Binding Effects of Supreme Administrative Court Decisions

The Supreme Court of Latvia
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Structure of presentation

1. Are lower instance courts bound by law to follow decisions of the SAC in other (similar) cases?
2. Under which conditions can they deviate from a decision of the SAC?
3. Is the SAC bound by law to follow its own previous decisions?
4. Are judges of the Supreme Court bound by decisions of other sections within the Supreme Court?
Binding effect of the Supreme Court judgment

Article 350 of the Administrative Procedure Law states that the interpretation of legal norms given by the Supreme Court is mandatory for the court which adjudicates the matter de novo.

However, in practice, the principle of equality requires that similar cases are decided in similar way, therefore, to some extend there is an effect on other cases than the one being decided. Lower courts have to follow / obey the jurisprudence of the Supreme Court.
Legal Framework for Binding Effect in Similar Cases

In matters where there are identical factual and legal circumstances, institutions and courts must adopt identical decisions (in matters where there are different factual or legal circumstances - different decisions) irrespective of the gender, [...] or other circumstances of participants in the administrative proceedings (Article 6 of the APL).

A Court of Cassation Instance, having adjudicated a matter, may render one of the following judgments:
2) to set aside the judgment in full or in part and forward the matter for it to be adjudicated de novo in a court of appellate instance or a court of first instance (Article 348 of the APL).
If the court finds that the appealed judgment is inconsistent with the case-law of the Supreme Court in other similar cases and the appealed judgment does not state any reasons for such a deviation, the superior court may set aside this judgment, indicating disregarded case-law. In such a case, the descriptive and partly reasoning part of the judgment of superior court may be omitted (Article 349 (7) of the APL).

The panel of judges may refuse to grant a leave to appeal in the following cases: 1) the case-law of the Supreme Court in the matter in issue has been established and the appealed judgment complies with it (Article 338-1 (2) of the APL).
When courts can deviate from a decision of the Supreme Court?

The principle of the independence of the judiciary

In administering the justice, judges shall be independent and shall be subject only to law (Article 10 (2) of the Law On Judicial Power)

Principle of equality and consistency of the case law

In matters where there are identical factual and legal circumstances, courts must adopt identical decisions (Article 6 of the APL)

[1] In matters where there are identical factual and legal circumstances
[2] Judges may deviate from a decision of the Supreme Court
[3] However, there must be reasons stated in the judgment for such a deviation
When courts can deviate from a decision of the Supreme Court?

The principle of the independence of the judiciary

Principle of equality and consistency of the case law

Constitutional Court: The judgment of the court of higher instance is not an external normative act. The judge has to take into consideration the judgment by the court of a higher instance only insofar as it is substantiated, conclusive and attributed to actual and legal circumstances of the particular case. However, the judge, when reviewing another matter and in case of doubt, may choose another, more conformable with the actual and legal circumstances of the particular case, result of interpretation of the legal norm. If for this reason it is necessary to deviate from the conclusions of the former court practice then the judge experiences the right to do so, however he/she has to give the viewpoint (Judgment of the Constitutional Court of January 4, 2005 Judgment, case No. 2004-16-01).
Is the Supreme Court bound by law to follow its own previous decisions?

The law does not state precisely that the Supreme Court is bound to follow its own previous decisions. Principle of equality generally requires courts (including Supreme Court) in matters where there are identical factual and legal circumstances, adopting identical decisions.

In practice judges of the Supreme Court rely on principle of equality and decide in accordance with jurisprudence and previous judgments. They can deviate from the previous decisions, only by changing jurisprudence.
Are the judges bound by the decisions of other sections within the Supreme Court?

Different sections of the court form the same institution – the Supreme Court –, therefore, judges are bound by judgments of other sections within the same Supreme Court. Under exceptional circumstances it is possible to deviate from decisions of other departments, however, in such a case, reasoning must be provided.