bench.

(2) A bench of judges consists of

- a) a presiding judge and six judges in election matters, in matters of political parties and political movements and in proceedings concerning competence complaints,
- b) a presiding judge and two judges in other cases,

(3) An extended bench of judges consists of

- a) a presiding judge and six judges in decisions concerning matters referred to it by a bench with a composition according to paragraph 2, letter b) above,
- b) a presiding judge and eight judges in other cases.

§ 17

(1) If a bench of the Supreme Administrative Court has in its decision arrived at a proposition of law which differs from the proposition of law already expressed in a previous decision made by the Supreme Administrative Court, the bench shall refer the matter to an extended bench for its decision. On referring the matter, the bench shall provide reasons for its legal view.

(2) Paragraph 1 shall not apply if the differing proposition of law has already been expressed in a position adopted by the Supreme Administrative Court.

§ 18

(1) If in its decisions a bench of the Supreme Administrative Court has repeatedly arrived at a proposition of law which is different from the proposition of law on which the administrative authority based its decision, the bench may submit this legal issue to an extended bench of judges for decision.

(2) If an extended bench of judges agrees on a proposition of law declared in the previous decision-making of the Supreme Administrative Court, it will adopt it as a ruling of an exemplary nature.

(3) The President of the Supreme Administrative Court shall publish rulings of an exemplary nature in the Collection of the Supreme Administrative Court and send them to the

administrative authority whom the decision given in paragraph 1 concerned and to the respective central administrative authority.

(4) The Rules of Procedure of the Supreme Administrative Court (hereinafter “Rules of Procedure”) shall specify in which other cases the President of the Supreme Administrative Court may submit other legal issues to an extended bench of judges for its decision.

§ 19

(1) In the interests of uniform decision-making by courts the President of the Supreme Administrative Court, the head of a court division of the Supreme Administrative Court or an extended bench of judges may – on the basis of the appraisal of final court decisions – propose that the competent division adopt a particular legal position. The adoption of a legal position requires the approval of the majority of all members of that court division.

(2) If the issues under review concern more court divisions or if the court divisions disagree, the President may, in the interests of uniform judicial decision-making, on the basis of the appraisal of final court decisions, propose that the Plenum adopt a position.

(3) Before adopting a legal position, the Supreme Administrative Court may request the opinion of administrative authorities or other bodies, administrative benches of regional courts or other persons.

§ 20

(1) The Plenum consists of all judges of the Supreme Administrative Court.

(2) The Plenum’s decisions are valid in the presence of at least two thirds of its members. The adoption of a decision requires the agreement of the absolute majority of the members present; the adoption of a legal stand, a decision on the number of court divisions require the absolute majority of all members.

(3) The President of the Supreme Administrative Court calls the Plenum, determines its agenda and chairs the session. The President of the Supreme Administrative Court is obliged to call the Plenum within one month at the request of at least two thirds of all judges of the Supreme Administrative Court. In the event the President of the Supreme Administrative Court sets the agenda according to the proposal of those who have requested the calling of the Plenum.

(4) Plenary sessions are closed.

(5) The Justice Minister and the President of the Supreme Administrative Court have a right to be present at a plenary session. It is also possible to invite other persons to a plenary session.

§ 21

(1) After a discussion in the Plenum the President of the Supreme Administrative Court issues the Rules of Procedure of the Supreme Administrative Court.

(2) In the Rules of Procedure the Supreme Administrative Court specifies in detail especially the procedural steps in the administration of justice, in the proceedings of the court divisions and the Plenum, in the establishment of benches of judges and extended benches of judges, in the creation of the work schedule, in reviews of the decision-making by judges of the Supreme Administrative Court, in the monitoring and appraisal of final court decisions, in the making of decisions of an exemplary nature, in the adoption of legal positions, in the publication of the Collection of the Supreme Administrative Court, and in the internal organization of the Supreme Administrative Court.

§ 22

(1) The Supreme Administrative Court publishes the Collection of Decisions of the Supreme Administrative Court (hereinafter “Collection”) which contains notably selected decisions made by the Supreme Administrative Court and regional courts in the sphere of administrative justice and opinions and exemplary rulings of the Supreme Administrative Court.

The Judicial Council of the Supreme Administrative Court

§ 23

(1) There shall be set up the Judicial Council of the Supreme Administrative Court (hereinafter “Judicial Council”), consisting of five members.

(2) The position of a Judicial Council member is incompatible with the position of President, Vice-President or head of a court division of the Supreme Administrative Court.

(3) The Judicial Council is an advisory body to the President of the Supreme Administrative Court.

§ 24

(1) The Judicial Council is convened by the Chairman of the Judicial Council who sets its agenda and presides over its sessions. The Chairman of the Judicial Council is obliged to call the Judicial Council within one month if requested to do so by its member, the President or the Vice-President of the Supreme Administrative Court.

(2) The Judicial Council may take valid decisions in the presence of the absolute majority of all its members. The adoption of a decision requires the agreement of the absolute majority of all members of the Judicial Council.

(3) Sessions of the Judicial Council are closed.

(4) The President or the Vice-President of the Supreme Administrative Court may be present at the sessions of the Judicial Council and may voice their opinions on the issues under review. It is also possible to invite other persons to a Judicial Council session.

§ 25

(1) The Judicial Council

a) expresses its opinion on candidates for the head of a court division and the presiding judge of a bench of the Supreme Administrative Court,

b) expresses its opinion on judges who are to be assigned and transferred to serve at the Supreme Administrative Court or who are to be transferred from the Supreme Administrative Court to another court,

c) discusses proposals for the work schedule of the Supreme Administrative Court and its changes,

d) expresses its opinion on key issues of the state administration of the Supreme Administrative Court,

e) may ask the President of the Supreme Administrative Court to convene the Plenum and suggest the agenda of the session to him,

f) performs other tasks if specified by a special statute.

(2) Suggestions pursuant to paragraph 1, letters a) to d) are submitted to the Judicial Council by the President of the Supreme Administrative Court; at the same time the President

sets a time limit that must not be under five workdays within which the Judicial Council is to discuss a given suggestion. If the Judicial Council does not issue an opinion within this limit, the Judicial Council is understood to approve the suggestion.

State Administration of the Supreme Administrative Court

§ 26

(1) The central authority of the state administration of the Supreme Administrative Court is the Ministry of Justice (hereinafter “Ministry”).

(2) The state administration of the Supreme Administrative Court is implemented by the Ministry through the President of the Supreme Administrative Court.

(3) The Ministry and the President of the Supreme Administrative Court implement the state administration of the Supreme Administrative Court in cases specified by this Act or by a special law, taking account of the opinions of the Judicial Council.

§ 27

(1) The President of the Supreme Administrative Court implements the state administration of the Supreme Administrative Court within the scope specified by this Act.

(2) The Vice-President of the Supreme Administrative Court participates in the state administration of the Supreme Administrative Court within the scope specified by its President.

(3) The President of the Supreme Administrative Court may with their approval entrust heads of the court divisions and other judges of the Supreme Administrative Court with the implementation of particular acts of state administration while retaining his or her own responsibility.

§ 27a

(1) The Head of the management of the Supreme Administrative Court (hereinafter “Head of the management of the Court”) runs the operation of the court within the scope specified by this Act and carries out some other activities related to the state administration of the Supreme Administrative Court; the responsibilities of the President of the Supreme Administrative Court as the representative of the state administration of the Court are not affected thereby. The President of the Supreme Administrative Court may specify matters on which he or she will make decisions directly.

(2) The Head of the management of the Court is appointed and removed^{1a)} ^{1a)} by the President of the Supreme Administrative Court. The position of Head of the management of the Court is filled by a contract of employment.

§ 28

The Ministry implements the state administration of the Supreme Administrative Court by

a) ensuring the operation of the court in point of organization, especially by specifying each year the numbers of judges, assistants and other court employees in consultation with the President of the Supreme Administrative Court with regard to the number of matters to be dealt with,

^{1a)} § 27 paragraph 4 of the Labour Code.

b) ensuring the operation of the court in point of personnel in a manner prescribed by this Act,

c) ensuring the operation of the court by funding its management and material resources to the extent laid out in special legal regulations and by inspecting its management,^{1b) 1b)}

d) directing and checking the implementation of the state administration of the Supreme Administrative Court by its President in matters of state property and the state budget, and by organizing the state administration of the Court as performed by its President in other matters,

e) organizing and conducting professional training of the employees in the service of the Supreme Administrative Court,

f) channelling and directing the use of information technology,

g) organizing, directing and checking the implementation of tasks concerning defence and civic emergency planning, protection of confidential information, security of persons and property, fire protection and tasks relating to labour safety and health protection,

h) fulfilling other tasks if provided for by this Act or a special law.

§ 29

(1) The President of the Supreme Administrative Court implements the state administration of the Supreme Administrative Court by

a) ensuring the operation of the court from the organizational and personnel point of view, especially by seeing to the proper staffing of the Supreme Administrative Court by judges, assistants, technical and other employees and by dealing with the personal matters of the judges,

b) ensuring the professional standards of the judges and creating conditions for their improvement,

c) seeing to an increase in the professional standards of the assistants and other employees of the Supreme Administrative Court,

d) checking on the proper operation of court offices,

e) ensuring that the court provides information in keeping with a special Act,^{2) 1)}

f) supervising the activities of the Head of the management of the Court,

g) ensuring the safety of the Supreme Administrative Court and by performing crisis management tasks,

h) fulfilling other tasks if provided for by this Act or a special law.

(2) The President of the Supreme Administrative Court sees to the dignity of proceedings, the observation of the principles of judicial ethics and the smoothness of proceedings conducted at the Supreme Administrative Court. For this purpose the President of the Supreme Administrative Court

^{1b)} For instance, Act No. 218/2000 Coll. on budgetary rules and on the change of some related laws (budgetary rules) as amended by the subsequent regulations, and Act No. 219/2000 Coll., on the property of the Czech Republic and its actions in legal relations as amended by subsequent regulations.

¹⁾ Act No.106/1999 Coll. on free access to information, as amended by subsequent legislation.

- a) makes reviews of the judicial files,
- b) supervises the observance of the court procedural standards,
- c) deals with complaints.

(3) The Head of the management of the Court, except for the tasks which according to this Act or special legal regulations fall only to the President of the Court, has duties which include

- a) ensuring the operation of the court from the economic, material and financial point of view,
- b) dealing with the personal matters of the employees of the Supreme Administrative Court with the exception of the judges,
- c) ensuring the proper operation of court offices,
- d) fulfilment of other tasks related to the implementation of the state administration of the Supreme Administrative Court according to the instructions of the President of the Court.

§ 30

Complaints

(1) The President of the Supreme Administrative Court deals with complaints of delays in proceedings, improper conduct or the violation of dignity of proceedings by the Vice-President, presiding judge of the bench, judges, assistants and other employees serving at the Supreme Administrative Court.

(2) Petitions expressing disagreement with the way the complaint has been dealt with by the President of the Supreme Administrative Court are attended to by the Ministry. The Ministry also deals with complaints pursuant to paragraph 1, if the Ministry stipulated for their settlement.

Chapter II

REGIONAL COURTS

§ 31

(1) Unless otherwise provided for by the Act, the regional court decides on matters of administrative justice in specialized benches comprised of a presiding judge and two judges.

(2) In matters of retirement insurance, social security, sickness benefit insurance, sickness care in the armed forces, job applicants and their material benefits according to the regulations governing employment, and state social benefits, in matters of infractions as well as in other matters provided for by a special law, decisions are made by a specialized judge sitting alone.

(3) If provided for by this Act, the presiding judge decides and performs particular tasks. The duties and obligations of the presiding judge are also discharged by a specialized judge sitting alone.

PART THREE
PROCEEDINGS IN ADMINISTRATIVE JUSTICE

Chapter I

GENERAL PROVISIONS ON PROCEEDINGS

§ 32

Initiation of proceedings

(1) The proceedings are initiated on the day when the motion has reached the court; if the motion concerns matters specified in § 4 paragraph 1, it is called a complaint.

§ 33

Parties to the proceedings and those acting for them

(1) The parties include the movant (petitioner, complainant) and the respondent (defendant) or such persons as specified by this Act; the respondent (defendant) is a person denoted as such by the Act.

(2) Competent to be a party to the proceedings are either those who have the capacity to possess rights and duties or an administrative authority; otherwise competent are also subjects to whom the competence is accorded by the Act.

(3) Parties have the competence to act in proceedings on their own (hereinafter “procedural competence”) only if possessing procedural competence in full. An administrative authority and those entitled by law to submit a motion also have procedural competence.

(4) Persons competent to act on behalf of a legal entity are those who are entitled to do so by a special law. Those persons whose interests are contrary to the interests of the legal entity may not act on behalf of the legal entity. Persons acting on behalf of a legal entity must prove their authorisation at the request of the court. Only one person may act on behalf of a legal entity in the same matter at the same time.

(5) Unless otherwise specified by a special law, the person acting on behalf of an administrative authority is its head or another person authorized according to the authority’s internal regulations.

(6) If the party is a state, the person acting on behalf of it is a person specified by a special law. ^{4) 1)}

(7) If the party is a court, the person acting on behalf of the bench concerned in the matter is its presiding judge.

(8) If more persons submit a joint motion, each one is a party acting on behalf of himself or herself with effects for his or her person only.

§ 34

Persons participating in the proceedings

(1) Persons participating in the proceedings are those who have been directly affected in their rights and duties by the issue of the contested decision or by the decision not being issued and those who are liable to be directly affected by the rescindment or issue of the

¹⁾ § 5 of Act No.219/2000 Coll. on the property of the Czech Republic and the Czech Republic entering into legal relations.

decision according to the motion seeking the court's decision, if they are not parties and have expressly stated that in the proceedings they exercise the rights of persons participating in the proceedings.

(2) The complainants are obliged to indicate in their motions individuals under consideration as persons participating in the proceedings, if these individuals are known to the complainants. The presiding judge notifies these individuals of the proceedings and call on them to say within a time limit given to them simultaneously whether they exercise in the proceedings the rights of persons participating in the proceedings; such a notification can be made only within this time limit. In the notification the presiding judge also informs them of their rights. The presiding judge takes similar steps if it transpires during the proceedings that there is another such person. The use of the personal data provided on these persons is accordingly governed by the provision § 37, paragraph 3.

(3) A person participating in the proceedings is entitled to submit a written statement, inspect the file, be informed about the order to hear the case and request the floor during the proceedings. This person is served a notification of the decision terminating the court proceedings. A person participating in the proceedings may not determine its subject-matter.

(4) The court by means of its resolution declares that the person who seeks the status of a person participating in the proceedings and does not meet the conditions for this status is not a person participating in the proceedings.

§ 35

Representation

(1) A party without the legal competence to engage in proceedings must be represented in the proceedings by a legal representative.

(2) Unless otherwise specified by this Act, the party may be represented by a counsel or another person practising specialized legal counselling according to special laws provided the motion relates to the sphere of activity governed by these laws.⁵⁾ ²⁾ Representation is in return for a fee; unless otherwise specified by a special provision, the amount of the fee is decided by a similar special provision which determines fees and reimbursements for counsels for the provision of legal services.

(3) The claimant may also be represented by a union organization of which the claimant is a member. The person acting for the union organization is its authorized employee or member.

(4) If judicial protection is sought by a party who claims that he or she has been discriminated against by an administrative authority on grounds of his or her sex, national, social or racial origin, membership of a national or ethnic minority, colour of skin, language, religion, belief, world outlook, political or other persuasion, disability, age, property, stock, or a different status or sexual orientation, the party may also be represented by a legal entity created on the basis of a special law,⁶⁾ ³⁾ whose activities listed in its constitution involve protection against such discrimination. This legal entity is acted for by its authorized employee or member.

²⁾ For instance, Act No.237/1991 Coll. on patent attorneys, as amended by subsequent legislation, Act No.523/1992 Coll. on tax consultancy and the Chamber of Tax Advisors of the Czech Republic. Act No.358/1992 Coll. on notaries and their practice (Notarial Practice Code), as amended by subsequent legislation.

³⁾ Act No.83/1990 Coll. on association of citizens, as amended by subsequent legislation.

(5) The party may also decide to be represented by a natural person with full legal capacity. The court shall not admit such representation by a resolution if such a person is patently incapable of proper representation or repeatedly represents in various matters.

(6) The party may have only one representative in one and the same matter. The representative must act in person unless otherwise expressly specified by a special law.

(7) The claimant with an assumed probability of being exempt from judicial fees, may on request by the resolution of the presiding judge, if necessary for the protection of the claimant's rights, be assigned a representative who may be a counsel; in such a case the cash expenses of the representative and the fee for the representation of persons specified in paragraph 2 are paid by the state. If the claimant was assigned a representative specified in paragraph 2 who is a value added tax (hereinafter "tax") payer, the amount of the cost to be reimbursed by the state shall be increased by the amount corresponding to the tax which the representative is obliged to pay out of the representation fee and of the reimbursement of cash expenditure according to a special law.^{6a)} ⁴⁾ If the claimant applies for exemption from judicial fees or for the assignment of a representative, the time limit set for the submission of a motion to commence the proceedings is suspended pending the period between the submission of the application and the decision about it coming into effect.

§ 36

Rights and duties of the parties

(1) The parties have equal status in the proceedings. The court is obliged to afford them the same possibilities to exercise their rights and instruct them in their procedural rights and duties to an extent necessary to avoid any detriment to the parties in the proceedings.

(2) Expenses incurred by the use of an interpreter⁷⁾ ⁵⁾ are reimbursed by the state.

(3) The party who establishes lack of sufficient means may at his or her own request be exempted from judicial fees by the decision of the presiding judge. If, however, the court concludes that the proposal patently cannot be successful, it shall deny such request. The court shall rescind the granted exemption at any point during the proceedings, even retroactively, if before the conclusion of the proceedings by a final decision it transpires that the party's circumstances do not, or did not, warrant the granting of exemption.

§ 37

Acts by parties and persons participating in the proceedings

(1) Parties and persons participating in the proceedings can make their acts in any form unless the Act does not prescribe a certain form for some acts. The presiding judge may always order the act to be made in writing or orally in the transcript.

(2) Petitions including an act determining the proceedings or their subject-matter can be made in writing, orally in the transcript, or in electronic form signed electronically pursuant to a special law.⁸⁾ ⁶⁾ If such a petition is made in another form, it must be confirmed within three days by a written submission of the same contents or its original must be submitted, otherwise it shall be disregarded. If such an act is made by a corporate authority or a person who, according to a special law or on its basis, is acted for by a corporate body, the

⁴⁾ Act No. 235/2004 Coll. on the value added tax

⁵⁾ Article 37, paragraph 4 of the Charter of Rights and Freedoms.

⁶⁾ Act No.227/2000 Coll. on electronic signature and on the amendment of some other acts (Electronic Signature Act).

act must be accompanied by a copy of such a body's resolution approving the contents of the petition.

(3) Each petition must clearly indicate what it is concerned with, who makes it, whom it is directed against, what it proposes; and it must be signed and dated. The person who submits the petition (hereinafter "petitioner") gives personal data in the petition concerning his person only to a necessary extent; the petitioner shall always give his or her first name, surname and address at which he or she can be reached. The petitioner shall give other personal data only when requisite with regard to the nature of the matter to be dealt with by the court. If subject to a judicial fee, the petition must be provided with a duty stamp of appropriate value, and it must be accompanied by documents to which the petitioner refers. A petition which must be served on the other parties and persons participating in the proceedings must be submitted in the requisite number of counterparts.

(4) The petitioner may withdraw his or her petition in whole or in part until such a time as the court has decided on it.

(5) The presiding judge shall call on the petitioner by means of a resolution to correct or eliminate faults in the petition and shall set a time limit for this purpose. If the petition is not supplemented or corrected within this limit and the proceedings cannot continue on account of this fault, the court shall turn down the proceedings concerning such a petition, unless the Act provides for another procedural consequence. The petitioner must be notified of this.

§ 38

Provisional ruling

(1) If a petition has been submitted for the commencement of proceedings and if it is necessary to take temporary measures to adjust the parties' circumstances liable to cause serious harm, the court may resolve to impose on the parties the obligation of having to do something, to refrain from doing something or to endure something by a provisional ruling. For the same reason the court may impose such an obligation on a third person, if he or she can be justly requested to do so.

(2) If necessary, the court may request the opinions of the other parties on the petition for a provisional ruling.

(3) The petition is inadmissible if the petition for the commencement of proceedings may be granted suspensory effect or if this effect becomes by virtue of the law.

(4) The court may rescind or modify the decision on a provisional ruling if the circumstances change even without a petition. The provisional ruling terminates at the latest on the day when the decision of the court whereby the proceedings are concluded has become enforceable.

§ 39

Joinder and separation of complaints

(1) Independent complaints aiming against the same decision or against decisions whose subject-matter is interrelated may be joined by the presiding judge for common proceedings.

(2) If one complaint aims against several decisions, the presiding judge of the bench may resolve that each such decision is separated for independent proceedings if common proceedings are not possible or suitable.

§ 40

Time limits

(1) A time limit provided for by this Act, by the call or decision of the court commences from the beginning of the day after the event marking the commencement of the time limit occurred. This does not apply to time limits determined in hours.

(2) A time limit determined in weeks, months or years, expires on the passage of the day the denomination of which equals that of the day appointed for the commencement of the time limit. If there is no such day in the month, the time limit expires with the passage of the last day of this month.

(3) If the last day of the time limit is a Saturday, Sunday or holiday, the last day of the time limit is the nearest following workday. This does not apply to time limits determined in hours.

(4) The time limit is met if on the last day of the time limit the submission was handed over to the court or sent to the court by a holder of a postal service licence, or a special postal service licence, or handed over to a institution which is obliged to deliver it, unless otherwise provided for by the law.

(5) Unless otherwise provided for by the law, the presiding judge of the bench may on request waive the neglect of time for performing the act on account of serious justifiable reasons. The request has to be submitted within two weeks after the obstacle ceases to exist and has to be linked to the neglected action. Similarly, the presiding judge of the bench may extend the time limit prescribed by the court.

(6) Unless the special law whereby time limits for the submission of a petition to the court are prescribed has a provision governing the calculation and running of time, the provisions of paragraphs 1 to 4 apply in similar fashion.

§ 41

Special provision for the course of time in some time limits

If a special law providing for infractions, breaches of discipline or other administrative delicts (hereinafter “administrative delict”), prescribes time limits for the termination of liability or for the execution of a decision, these time limits are suspended during court proceedings according to this law. Similarly, this is true of time limits for the expiry of a right relating to taxes, fees, levies, advance payments of these incomes and levies for the violation of budgetary discipline which shall be used as revenues of the state budget of the Czech Republic, state funds and the budgets of self-governing regional units.

§ 42

Delivery

(1) The court shall deliver documents through a judicial carrier, by means of a holder of a postal service licence, or a special postal service licence, or via a public data network. If necessary, the court may also ask another state agency to make delivery.

(2) If a party or a person participating in the proceedings has a representative, the delivery shall be made only to the representative. If, however, the party or the person participating in the proceedings has to perform something in person, the delivery is made to him.

(3) If the delivery of documents is evidently bound to be delayed or difficult, the presiding judge of the bench may oblige the person concerned to choose an authorized person

as the addressee of delivery to whom a delivery can be made without difficulty, or the presiding judge shall warn the person concerned that the documents are deposited at the court with the force of being delivered. The person to whom a delivery is made in reservation is entitled to collect the decision or resolution, or to ask that he or she be sent it to a specified address.

(4) If it is apparent that the delivery to persons participating in the proceedings will be inadequately protracted, expensive, administratively exacting or impossible, especially because of their large number or because they cannot be identified individually, it is possible on the basis of the presiding judge's measure to make a delivery to them by means of posting the decision or other documents on the official notice board of the court. The court may also make public its decision or another document in a manner allowing long-distance access or on the official notice board of a local authority.

(5) Unless otherwise provided for by this Act, the method of delivery is subject to similar provisions applicable to delivery in civil court proceedings.

§ 43

Summons and bringing before the court

(1) The court serves a written summons or, during proceedings, calls on the persons present orally. In emergencies it may also serve a summons by telephone, telegraph or electronically in a manner specified by a special law.⁸⁾

(2) If the person served a summons fails to appear before the court without just excuse, he or she may be brought before the court by order of the presiding judge of the bench, if forewarned of the possibility that this could happen. The act of bringing the person before the court is made by an officer of the Police of the Czech Republic at the request of the presiding judge of the bench at the expense of the person to be brought before the court or, if the person to be brought before the court is a member of an armed force, by the commander or chief of that force.

§ 44

Procedural fine

(1) A procedural fine of up to Kč 50 000 may, by a resolution, be imposed as a disciplinary sanction on a person who disobeys the call of the court or makes an offensive submission or speech; the fine is used as a revenue of the state budget. The fine may even be imposed repeatedly, or it may be by a resolution subject to partial or complete exemption on the basis of a justified request submitted before the decision concluding the proceedings comes into force.

(2) The fine is collected and enforced by the court which imposed it.^{9) 7)}

§ 45

Inspecting files

(1) Parties, their representatives and persons participating in the proceedings are entitled to inspect the judicial files and their appendices with the exception of the report on voting, and are entitled to make extracts from and copies of the judicial files, and request that such an extract and copy be given to them.

⁷⁾ § 1 paragraph 4 of Act No.337/1992Coll. on the administration of taxes and charges, as amended by subsequent legislation.

(2) The presiding judge of the bench may allow other persons to inspect the files if they can prove that they have a legal interest or a serious reason and if it is not contrary to the rights and interests of some of the parties protected by law.

(3) When submitting the file, the administrative authority shall always mark those parts of the file that contain classified information protected by a special law¹⁰⁾ ¹⁰⁾ or other information protected according to special laws. The presiding judge of the bench shall exclude these parts of the file from inspection. This also applies to the judicial files accordingly.

(4) It is not possible to exclude from inspection those parts of the file specified in paragraph 3 that have constituted or will constitute evidence in court. It is likewise impossible to exclude from inspection those parts of the file which the parties were entitled to inspect when dealing with the administrative authority.

(5) Parts of the files specified in paragraph 3 which were not excluded from inspection according to paragraph 4 may be inspected only by the parties and their representatives, or persons who can produce a certificate for a given level of security classification of the information under review protected by a special law ¹⁰⁾ if they can prove a legal interest in the inspection.

(6) Before the inspection of the file containing information mentioned in paragraph 3, the presiding judge of the bench shall instruct the inspecting person in keeping with a special law¹¹⁾ ¹¹⁾ and warn the person of the criminal consequences of breaching the security of classified information. By signing a report on this instruction the person instructed becomes a person eligible for the disclosure of classified information in the required scope. On its completion the counterpart of the report is sent to the National Security Office.

§ 46

Rejection of a petition

(1) Unless otherwise provided for by this Act, the court shall resolve to reject the petition if

- a) the court has already decided on this matter or proceedings concerning the same matter are under way before the court or if other conditions requisite for the proceedings are not met and this fault is irremovable or has not been eliminated despite a call by the court and in consequence the proceedings cannot continue,
- b) the petition was submitted prematurely or with delay,
- c) the petition was submitted by a patently unauthorized person,
- d) the petition is inadmissible under this Act.

(2) The court shall also reject the petition if the petitioner seeks a decision in a dispute or another legal matter which is to be heard and decided by a court in civil proceedings or if the petitioner seeks the review of a decision whereby the administrative authority decided in a private-law matter within its legal competence.¹²⁾ ⁸⁾ In the resolution to reject the petition the petitioner must be instructed that within one month from the decision coming into force the petitioner may file a complaint and be informed of the court competent therefor according to subject-matter.

¹⁰⁾ Act No.148/1998 Coll. on protection of classified information and on the amendment of some acts, as amend by subsequent legislation.

¹¹⁾ § 15 paragraph 3 of Act No.148/1998 Coll.

⁸⁾ Part Three and Part Five of the Civil Procedure Code.

(3) The provision of paragraph 2 is not applied if a private-law court has lawfully terminated the civil proceedings in the same matter on the ground that the matter is to be dealt with under administrative justice.^{13) 9)} In such a case the court suggests to a bench set up under a special law,^{14) 10)} that it decide the contest as to subject-matter competence.

(4) If a dispute arises between a specialized bench of a regional court for administrative justice matters and another bench of the same regional court as to whether the matter is to be dealt with and decided according to the Civil Procedure Code, it is resolved according to a special law;¹⁴⁾ the provision of paragraph 2 is not applied.

(5) If the petitioner has submitted a motion by reason of following incorrect instruction by the administrative authority that there is no admissible remedy against its decision, the court rejects the petition on this account and refers the matter to the respective administrative authority to decide on a remedy. If the petition was submitted in time to the court, the rule is that the application for a remedy was also submitted in time.

§ 47

Discontinuance of proceedings

The court resolves to discontinue the proceedings,

- a) if the petitioner has withdrawn the petition; however, if it is a joint petition by several persons, the presiding judge notes by a resolution only the withdrawal of the petition by one of the petitioners,
- b) if the petitioner declares that subsequent to submitting the petition he has been fully satisfied with the procedure of the administrative authority (§ 62),
- c) if prescribed so by this Act or a special law.^{15) 11)}

§ 48

Suspension of proceedings

(1) The presiding judge shall suspend proceedings by a resolution if

- a) a petition concerning the matter was submitted to the Constitutional Court in accordance with article 95, paragraph 2 of the Constitution,
- b) the party has lost legal capacity and is not represented,
- c) it is impossible to continue proceedings without unnecessary delay with the legal successor to the party,
- d) the decision depends on an issue which the court is not authorized to settle in the present proceedings,
- e) so provided for by this Act.

(2) The presiding judge of the bench may suspend the proceedings by a resolution if

- a) the presiding judge finds that a move admissible by law has been made regarding the matter or a petition to change or rescind the decision or that such proceedings have been instituted,
- b) the legal successor to the party has died or lost legal capacity,

⁹⁾ § 104b of the Civil Procedure Code.

¹⁰⁾ Act No.131/2002 Coll. on decision-making in some competence contests.

¹¹⁾ For instance, Act No.549/1991 Coll. on judicial fees, as amended by subsequent legislation.

- c) the petitioner's place of residence or seat is unknown or the petitioner is prevented from taking part in the proceedings by an obstacle of a long-term nature,
- d) the bench or the judge sitting alone who are to decide on the petition have come to the conclusion that the legal regulation or specific provision which is to be applied in the matter is contrary to the law, if they have moved that such legal regulation or its specific provision be rescinded.
- e) the presiding judge finds that other proceedings are under way whose results may affect the decisions of the court in the matter itself, or if the presiding judge himself initiates such proceedings.

(3) If the proceedings are suspended, hearings do not take place and the time is not running under this Act.

(4) When the obstacle is removed, the presiding judge rules by a resolution even without a petition that the proceedings continue.

§ 49

Hearing

(1) The presiding judge orders a hearing on the merits of the matter and serves summonses on the parties to attend it in such a way as to give them at least ten workdays for preparation. The presiding judge notifies participants in the proceedings of the hearing.

(2) The hearing is open to the public. The presiding judge may exclude the public, even for a certain part of the proceedings, only for reasons of protection of classified information, commercial secrets, morals, or public order. In such a case the presiding judge at the request of a party allows the presence of two of the party's confidants in the proceedings unless this apparently defeats the purpose of excluding the public and warns them of the consequences of violating the duty of non-disclosure. If the hearing involves classified information, the confidant must produce a certificate for a given level of security classification of the information under review protected by a special law.¹⁰⁾ The presiding judge may also banish from court anyone who disturbs the order and dignity of the proceedings.

(3) The absence of properly summoned participants is no obstacle to the continuance and conclusion of the proceedings, unless there are reasons for adjournment pursuant to § 50.

(4) The hearing is opened and directed by the presiding judge of the bench. Objections to the presiding judge's measures in the handling of the proceedings are decided by the bench by means of a resolution. The presiding judge instructs the parties to mention even such factual and legal issues that in the court's opinion are relevant for the decision although they were not referred to in the parties' previous petitions.

(5) During the hearing the judges and, with the presiding judge's permission, the parties and persons participating in the proceedings may put questions to the parties, or witnesses and experts, or invite them to give their opinions on the matter.

(6) If classified information is heard, the presiding judge proceeds similarly in accordance with § 45, paragraph 6.

(7) If the court finds during the proceedings that there are reasons to suspend or discontinue the proceedings, or to reject the petition, the court decides on this by a resolution.

(8) At the close of the hearing, the parties must be given the floor to express their opinion on the final proposals.

(9) The judgement must be announced in the name of the Republic and publicly. Once the court has pronounced a judgement, the court is bound by it.

(10) If it is not possible to pronounce a judgment after the conclusion of the hearing that preceded it, the presiding judge informs the parties of the day and hour of its pronouncement which the presiding judge sets in such a way as to take place within one month at the latest or, if all parties are present, within ten days after the conclusion of this hearing.

(11) The judgement is pronounced orally if there has been a hearing in the matter and at least one party or a person participating in the proceedings or the public are present at the pronouncement. If only court officials are present at the pronouncement of the judgement, the court pronounces the judgement by posting an abridged written copy of judgment without a justification of the judgement on the official notice board of the court for a period of fourteen days; the day of pronouncement is entered in the written copy.

(12) The hearing and other acts in which the court deals with the parties and produces evidence are described in a record. Personal data entered in the record are subject to the provision in § 37, paragraph 3 accordingly.

(13) Details of the course of the hearing, consultation, voting and writing of the report are specified by the Rules of Procedure.

§ 50

Adjournment of hearing

The hearing may be adjourned for serious reasons. The court may also adjourn the hearing if the parties jointly move for an adjournment.

§ 51

Decision-making without an order to hear the matter

(1) The court may decide on the matter without a hearing, if the parties jointly move for this or agree to this. It is understood that agreement is also given when the party has not expressed disagreement with such a procedure within two weeks from the delivery of the call by the presiding judge; the party has to be notified of this in the call.

§ 52

Producing evidence in court

(1) The court decides which of the proposed evidence shall be produced; it may also produce other evidence.

(2) The court is bound by decisions of other courts on whether a crime was committed and who committed it as well as by a court decision on personal status. In all other matters the court forms its own conclusions; if, however, there has been a decision on them, the court shall proceed from it, or, where the decision on the matters is up to the court, it may oblige the party to initiate such a decision by the party's own motion.

§ 53

Decision

(1) The court decides on the matter proper by a judgement; it decides by a resolution only where provided for by law.

(2) The court decides on other matters by a resolution where provided for by law.

(3) Remedies against the decision of the court are admissible only if provided for by this Act.

§ 54

Judgement

(1) The bench decides on the judgement by an absolute majority vote in closed deliberation at which no-one but the judges of the bench and a recorder may be present.

(2) The judgement must be produced in writing, it must contain the name of the court, the names of all judges who decided on the matter, the specification of the parties, their representatives, the matter concerned, statement of judgement, justification, instruction as to the remedy and the day and place of pronouncement. The judgement is signed by the presiding judge of the bench or, if not possible, by another judge of the bench. Personal data entered in the judgement are subject to the provision in § 37, paragraph 3 accordingly.

(3) The court shall produce the judgement within one month of its pronouncement at the latest and shall take the necessary steps to deliver the counterparts of the judgement into the parties' own hands or to make a delivery to the persons participating in the proceedings. The presiding judge may extend this time limit on serious grounds, not more, however, than by two months.

(4) The presiding judge shall correct errors in writing and numbers, or any other obvious errors, in the judgement even without a motion. If the correction concerns the statement of judgement, the presiding judge makes a rectifying resolution on this and may postpone the enforceability of the judgement until the rectifying resolution comes into force.

(5) A judgement that has been delivered to the parties is in force.

(6) The statement of final judgement is binding on the parties, persons participating in the proceedings and on public authority bodies.

(7) The judgement is enforceable upon its coming into legal force once the time limit for discharge prescribed by the court in the statement of judgement expires, or if the liability for discharge is not stated, or if the time limit for discharge is not prescribed.

§ 55

Resolution

(1) The resolution is pronounced publicly if made during the hearing. A resolution which need not be delivered and is not part of the report on the hearing contains only a brief specification of the matter, the statement and the date of issue.

(2) The court is bound by a resolution once it has pronounced the resolution, and if the resolution is not pronounced, then upon its delivery. The court, however, is not bound by a resolution which only regulates the procedure.

(3) The written copy of the resolution is delivered to the parties and persons participating in the proceedings only if the proceedings are concluded by this resolution, otherwise only to those on whom a duty is imposed by the resolution, or if necessary for the conduct of the proceedings.

(4) A resolution whereby the proceedings are not concluded and which do not impose a duty on anybody need not contain a justification.

(5) The resolution is subject to the provision governing a judgement accordingly.

§ 56

Preferential dealing with matters

(1) Regardless of the chronological order in which petitions reach it, the court preferentially disposes of petitions for adjudication of suspensory effect, petitions for provisional rulings, petitions for exemption from judicial fees and petitions for the appointment of a representative.

(2) The court furthermore preferentially deals with petitions and complaints concerning asylum, decisions on detention of a foreigner and decisions on the termination of special protection of and aid to witnesses and other persons in connection with criminal proceedings as well as in other cases, if provided for by a special law.

Costs of proceedings

§ 57

(1) Costs of proceedings involve especially cash expenses of parties and their representatives, judicial fees, loss of earnings of the parties and their legal representatives, expenses related to producing evidence, representation fees, the representative's cash expenses and interpretation fees.

(2) If the representative of the claimant is a counsel who is a tax payer, the costs of the proceedings include also the amount corresponding to the tax which the counsel is obliged to pay out of the representation fee and of the reimbursement of costs according to a special law^{6a(6)}.

§ 58

(1) The witness is entitled to reimbursement of cash expenses and loss of earnings. The right becomes extinct if not exercised within three days of the examination or on the day when the witness was notified that the examination does not take place. The court has to inform the witness of this. The same rights are enjoyed by a person on whom the court has imposed a duty in the course of producing evidence.

(2) The expert and the interpreter are entitled to the reimbursement of cash expenses and a fee for expert and interpreting activities. The amount of the fee is specified by a special legal regulation.

(3) Reimbursements in accordance with paragraphs 1 and 2 are decided on by the presiding judge.

§ 59

Costs of proceedings payment

(1) Each of the parties and persons participating in the proceedings pays for the costs incurred by them or their representatives.

(2) The state pays costs incurred for witnesses', experts', and interpreters' fees, and other expenses related to producing evidence. However, the presiding judge may by a resolution oblige a party who was not exempt from judicial fees to deposit advance payment for the costs of producing evidence which the party proposed.

§ 60

Costs of proceedings reimbursement

(1) Unless otherwise specified by this Act, the party who has been fully successful in the matter is entitled to the reimbursement of costs of proceedings which the party justifiably incurred versus the party that has not been successful in the matter. If the party has been only

partially successful, the court awards the party proportional compensation for costs of proceedings.

(2) Paragraph 1 does not apply, should the compensation be awarded to an administrative authority in matters of retirement insurance, social security, sickness benefit insurance and sickness care in the armed forces and social care.

(3) None of the parties is entitled to reimbursement of the costs of proceedings if the proceedings have been discontinued or the petition rejected. If, however, the complainant has withdrawn the complaint on account of the defendant's subsequent action, or if the proceedings have been discontinued on account of the complainant's satisfaction, the complainant versus the defendant is entitled to reimbursement of the costs of proceedings.

(4) The state versus the unsuccessful party is entitled to costs of proceedings reimbursement which it incurred except when the party is exempt from judicial fees.

(5) A person participating in the proceedings is entitled to the reimbursement of only those costs which the person incurred in connection with the duties imposed on this person by the court. The court may on request, for reasons worthy of special consideration, award the person the right to be reimbursed for further costs of proceedings.

(6) The court may oblige the party, witness, expert, interpreter or a person with a duty imposed on him or her during the producing of evidence to reimburse the state or the other party for costs incurred through their fault.

(7) If there are reasons worthy of special consideration, the court may exceptionally decide that the reimbursement of costs of the parties or the state is to be completely or partly denied.

(8) If there are reasons worthy of special consideration the court may award the party who has been at least partially successful in the matter the right to be reimbursed for the costs of proceedings even in those cases when this Act specifies that none of the parties are entitled to reimbursement of the costs of proceedings.

§ 61

Statement of the court determining costs of proceedings reimbursement

(1) As a rule the court decides on the duty to reimburse costs of proceedings in the judgement or resolution of the court whereby the proceedings are concluded.

(2) The presiding judge may determine the amount of costs only in the written copy of the judgement or resolution.

§ 62

Satisfaction of the complainant

(1) Until the court has decided, the defendant may make a new decision or measure, or take another action whereby the defendant may satisfy the complainant providing this procedure does not affect the rights and duties of a third party. The administrative authority informs the court of its intention to satisfy the complainant and asks for the administrative documents if it has already submitted them to the court.

(2) The presiding judge shall set the time limit within which it is necessary for the defendant to take a decision, measure or action and to inform both the complainant and the court of them; if the time lapses to no effect, the court continues the proceedings.

(3) If the defendant's communication pursuant to paragraph 2 reaches the court, the presiding judge calls on the complainant to state within a period prescribed whether he or she is satisfied with the action of the administrative authority. Default of time may not be waived.

(4) The court shall discontinue the proceedings by a resolution once the complainant states that he or she is satisfied. The court shall discontinue the proceedings even though the complainant does not say so within the period prescribed if all the circumstances of the case make it clear that satisfaction has been achieved.

(5) The decision, measure or action pursuant to paragraph 1 come into force or have similar legal effects upon the day the court's decision to discontinue the proceedings comes into force.

§ 63

Execution of a decision

The execution of the court's decision which was made pursuant to this Act requires that if an obligation is imposed on an administrative authority which is

- a) an authority of the Executive, it is the duty of its respective structural unit to discharge it for the state, ¹⁶⁾ ¹²⁾
- b) a natural person or a legal entity on which the performance of state administration is transferred by law, it is the duty of this person or entity to discharge it,
- c) a body of a public corporation, it is the duty of the public corporation to discharge it.

§ 64

Application of the Civil Procedure Code

Unless otherwise provided for by this Act, provisions of the first and third parts of the Civil Procedure Code shall be applied accordingly in administrative justice proceedings.

¹²⁾ § 3 of Act No.219/2000 Coll.

Chapter II
SPECIAL PROVISIONS ON PROCEEDINGS

Division 1

Proceedings concerning a complaint against a decision of an administrative authority

§ 65

Complaint legitimation

(1) Anyone who claims that their rights have been prejudiced directly or due to the violation of their rights in the preceding proceedings by an act of an administrative authority whereby the person's rights or obligations are created, changed, nullified or bindingly determined (hereinafter "decision") may seek the cancellation of such a decision, or the declaration of its nullity, unless otherwise provided for by this Act or by a special law.

(2) A complaint against a decision of an administrative authority can be made even by a party to the proceedings before the administrative authority who is not entitled to file a complaint under paragraph 1, if the party claims that his or her rights have been prejudiced by the administrative authority's acts in a manner that could have resulted in an illegal decision.

(3) If the administrative authority has decided on a penalty on account of an administrative delict, the person on whom the penalty was imposed may seek a release from the penalty or its reduction within the limits provided for by the law by means of a complaint.

§ 66

Special complaint legitimation to protect the public interest

(1) Under conditions prescribed by laws governing the procedure before administrative authorities the complaint can be made by an administrative authority which is specified as eligible to do so by such a law.

(2) The complaint can be made by the Attorney General if he or she finds a compelling reason for the submission in the public interest.

(3) The authorization to make a complaint is also given to a person to whom the authorization is expressly granted by a special law or by an international agreement which is part of the national law.

(4) A complaint under paragraphs 1 to 3 is inadmissible if the legal causes put forward in it have been applied in the same matter in another complaint already rejected by the court.

(5) A complaint under paragraphs 1 to 3 is, furthermore, inadmissible if there has been another complaint made under the same paragraph even if submitted by another entitled person although the person has not filed a complaint in the matter so far.

§ 67

Complaints in matters concerning self-government

Provisions in this division shall be applied accordingly also in cases when a special law¹⁷⁾ vests

¹⁷⁾ Act. No.128/2000 Coll. on communities (local government), as amended by subsequent legislation.
Act. No.129/2000 Coll. on regions (regional government), as amended by subsequent legislation.
Act. No.131/2000 Coll. on the Capital City of Prague, as amended by subsequent legislation.

- a) an administrative authority with the power to file a complaint against a resolution or a measure taken by an authority of a territorial self-governing unit with self-government competence,
- b) an authority of a territorial self-governing unit with the power to file a complaint against a decision to dissolve a self-government body council.

§ 68

Inadmissibility of a complaint

The complaint is also inadmissible if

- a) the complainant has not exhausted ordinary remedies in the procedure before an administrative authority if admissible by a special law, unless the decision of the administrative authority was changed to the detriment of the complainant's right upon a remedy submitted by another subject,
- b) it concerns a decision of an administrative authority in a private law matter issued within the jurisdiction of this administrative authority,^{18) 2)}
- c) its only cause is the claim of nullity of the contested decision, and if the complainant did not seek that the nullity be declared in proceedings before the administrative authority,
- d) it aims only against the reasons of the decision,
- e) it seeks the review of a decision which is excluded from review in accordance with this Act or a special law.

§ 69

Parties to the proceedings

The defendant (respondent) is an administrative authority which has made the last instance decision or an administrative authority which assumed its competence.

§ 70

Jurisdiction exclusions

Those acts of an administrative authority are excluded from judicial review

- a) which are not decisions,
- b) which are of a provisional nature,
- c) which regulate the administration of proceedings before the administrative authority,
- d) whose issue depends exclusively on the assessment of the health condition of persons or the assessment of the technical condition of things, unless they do not in themselves represent a legal obstacle to the performance of an occupation, employment or business, or any other economic activity, unless otherwise provided by a special law,
- e) concerning the denial or withdrawal of professional competence of natural persons, unless they do not in themselves represent a legal obstacle to the performance of an occupation or employment or another activity,
- f) whose review is excluded by a special law.

§ 71

²⁾ Part Five of the Civil Procedure Code.

Elements of a complaint

(1) Apart from essential elements (§ 37 paragraphs 2 and 3) the complaint must contain

- a) the specification of the contested decision and the day of its delivery, or the specification of another notification delivered to the complainant,
- b) the specification of persons participating in the proceedings, if known to the complainant,
- c) the specification of the statements of the decision contested by the complainant,
- d) counts of charges from which it must be clear for which factual and legal reasons the complainant considers the statements of the decision illegal or null,
- e) evidence in support of his or her claims which the complainant proposes to produce,
- f) proposal of the statement of judgement.

(2) The complainant shall attach one counterpart of the contested decision to the complaint. The complainant may at any point during the proceedings restrict the counts of charges. The complainant may extend the complaint to statements of the decision not yet contested or to extend it by further counts of charges only within the time limit for filing a complaint.

§ 72

Time limit for filing a complaint

(1) The complaint can be filed within two months after the complainant was notified of the decision by being delivered its written copy or by another manner prescribed by law, unless a special law prescribes another time limit. The time limit is met if the complaint is submitted within the time limit to the administrative authority whose decision is contested.

(2) The complaint pursuant to § 66 paragraphs 1 and 2 may be filed by an authorized complainant within three years after the decision came into force, unless otherwise provided for by a special law and unless the decision comes into force from the moment of the delivery of the decision to the last party who could have filed a complaint against it on his or her own. The complaint pursuant to § 66 paragraph 3 may be filed by an entitled complainant until the lapse of the time limit for filing a complaint for all parties, unless otherwise provided for by a special law.

(3) If the court deciding in civil court proceedings discontinues the proceedings because they concern a matter in which a complaint against a decision of an administrative authority should have been filed, the person who filed such a complaint in civil court proceedings may file an administrative justice complaint before a court competent locally and according to subject-matter within one month of the discontinuance of the proceedings coming into force. In such a case the rule is that the complaint was filed on the day when it reached the court deciding in civil court proceedings.

(4) Default of time may not be waived.

§ 73

Suspensory effect of a complaint

(1) The filing of a complaint does not have suspensory effect unless otherwise provided for by this Act or a special law.

(2) At the complainant's request after hearing the defendant's opinion the court shall by a resolution award suspensory effect to the complaint providing the execution of the decision or other legal consequences of the decision would result in irreparable damage to the complainant, the award of suspensory effect does not unreasonably affect the acquired rights of third persons and is not contrary to the public interest.

(3) The award of suspensory effect stays the effect of the contested decision until the conclusion of the proceedings before the court.

(4) The court may by a resolution revoke the resolution to award suspensory effect even without a request if it transpires during the proceedings that there are no causes for the award of suspensory effect or that these causes have disappeared in the meantime.

§ 74

The hearing of a complaint

(1) The presiding judge shall have the complaint delivered into the defendant's own hands and shall have it delivered to persons participating in the proceedings whose range is clear from the complaint. At the same time the presiding judge shall oblige the defendant to submit administrative documents and the defendant's statement with respect to the complaint within two months at the latest. The presiding judge delivers the statement to the complainant and to persons participating in the proceedings; the presiding judge may also require the complainant to make a reply. The presiding judge may require other persons or authorities to submit their documents requisite for the hearing of the matter or to express their opinions on the matter.

(2) If the court finds at any time before ordering the hearing that there are other persons participating in the proceedings, the presiding judge notifies them of the proceedings.

§ 75

Review of the contested decision

(1) In its review of the decision the court proceeds from the facts of the case and the legal situation existing at the time of decision-making by the administrative authority.

(2) The court shall review the contested statements of the decision within the scope of counts of charge. If the binding grounds for the decision under review were another act of the administrative authority, the court likewise reviews its lawfulness together with the complaint unless the court itself is bound by it and unless this law enables the complainant to contest such an act by means of an independent administrative justice complaint.

§ 76

Decision-making without an order to hear the matter

(1) The court shall revoke the contested decision for procedural faults without a hearing by means of judgement

- a) on grounds of non-reviewability consisting in incomprehensibility or for absence of reasons for the decision,
- b) because the facts of the matter which the administrative authority took as the grounds for the contested decision are contrary to the documents or are not supported by them or require extensive or essential supplementing,
- c) for substantial breach of the regulations on proceedings before an administrative authority if it could result in an unlawful decision on the matter itself.

(2) If the court finds that the decision suffers from such faults that they cause its nullity, the court declares this nullity even without a motion. If the causes of nullity concern only some part of the decision, the court declares nullity of only that part of the decision, if it does not follow from the nature of the matter that it cannot be separated from the other parts of the decision.

(3) If there are no causes for a procedure in accordance with paragraphs 1 and 2 or in accordance with § 51, the presiding judge orders a hearing. The court revokes the contested decision for reasons given in paragraphs 1 and 2 or declares its nullity even as these faults come to light during the proceedings.

§ 77

Producing evidence

(1) The court produces evidence during the hearing.

(2) As part of producing evidence the court may repeat or add evidence produced by the administrative authority, unless the scope and manner of producing evidence is provided for by a special law otherwise. The court appraises the evidence produced by the administrative authority individually and aggregately together with evidence produced in the proceedings before the administrative authority and bases its decision on the facts and the legal situation thus ascertained.

§ 78

Judgement

(1) If the complaint is justified, the court revokes the contested decision as unlawful or for procedural faults. The court also revokes the contested decision as unlawful if it finds that the administrative authority exceeded the legally defined bounds of discretionary power, or abused it.

(2) If the court decides on a complaint against a decision whereby the administrative authority imposed a penalty on account of an administrative delict, the court may, if there are no causes for the revocation of the decision in accordance with paragraph 1 but the penalty imposed was apparently unreasonably large, either waive the penalty or decrease it within lawful limits, if such a decision can be made on the basis of the facts from which the administrative authority started and which the court may have supplemented through its own evidence in nonessential ways and if such a procedure was proposed by the complainant in his or her complaint.

(3) If the court revokes a decision, it may, depending on circumstances, also revoke the decision of a lower-level administrative authority which preceded it.

(4) If the court revokes a decision, it simultaneously declares that it returns the matter to the defendant for further proceedings.

(5) The legal position adopted by the court in the vacating judgement or a judgement declaring nullity is binding on the administrative authority in subsequent proceedings.

(6) If the court revokes a decision of an administrative authority in a matter in which the court itself produced evidence, the administrative authority includes the evidence among the grounds for a new decision in the subsequent proceedings.

(7) The court shall dismiss a complaint if not justified.

Division 2

Protection against inaction of an administrative authority

§ 79

Complaint legitimization and parties to the proceedings

(1) The person who has ineffectively exhausted the remedies which the rules of procedure applying to proceedings before an administrative authority prescribe for the protection of the person against the inaction of an administrative authority may request by means of a complaint that the court oblige the administrative authority to issue a decision or an attest in the merits of the matter. This does not apply if a special law connects the inaction of an administrative authority with the legal fiction that a decision with certain contents has been issued or another legal consequence.

(2) The defendant is an administrative authority which in accordance with the claimant's statement has an obligation to issue a decision or an attest.

§ 80

Time limit for filing a complaint and its elements

(1) The complaint may be filed within one year at the latest from the day when the time lapsed to no effect prescribed by a special law for the issue of a decision or an attest on the matter in which the complainant seeks protection and if such time is not prescribed, from the day when the complainant versus the administrative authority or the administrative authority versus the complainant took the last action.

(2) Default of time may not be waived.

(3) Apart from essential elements for a petition the complaint must contain

- a) indication of the matter in which the complainant seeks protection against inaction,
- b) indication of the decisive facts,
- c) designation of evidence on which the claimant relies,
- d) proposal of the statement of the judgement.

§ 81

Judgement

(1) The court decides on the basis of facts ascertained up to the day of its decision.

(2) If the motion is justified, the court by means of a judgement imposes on the administrative authority the obligation to issue a decision or an attest and accordingly prescribes a time limit for it, but not longer than prescribed by a special law.

(3) The court shall dismiss a complaint if not justified.

Division 3

Proceedings concerning protection against unlawful interference, instruction or enforcement from an administrative authority

§ 82

Complaint legitimization

Anyone who claims that he or she has been directly prejudiced in their rights by unlawful interference, instruction or enforcement (hereinafter "interference") from an administrative authority which is not a decision and was aimed directly against the person or

as a consequence of it the person was directly acted against, may seek protection against it before a court by means of a complaint, if such interference or its consequences continue, or if there is danger of its being repeated.

§ 83

Defendant

The defendant is an administrative authority which in accordance with the claimant's statement has committed interference; if it is interference by the armed forces, public armed corps or another similar type of force which is not an administrative authority, or by a member of such a force, the defendant is the administrative authority in charge of such a force or the authority to which such a force is subject or, in the case of the municipal police, the defendant is the community.

§ 84

Time limit for filing a complaint and its elements

(1) The complaint has to be filed within two months from the day when the complainant learned of the unlawful interference. The latest date for filing the complaint is within two years from the moment the interference took place.

(2) Default of time may not be waived.

(3) Apart from essential elements for submission the complaint must contain

- a) indication of the matter in which the complainant seeks protection against inaction,
- b) indication of the decisive facts,
- c) designation of evidence on which the claimant relies,
- d) proposal of the statement of the judgement.

§ 85

Inadmissibility of a complaint

The complaint is inadmissible if protection or rectification may be sought by other legal remedies or if the complainant only seeks determination that the interference is unlawful.

§ 86

Discontinuance of proceedings

The court shall discontinue proceedings if it finds that following the submission of the complaint neither interference nor its consequences persist and there is no danger of repeated interference.

§ 87

Judgement

(1) The court decides on the basis of facts ascertained up to the day of its decision.

(2) By its judgement the court forbids the administrative authority to continue in the violation of the complainant's right and orders that, if possible, the authority restores the state prior to interference. If it was interference by the armed forces, public armed corps or another similar type of force, the court imposes this prohibition or order on the administrative authority or community in charge of such a force or on the authority to which such a force is subject.

(3) The court shall dismiss a complaint if not justified.

Division 4

Justice in electoral matters and in matters of a local referendum

§ 88

Protection in matters of the register of electors

(1) If an administrative authority which under a special law keeps a regular electoral register does not remove errors and shortcomings in the regular electoral register and its addendum,¹⁹⁾ ³⁾ the person affected by this may turn to a court competent according to the seat of the administrative authority with a petition that a decision is made to make corrections or to supplement the register or its addendum.

(2) Parties to the proceedings are the petitioner and the administrative authority mentioned in paragraph 1.

(3) The court shall decide without proceedings by a resolution within three days after the petition has reached the court.

§ 89

Protection in matters of registration

(1) It is possible to seek judicial protection in matters in which the administrative authority under special laws ²⁰⁾⁴⁾

- a) has rejected a list of candidates or rejected an application for registration,
- b) has deleted a candidate on the list of candidates,
- c) has registered the list of candidates or application for registration,

(2) By means of a petition in accordance with paragraph 1, letter a) a political party, political movement or their coalition (hereinafter “political party”), independent candidate, association of independent candidates or association of political parties or political movements or independent candidates if they submitted a list of candidates, or in elections for the Senate of the Parliament of the Czech Republic (hereinafter “Senate”) an independent candidate or a political party which has applied for registration, seeks a decision on the duty of the administrative authority to register a list of candidates or an application for registration. The parties are the petitioner and the administrative authority.

(3) By means of a petition in accordance with paragraph 1, letter b) a political party, coalition of independent candidates or association of political parties or political movements or independent candidates that submitted a list of candidates, or the person who was deleted from this list of candidates by a decision of the administrative authority seek the issue of a decision on keeping the candidate on the list of candidates. The parties are the petitioner and the administrative authority.

(4) By means of a petition in accordance with paragraph 1, letter c) a political party, independent candidate, association of independent candidates or association of political

³⁾ § 28 of Act No.491/2001 Coll. on local community elections and on the amendment to some acts.

⁴⁾ Act No.247/1995 Coll. on the elections to the Parliament of the Czech Republic and on the amendment and supplement to some other acts, as amended by subsequent legislation.

Act No.130/2000 Coll. on regional government elections and the amendment to some acts, as amended by subsequent legislation.

Act No.491/2001 Coll.

parties or political movements of independent candidates that submitted a list of candidates or, in Senate elections an independent candidate or political parties that applied for registration may seek the issue of a decision on the cancellation of registration of a list of candidates of another political party, independent candidate, association of independent candidates or association of political parties or political movements or independent candidates, or on the cancellation of registration of another candidates. The parties are the petitioner, the administrative authority which made the registration and the person whose registration is concerned.

(5) The court shall decide by a resolution within fifteen days after the petition has reached the court. Proceedings need not be ordered.

§ 90

Invalidity of elections and voting

(1) Under conditions provided for by special laws²⁰⁾ ²⁰⁾ a citizen, political party or independent candidate or association of independent candidates and association of political parties and political movements and independent candidates may by a petition seek a court decision on the invalidity of elections, or invalidity of voting, or the invalidity of the vote for a candidate.

(2) The parties are the petitioner, the respective electoral body and the person whose vote is being contested.

(3) The court shall decide by a resolution within twenty days after the petition has reached the court. Proceedings need not be ordered.

§ 91

Protection in matters concerning the termination of a mandate

(1) Under conditions provided for by special laws²¹⁾ ⁵⁾ a councillor whose mandate has been terminated or a political party, association of independent candidates or association of political parties and independent candidates on whose list of candidates the councillor was included may seek the cancellation of a resolution by the council of a territorial self-governing unit or the cancellation of a resolution by the administrative authority which decided on the termination of the councillor's mandate.

(2) The parties are the petitioner and any person who was authorized with respect to the petition, the territorial self-governing unit whose community is concerned, or the administrative authority which issued the decision.

(3) The court shall decide by a resolution within twenty days after the petition has reached the court. Proceedings need not be ordered.

§ 91a

Protection in matters concerning a local referendum

(1) Under conditions provided for by a special law^{21a)} ^{21a)} it is possible by a petition to the court to seek

- a) determination that the proposal for holding a local referendum has no faults,
- b) announcement of a local referendum,

⁵⁾ Act No.130/2000 Coll., as amended by subsequent legislation.
Act No.491/2001 Coll.

^{21a)}) §§ 54 and 58 of Act No. 22/2004 Coll. on a local referendum and on the amendment to some acts.

- c) declaration of the decision made in a local referendum being invalid,
- d) declaration of the vote made in a local referendum being invalid.

(2) The parties of the proceedings are the preparatory committee^{21b)} ^{21b)} and the respective community, urban section, or urban district of a regionally subdivided statutory town, or metropolitan district of the capital city Prague, or the capital city Prague; in the case of a proposal according to paragraph 1, letters c) and d) the party is also a person entitled to vote in a local referendum.

(3) The court shall decide by a resolution within thirty days. Proceedings need not be ordered.

§ 92

Inadmissibility of the petition

The petition is also inadmissible if submitted before a court which is not competent locally or according to the subject-matter.

§ 93

Special provisions on proceedings

(1) Provisions of this Act for compulsory representation shall not be applied; this does not apply to representation by a statutory representative.

(2) The petition whereby the proceedings are commenced, or acts whereby the proceedings or their subject-matter are determined can be made only in writing or orally in the transcript at a court competent locally and according to subject-matter.

(3) Default of time for the submission of the petition may not be waived.

(4) No party is entitled to reimbursement of costs of proceedings.

(5) The court delivers the resolution to the parties and posts it upon the official notice board of the court. The resolution comes into force upon the day of posting.

Division 5

Special proceedings in matters of political parties and political movements

§ 94

Petition

(1) Under conditions provided for by a special law a petition submitted to a court can be a means of seeking

a) determination that a proposal for registration, or a proposal for the registration of the amendment of statutes has no faults,²²⁾⁶⁾

b) dissolution of a political party or political movement, discontinuation or resumption of their activity.²³⁾⁷⁾

^{21b)} § 9 of Act No. 22/2004 Coll.

⁶⁾ §§ 7 and 11 of Act No. 424/1991 Coll. on association in political parties and political movements, as amended by subsequent legislation.

⁷⁾ §§ 14 and 15 of Act No.424/1991 Coll., as amended by subsequent legislation.

(2) A proposal in accordance with paragraph 1 letter b), with the exception of a proposal for the resumption of activity, is inadmissible, if submitted at a time for which a special law provides that the activity of a political party or political movement cannot be discontinued, or the party and the movement cannot be dissolved during this time. If, however, the proposal was submitted prior to this, the court shall interrupt the proceedings for this time.

(3) Parties are those specified by a special law.

§ 95

Competence

The body competent to hear the petition in accordance with § 94 paragraph 1, letter b) is the Supreme Administrative Court.

§ 96

Judgement

The petition in accordance with § 94 paragraph 1, letter b) is decided by the court on the basis of the facts of the matter existing at the time of the court's decision.

Division 6

Competence complaint proceedings

§ 97

Competence contest

(1) The court decides on a positive, or negative, competence contest whose parties are

- a) an administrative authority and a body of territorial, interest-group or professional self-governance, or
- b) bodies of territorial, interest-group or professional self-governance versus each other, or
- c) central administrative authorities versus each other.

(2) A positive competence contest is one in which administrative authorities claim competence to issue a decision on the same right or duty of the same party to the proceedings before the administrative authority.

(3) A negative competence contest is one in which administrative authorities disclaim competence to issue a decision on the same right or duty of the same party to the proceedings before the administrative authority.

(4) The proceedings fall within the competence of the Supreme Administrative Court.

§ 98

Complaint legitimation and parties to proceedings

(1) The subject entitled to file a complaint is

- a) an administrative authority which in a positive competence contest claims jurisdiction to issue a decision on the matter and contests the competence of an administrative authority which conducts the proceedings or has decided on the matter,
- b) an administrative authority which in a negative competence contest disclaims jurisdiction to issue a decision on the matter and claims that this jurisdiction rests with another administrative authority which has denied its competence,

c) a person whose rights or duties are, or should have been, decided in the proceedings before the administrative authority.

(2) The defendant is the administrative authority which is the other party to the competence contest; if the complaint has been made by a subject specified in paragraph 1 letter c) the defendants are administrative authorities with contentious competence.

(3) If the court holds that the proceedings and issue of a decision may lay within the competence of yet another administrative authority than the one identified in the complaint as party to the competence contest, the court by a resolution includes this administrative authority as another defendant.

(4) If the party to the competence contest is an administrative authority, it is acted for by the central body of state administration competent according to the section of state administration; if there is none or if this competence of the central body is likewise contentious, the administrative authority itself acts in the proceedings.

(5) Anyone who was a party to the proceedings in which the competence contest arose has the status of a person participating in the proceedings unless they themselves submitted the complaint.

§ 99

Inadmissibility

The complaint is inadmissible,

- a) if it does not involve a competence contest, or
- b) if the decision on a competence contest rests with another authority under a special law, or
- c) if the competence contest may be resolved at the complainant's request, even as a preliminary issue, in other proceedings under this Act or a special law, with the exception of a constitutional complaint.

§ 100

Decision

(1) The court proceeds from the facts of the matter and the legal situation existing at the time of its decision.

(2) If the court does not reject the complaint, if it does not discontinue the proceedings, or does not decide on referring the matter, the court determines by a judgement which of the administrative authorities has the competence to issue a decision on the matter specified in the complaint. At the same time it declares the nullity of all decisions of administrative authorities or their separate statements if they are contrary to the determination of competence by the court; the provision of § 76 paragraph 2 applies similarly.

§ 101

Costs of proceedings reimbursement

None of the parties are entitled to costs of proceedings reimbursement.

Chapter III

REMEDIES

Division 1

Cassation complaint

§ 102

Admissibility

Cassation complaint is a remedy against the final decision of a regional court in administrative justice whereby a party to the proceedings from which this decision arose, or a person participating in the proceedings (hereinafter “complainant”), seeks the quashing of a court decision. A cassation complaint is admissible against any such decision unless provided for otherwise in the following.

§ 103

Causes for a cassation complaint

(1) A cassation may be submitted only on grounds of the claimed

- a) unlawfulness consisting in incorrect consideration of a legal issue before the court in the previous proceedings,
- b) fault of proceedings consisting in that the merits of the matter from which the administrative authority proceeded in the contested decision had no support in the documents or is in contradiction with them, or in that in determining the merits of the matter the law was violated in provisions on proceedings before the administrative authority in a way that could have affected its lawfulness, and for this justly claimed fault the court deciding on the matter should have quashed the contested decision of the administrative authority; such procedural faults include non-reviewability of the administrative authority’s decision on grounds of its incomprehensibility,
- c) irregularity of proceedings before the court consisting in the absence of conditions for the proceedings, in the decision being made by an excluded judge, in the court being incorrectly staffed, or in the decision being made to the detriment of the party as a consequence of the judge’s criminal act,
- d) non-reviewability consisting in incomprehensibility or lack of causes for a decision, or in some other procedural fault before the court, if such a fault could result in an unlawful decision on the matter itself,
- e) unlawfulness of the decision on rejection of the petition or on discontinuation of the proceedings.

(2) The provision of paragraph 1 is applied accordingly also to causes for a cassation complaint opposing a regional court decision concerning a procedural fine.

§ 104

Inadmissibility

(1) A cassation complaint in electoral matters and in matters of a local referendum is inadmissible.

(2) A cassation complaint opposing a statement on costs of proceedings or against causes for the court’s decision is inadmissible.

(3) A cassation complaint is, furthermore, inadmissible against a decision

- a) whereby the court decided after its original decision had been vacated by the Supreme Administrative Court; this does not apply if the cause for a cassation complaint is an objection that the court did not comply with the binding legal position of the Supreme Administrative Court,
- b) whereby the proceedings are merely adjusted, or
- c) which is, in keeping with its nature, only temporary.

(4) A cassation complaint is inadmissible if it rests solely on other reasons than those specified in § 103, or on reasons which the complainant did not put forward in the proceedings before the court whose decision is to be reviewed although the complainant could have done so.

§ 105

Parties to the proceedings concerning a cassation complaint and their representation

(1) The parties to the proceedings concerning a cassation complaint are the complainant and all who were persons participating in the original proceedings.

(2) The complainant must be represented by a counsel; this does not apply if the complainant, his employee or a member acting for the complainant or representing the complainant has a university-level legal education which is required for the practice of law under special acts.

§ 106

Elements of a complaint, the place of and the time limit for submission

(1) Apart from the general elements the cassation complaint must contain the specification of the decision it opposes, the specification as to what extent and on which grounds the complainant contests the decision, the date of its being delivered to the complainant. The provision of § 37 applies similarly.

(2) The cassation complaint must be submitted within two weeks after the delivery of the decision, and if a rectifying resolution was issued the time limit again runs from the delivery of this resolution. The person who claims that the court incorrectly described him or her as not being a person participating in the proceedings, and the person who exercised the rights of a person participating in the proceedings only after the issue of the contested decision, have the time limit running for the cassation complaint from the day of the delivery of the decision to the last of the participants. Default of time may not be waived for the submission of a cassation complaint.

(3) If the cassation complaint does not have all elements on its submission, the elements must be supplied within one month from the delivery of the resolution whereby the complainant was called on to complete the submission. The complainant may extend the cassation complaint to include statements so far uncontested and extend its causes only within this time limit. This time limit may be extended by the court at the complainant's timely request for serious reasons by one more month at the most.

(4) The cassation complaint is submitted at the court which issued the contested decision; the time limit is preserved, if the cassation complaint is submitted at the Supreme Administrative Court.

§ 107

Suspensory effect

The cassation complaint does not have suspensory effect; the Supreme Administrative Court may, however, award it at the complainant's request. The provision of § 73 paragraphs 2 to 4 is used accordingly.

§ 108

Procedure of a regional court after the submission of a cassation complaint

(1) If the cassation complaint has faults but is not apparently delayed, or submitted by a person who is patently not entitled to do so, the presiding judge sees to the faults being eliminated. If there are no reasons for a different proceeding, the court delivers the cassation complaint to the other parties to the proceedings and persons participating in the proceeding, gives them an opportunity to express their opinion on its contents and requests the documents of the administrative authority, or gathers further material necessary for making a decision. After that the court submits the cassation complaint together with the documents to the Supreme Administrative Court; when submitting the complaint the court expresses its opinion as to whether the time limit for the submission of the cassation complaint was met and whether the complaint was made by a person entitled to do so.

(2) If the cassation complaint is withdrawn before the submission of the matter to the Supreme Administrative Court, the regional court discontinues the proceeding on the cassation complaint by a resolution.

§ 109

Proceedings before the Supreme Administrative Court

(1) As a rule, the Supreme Administrative Court decides on a cassation complaint without a hearing. If the Supreme Administrative Court sees fit or if it produces evidence, the Supreme Administrative Court orders a hearing to determine the cassation complaint.

(2) The Supreme Administrative Court is bound by the scope of the cassation complaint; this does not apply if depending on the contested statement there is a statement which was not contested, or if the decision of the administrative authority is null.

(3) The Supreme Administrative Court is bound by the reasons of the cassation complaint; this does not apply if the proceedings before the court were invalid (§ 103 paragraph 1, letter c)) or if it was affected by a fault which may result in an unlawful decision on the matter itself or if the contested decision is non-reviewable (§ 103 paragraph 1, letter d)), nor in cases where the decision of the administrative authority is null.

(4) The Supreme Administrative Court shall not take into account facts which the complainant put forward after the contested decision was made.

§ 110

Judgement

(1) If the Supreme Administrative Court arrives at the conclusion that the cassation complaint is justified, it shall vacate the decision of the regional court by means of a judgement and refer the matter back to the regional court for further proceedings; if there were reasons for discontinuance of the proceedings, rejection of a proposal or referral of the matter even at the time of the proceedings before the regional court, the Supreme Administrative Court decides on this simultaneously with the vacation of the decision made by the regional court. If the cassation complaint is not justified, the Supreme Administrative Court shall reject it.

(2) If the Supreme Administrative Court vacates the decision made by the regional court and refers the matter back to the regional court for further proceedings, the regional court decides in the new proceedings also about the reimbursement of costs of proceedings for the cassation complaint. If the Supreme Administrative Court simultaneously decides on the rejection of the proposal, discontinuance of proceedings or on the referral of the matter, it also decides on the costs of proceedings which preceded the vacated decision of the regional court.

(3) If the Supreme Administrative Court vacates the decision made by the regional court and refers the matter back to the regional court for further proceedings, the regional court is bound by the legal position adopted by the Supreme Administrative Court when making a vacating decision.

(4) The decision of the Supreme Administrative Court shall be delivered to the parties to the proceedings and the persons participating in the proceedings by the regional court.

Division 2

Resumption of proceedings

§ 111

Causes for resumption

Proceedings concluded by a final judgement are resumed at the request of a party, if new evidence and facts have come to light that without the party's fault were not or could not be produced in the original proceedings, or if a different decision on the preliminary issue was made, providing the result of the resumed proceedings may be more favourable for the party.

§ 112

Parties to the proceedings

A party to the proceedings is a person who submitted a petition to resume the proceedings and also those who were parties to the proceedings at the court whose decision the petition for the resumption of the proceedings opposes.

§ 113

Competence

Competence for the proceedings rests with the court which issued the decision which the petition for the resumption of the proceedings opposes.

§ 114

Admissibility of the petition

(1) Resumption of the proceedings is admissible only against a decision made in the proceedings concerning

- a) protection from interference by an administrative authority,
- b) matters of political parties and political movements.

(2) Resumption of the proceedings is not admissible if opposing a decision on a cassation complaint.

(3) Nor is the resumption of the proceedings admissible, if the petition opposes only the causes for the decision, or the statement on costs of proceedings.

§ 115

Time limit for the submission of a petition

(1) The petition to resume proceedings can be submitted within three months from the day when the person petitioning for the resumption of proceedings learnt of the cause for resumption.

(2) However, after three years from the contested decision coming into force the petition can be submitted only if a criminal judgement by which the court had been bound in its decision-making is cancelled.

(3) Default of time may not be waived.

§ 116

Elements of the petition

The petition must contain the specification of the decision which it opposes, the scope to which the decision is contested, the legal cause for the petition, description of facts indicating that the petition is submitted within the appropriate time limit, and a proposal to produce evidence whereby the justification of the petition is to be established.

§ 117

Suspensory effect of the petition

(1) The submitted petition does not have suspensory effect; the court may, however, award it on request. Provisions of § 73, paragraph 2 to 4 are used accordingly.

(2) The enforceability of the decision affected by resumption is delayed by the effect of the decision to permit resumption until the decision on the matter of resumed proceedings comes into force.

§ 118

Proceedings concerning the permission to resume proceedings

(1) The court is bound by the adduced causes for the petition. This does not apply in the case of a uncontested statement dependent on the contested statement.

(2) If the court finds the causes for the permission to resume proceedings justified, it permits the proceedings by a resolution; otherwise it shall reject the petition by a resolution.

§ 119

Resumed proceedings

(1) If the resumption of proceedings is lawfully permitted, the court continues the proceedings concerning the original petition. In order to investigate properly the facts of the matter existing at the time of its original decision, the court newly produces evidence and decides on the original petition.

(2) The new decision replaces the original decision. In its statement on costs of proceedings the court also decides on the costs of proceedings concerning the permission to resume proceedings.

Division 3

Common provision

§ 120

Unless otherwise specified in the provisions of divisions 1 and 2, the provisions of part three of Chapter 1 are used accordingly.

PART FOUR
SPECIAL PROVISIONS ON THE STATUS OF JUDGES IN
ADMINISTRATIVE
JUSTICE

§ 121

Assignment of judges

(1) A judge may be assigned to a regional court to perform judicial duties of acting and deciding on matters of administrative justice in accordance with his or her previous consent if the judge has practised Constitutional, Administrative or Finance Law for a period of at least five years, or has been engaged in scientific, or pedagogical activities, or if the results of the judge's preparatory service or judiciary examinations provide grounds for it.

(2) A judge may be assigned to the Supreme Administrative Court in accordance with his or her previous consent following a previous consent by the President of the Supreme Administrative Court if the judge has practised Constitutional, Administrative or Finance Law for a period of at least ten years, or has been engaged in scientific or pedagogical activities.

Transfer of judges

§ 122

A judge may, with his or her consent or at his or her request, be transferred to the Supreme Administrative Court, if the judge has practised for at least ten years and the judge's expert knowledge and experience are a guarantee of the functions being properly executed.

§ 123

If by law there has been a change in the organization of administrative justice courts or a change in judicial districts, or if the proper execution of justice cannot be ensured otherwise, a judge assigned or transferred to a regional court may, even without the judge's consent or request, be transferred to another regional court or the Supreme Administrative Court, if the conditions are met pursuant to § 122. Similarly, a judge assigned or transferred to the Supreme Administrative Court may be transferred to a regional court.

§ 124

A judge may be transferred to the Supreme Administrative Court only with the consent of the President of this Court.

PART FIVE
TRANSITIONAL AND DELEGATING PROVISIONS

§ 125

Transitional provision on a specialized judiciary examination

Within the period of five years from the effect of this Act a person may sit a specialized judiciary examination if this person meets the qualifications for the position of judge, with the exception of a specialized judiciary examination, and has practised Constitutional, Administrative or Finance Law for a period of at least six years, or has been engaged in scientific, or pedagogical activities; the Ministry shall make it possible for the person to take a specialized judiciary examination within six months following the person's application to take the examination.

§ 126

Transitional provisions on the assignment and transfer of judges

(1) Judges assigned or transferred to high courts who on the effective day of this Act decide on matters of administrative justice according to the work schedule become judges transferred to the Supreme Administrative Court on the effective day of this Act, if they consent to this.

(2) Judges assigned or transferred to regional courts who on the effective day of this Act decide on matters of administrative justice according to the work schedule become judges of specialized benches of judges of regional courts, dealing with matters of administrative justice, on the effective day of this Act.

(3) For a period of five years from the effective day of this Act a judge may be transferred to the Supreme Administrative Court if the judge's knowledge, experience and hitherto performance of judicial functions are a guarantee of the proper execution of the duties of this position; provision of § 122 is not applied.

(4) For a period of five years from the effective day of this Act a judge may be transferred to the position of administrative justice at a regional court if the judge's knowledge, experience and hitherto performance of judicial functions are a guarantee of the proper execution of the duties of this position; the provision of a special law concerning the length of the performance of judicial functions after the judge's transfer to a regional court is not applied.²⁴⁾²⁴⁾

Transitional provisions on the Judicial Council

§ 127

Until the Judicial Council has been set up, the provision of § 25 is not applied.

§ 128

The first assembly of the judges of the Supreme Administrative Court to vote the Judicial Council is convened by the President of the Supreme Administrative Court within one month of the effective day of this Act.

§ 129

Transitional provisions on remedial actions against decisions of an administrative authority

²⁴⁾ § 71 paragraph 3 of the Courts and Judges Act.

(1) In matters of administrative justice in which a special law entrusts the court with ruling on remedial actions against decisions of administrative authorities pursuant to part five chapter three of the Civil Procedure Code as read with effect from December 31, 2002, a complaint may be filed from the effective day of this Act pursuant to part three chapter two division one of this Act within the time limit of thirty days of the decision being delivered, unless a special law provides for a time limit otherwise, if the conditions stated there are met. Unless otherwise provided for by a special law, the submission of a complaint has suspensory effect.

(2) Proceedings concerning remedial actions filed prior to the effective day of this Act which the court did not decide by the effective day of this Act, will be finished within proceedings pursuant to the provisions of part three chapter two division one of this Act; if these proceedings concern legal matters to be heard and decided by a court in civil proceedings, the court proceeds according to § 68, letter b). Effects of procedural acts made in these proceedings remain preserved and are considered accordingly under the provisions of this Act. The provisions of § 46 paragraph 2 to 4 apply similarly.

(3) If an appeal against the decision of a court on a remedial action against the decision of an administrative body was lodged before the effective day of this Act in matters permissible by law and the appeal had not been decided by the effective day of this Act, the proceedings concerning the appeal are discontinued on the effective day of this Act. A party to these proceedings may file a cassation complaint against the decision of the court on a remedial action in accordance with this Act by January 31, 2003.

(4) If an application for appellate review of the decision of a high court on an appeal against the decision of a regional court on a remedial measure was lodged before the effective day of this Act, and the application had not been decided by the effective day of this Act, the Supreme Administrative Court shall finish these proceedings within proceedings pursuant to part three chapter three division one of this Act. Effects of procedural acts made in these proceedings remain preserved and are considered accordingly under the provisions of this Act.

§ 130

Transitional provisions on other unfinished matters

(1) Proceedings pursuant to part five chapter two of the Civil Procedure Code with effect from the day before this Act taking effect in which no decision was made by the effective day of this Act shall be finished in accordance with the provision of part three chapter two division one of this Act; if these proceedings concern legal matters to be heard and decided by a court in civil proceedings, the court proceeds according to § 68, letter b). Effects of procedural acts made in these proceedings remain preserved and are considered accordingly under the provisions of this Act. The provisions of § 46 paragraph 2 to 4 apply similarly.

(2) Proceedings concerning matters of election justice and matters of political parties and political movements initiated according to the Civil Procedure Code and not finished by the effective day of this Act shall be heard and finished by a competent court in accordance with the current legal regulations.

§ 131

Transitional provision on cassation complaints

A cassation complaint may be filed against decisions of regional courts made after the effective day of this Act.

§ 132

Transitional provision on the subject-matter competence of courts

Matters of administrative justice in which no decision was made by the effective day of this Act and in which the subject-matter competence was given to regional courts shall be assumed and finished by a regional court with respective subject-matter competence in accordance with this Act. Unless otherwise provided for by this Act, matters of administrative justice, in which no decision was made by the effective day of this Act and in which the subject-matter competence was given to high courts or the Supreme Administrative Court, shall be assumed and finished by the Supreme Administrative Court.

§ 133

Transitional provision on a representation fee

The fee for the representation by a counsel or a notary public in proceedings that were initiated prior to the effective day of this Act will be determined according to current legal regulations.

§ 134

Delegating provision

The Ministry, by means of a legal regulation, shall specify details of dealing with matters of administrative justice by regional courts, the organization of work and tasks of their employees in the execution of administrative justice.

PART SIX

EFFECT

§ 135

This Act takes effect on January 1, 2003.

Klaus v. r. (manu propria)

Havel v. r. (manu propria)

v z. **Rychetský** v. r. (per pro, manu propria)