

Law nr.554/2004, as amended

(Law on administrative contentious)

(Translation done in house by Ministry of Environment, Waters and Forests, not certified
by a legal expert)

(for answer to question 12)

Article 8 - The object/subject of the judicial action

(1) The person injured in a right recognized by law or in a legitimate interest by a unilateral administrative act, dissatisfied with the response received to the prior complaint or who has not received any response within the term provided in art. 2 paragraph (1) lit. h), may refer the competent administrative litigation/contentious court, in order to request the cancellation in whole or in part of the act, repair the damage caused and, possibly, reparations for moral damages.

The administrative litigation/contentious court can be addressed also by the person who considers to be injured in his/her right or legitimate interest by not resolving in due time or by the unjustified refusal to solve a request, as well as by the refusal to carry out a certain administrative operation necessary for the exercise or protection of his/her right or legitimate interest.

The reasons specified in the request for annulment of the act are not limited to those invoked by the prior complaint.

(1[^]1) Natural and legal persons of private law can formulate claims by which they invoke the defense of a legitimate public interest only in the subsidiary, insofar as the harm of the public legitimate interest derives logically from the violation of the subjective right or the of the legitimate private interest.

(1[^]2) By way of derogation from the provisions of par. (1), the actions based on the infringement of a legitimate public interest can only have the purpose of cancelling the act or forcing the defendant authority to issue an act or other document, respectively to perform a certain administrative operation, under the sanction of the penalties for delay or the fine, provided in art. 24 paragraph (2).

(2) The administrative contentious court is competent to resolve the disputes that arise in the phases preceding the conclusion of an administrative contract, as well as any disputes related to the conclusion of the administrative contract, including the litigations aimed at the cancellation of an administrative contract. Disputes arising from the execution of administrative contracts fall within the competence of civil courts under common law.

(3) When solving the disputes provided for in par. (2) the rule according to which the principle of contractual freedom is subordinated to the principle of public interest priority is considered.

Article 18 - The solutions the court can give

(1) The court, resolving the request referred to in art. 8 paragraph (1), may cancel, in whole or in part the administrative act, oblige the public authority to issue an administrative act, to issue another document or to perform a certain administrative operation.

(2) The court is competent to rule as well, except in the situations provided in art. 1 paragraph (6), on the legality of the administrative operations that were the basis for issuing the act subject to judgment.

(3) In the case of solving the request, the court will also decide on the compensation for the material and moral damages caused, if the applicant has requested this.

(4) When the object/subject of the action in administrative litigation/contentious court is an administrative contract, depending on the state of facts, the court may:

- a) order its cancellation, in whole or in part;
- b) oblige the public authority to conclude the contract to which the applicant/complainant is entitled;
- c) requires one of the parties to fulfill a certain obligation;
- d) supplement the consent of a party, when the public interest requests it;
- e) oblige the payment of a compensation for the material and moral damages.

(5) The solutions provided in par. (1) and para. (4) lit. b) and c) may be established under the sanction of an applicable penalty to the obligated party, for each day of delay.

(6) In all cases, the court may establish, by means of a device, at the request of the interested party, a time limit for enforcing, as well as the fine provided for in art. 24 paragraph (2).

Article 20 - The Appeal

(1) The judgment given in the first court may be appealed against, within 15 days from the communication.

(2) The appeal suspends the execution and is judged urgently. The procedure provided in art. 493 of the Civil Procedure Code does not apply in the matter of administrative litigation.

(3) In the case of admitting the appeal, the court of appeal, canceling the sentence, will re-judge the dispute in the merits. When the judgment of the first court was rendered without judging the merits or if the judgment was made in the absence of the party who was illegally summoned both in the administration of the evidence and in the debate of the merits, the case will be referred only once to this court. If the judgment in the first instance was made in the absence of the party who was illegally summoned for providing the evidence, but was legally summoned in the debate of the merits, the court of appeal, canceling the sentence, will re-judge the litigation in the merits.

Art 21 - Extraordinary appeals

(1) The ruling of the final judgments by violation of the principle of the priority of the European Union law, regulated in art. 148 paragraph (2) in conjunction with art. 20 paragraph (2) of the Constitution of Romania, republished are, together with those provided by the Civil Procedure Code reasons for revision.

(2) The final decision that do not reflect the merits are subject to revision, as well, for the reason provided for in par. (1).

(3) The request for review shall be submitted within one month from the date of communication of the final decision and shall be resolved urgently and with priority.