

ADMINISTRATIVE JUSTICE IN EUROPE

- Report for Hungary -

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INTRODUCTION (History, purpose of the review and classification of administrative acts, definition of an administrative authority)

1. Main dates in the evolution of the review of administrative acts

The „October Diploma”, a Habsburg imperial decree allowing Hungary independence in internal affairs, brought a structural reform to the judiciary. The Royal Hungarian Curia regained its lawful powers and reputation. First the Royal Financial Court as a separate public law court was set up in 1883. Then, by Act XXVI of 1896, the Royal Administrative Court was set up as a single-instance special court, of which the Financial Court was made part. The Royal Administrative Court adjudicated both general and financial cases in non-litigation process. Following the extension of the powers of public law courts, the Court of Competence was created for settling disputes of competence between ordinary and administrative courts or public administration authorities.

After the Second World War, formalised law was applied in civil and administrative cases but no separate administrative courts existed. Hungary turned from a liberated country into a newly occupied one where state administration was controlled by the Communist (later Socialist) Party. The introduction of the reforms in the 1970s and 1980s launched changes that proved to be irrevocable. Ordinary courts were granted competence to review more than twenty kinds of administrative cases (taxes, land registry) in non-litigation process. Law and jurisprudence became more liberal. The 1989-90 regime change created a rule of law state in Hungary and gave rise to a gradually evolving reform in the judiciary. As a first step, the decree restricting the contestability of certain decisions was annulled by the Constitutional Court. Act XXVI of 1991 allows for a judicial review in all cases.

As part of the judicial reform of 2012, twenty administrative and labour courts were set up at the seats of the county courts. The administrative sections of the administrative and labour courts proceed at first instance where the judicial review of an administrative decision is sought. Appeals lodged against decisions of the administrative and labour courts are adjudicated at second instance by county courts, where appeal is possible under the law. Article 25 of the new Fundamental Law provides that the highest judicial authority of Hungary is the Curia (the former Supreme Court). The Curia is responsible for reviewing final decisions challenged in extraordinary remedies, for adopting uniformity decisions binding on all courts, for analysing final decisions with a view to examining judicial practice, for publishing decisions of principles, for determining cases where an alleged violation of law by a local government is complained of, for determining cases where a local government's alleged failure to perform a legislative task arising under the Act on Local Governments is complained of, and for carrying out other duties conferred on the Curia under the law.

2. Purpose of the review of administrative acts

Judicial review is available to natural and legal persons in respect of individual administrative decisions directly affecting the complainant's rights or interests. According to Uniformity Decision no. 2/2004, judicial review is a tool for the protection of rights.

3. Definition of an administrative authority

Act CXL of 2004 on the General Rules of Administrative Procedure and Services (hereinafter: Act on Administrative Procedures) specifies the bodies that are administrative authorities vested with competence for taking administrative actions: state administrative authorities, local government councils, mayors, the chief notaries or notaries of local governments, mayor's offices and other organisations, and bodies or persons vested with administrative competence by an Act of Parliament or a Government Decree. Where an Act of Parliament or a Government Decree entitles another organisation, public body or person to exercise administrative authority, the cases governed by the Act on Administrative Procedure shall be specified.

Tax authorities (state tax authority, municipal tax authority and customs authority) are state organs whose proceedings are governed by Act XCII of 2003 on the Rules of Taxation (hereinafter: Act on Taxation).

The general rules of administrative procedure are laid down in the Act on Administrative Procedure and in the Act on Taxation, but other Acts may also contain provisions applicable to administrative proceedings in special cases (e.g. Act LVII of 1996 on the Prohibition of Unfair Trading Practices and Unfair Competition and Act CVIII of 2011 on Public Procurement)

4. Classification of administrative acts

According to the Act on Administrative Procedure, an administrative action shall mean the following:

- a) any action by which an administrative authority determines a right or obligation affecting the client, verifies data or a fact or an entitlement, maintains official records or registers, or carries out administrative control;
- b) except for disciplinary or ethical cases, any admission into or removal from a register for the purpose of pursuing a given activity, where the law prescribes that certain activity or profession may only be pursued upon membership in a public body or another organisation.

In the context of taxation the concept of administrative action is defined by the Act on Taxation as follows:

Actions involving:

- a) mandatory payments related to taxes, contributions, duties, payable under the law to the central budget or to extra-budgetary funds, to the Pension Insurance Fund or the Health Insurance Fund or to local self-governments,
- b) subsidies paid from the central budget or from extra-budgetary funds under conditions set forth in an Act of Parliament or in a government decree or a ministerial decree,
- c) procedures related to such payments and budgetary subsidies, where the assessment, collection, execution, refund, disbursement or control of such procedures falls within the competence of the tax authority.

The Act on Administrative Procedure regulates administrative contracts between administrative authorities and parties as a special form of administrative action. If the administrative authority fails to fulfil the administrative contract as agreed and fails to comply with the client's notice requiring performance, the client may seek remedy at the court of jurisdiction for administrative actions. Where the expert opinion of a special authority is required in an administrative action, the contract may only be concluded in possession of the special authority's consent and by including the requirements and conditions set forth in the special authority's opinion in the contract. Where the contract affects the rights or lawful interests of a third person, the prior written consent of this person shall also be obtained. Without such consent the contract shall not be valid. The law may prescribe that the consent of the contracting authority's supervisory organ is necessary to the validity of the contract This consent shall be obtained by the proceeding authority.

I- ORGANIZATION AND ROLE OF THE BODIES, COMPETENT TO REVIEW ADMINISTRATIVE ACTS

A. COMPETENT BODIES

5. Non-judicial bodies competent to review administrative acts

As a rule, the right of appeal is ensured in administrative proceedings, thus the first review of administrative decisions is carried out within the administrative system. The higher level authorities competent for determining appeals are listed in the Act on Administrative Procedure, the Act on Taxation and in other Acts.

6. Organization of the court system and courts competent to hear disputes concerning acts of administration

The judicial review of administrative decisions is governed by Chapter XX of Act III of 1952 on Civil Procedure (hereinafter: Code of Civil Procedure); there is no special code for the judicial review of administrative actions.

There are 20 administrative and labour courts operating at the seats of the county courts. Administrative and labour courts shall proceed at first instance in cases reviewing administrative decisions, and in cases related to employment or employment-like relationships.

As a rule, there is no possibility to appeal against the decisions of administrative and labour courts, which act at first instance. Thus, decisions taken at first instance shall be final. However, such decisions are subject to extraordinary remedies available before the Curia. Ordinary court appeal is only available where no appeal is allowed in the administrative proceedings and the administrative decision can be amended by a court. Such ordinary appeals are examined by the county courts.

The Curia (former Supreme Court) is the highest judicial authority of Hungary. In respect of administrative justice the responsibilities of the Curia are the following: reviewing final decisions where they are challenged through an extraordinary remedy, adopting uniformity decisions which are binding on all courts, analysing final decisions with a view to examining and identifying jurisprudence, publishing decisions of principles, passing decisions in cases where a local government decree violates another law, passing decisions in cases where a local government has failed to perform a legislative duty prescribed in the Act on Local Governments, and proceeds in other cases falling in its competence.

The Constitutional Court reviews the constitutionality of normative acts passed by public authorities (except for local government decrees). Ordinary judges may initiate the ex post review of such normative acts if they think that certain provisions of the normative act applicable in a case before them is unconstitutional. The Constitutional Court also examines the conformity of normative acts with international treaties. As a newly conferred competence, the Constitutional Court can also decide on the conformity of a court decision with the Fundamental Law, where a complainant submits a constitutional complaint against a court decision.

B. RULES GOVERNING THE COMPETENT BODIES

7. Origin of rules delimiting the competence of ordinary courts in the review of administrative acts

According to the Fundamental Law of Hungary, courts shall determine the legality of administrative acts (called decisions in the text). The competence of administrative and labour courts and of county courts is specified in Act CLXI of 2011 on the Organisation and Administration of the Courts. Article 22 and Chapter XX of the Code of Civil Procedure contains the same regulation, consequently there is no obstacle to the judicial control of administrative acts.

Uniformity Decisions should also be mentioned in this respect, as Uniformity Decision no. 1/2009 of the Supreme Court concluded that the nature of judicial review (litigious or non-litigious proceedings) shall be determined not by the form of the decision of the administrative authority (that is, whether it as a judgement or an order) but by the content of the decision.

8. Existence and origins of specific rules related to the *competence and duties of the administrative courts or tribunals*

As a result of the judicial reform of 2012, twenty administrative and labour courts were set up which operate at the seats of the county courts. Administrative and labour courts proceed at first instance in cases where the judicial review of an administrative decision is sought. This structure is based on Act CLXI of 2011 on the Organisation and Administration of the Courts. However, as it has been mentioned above, the judicial review of administrative decisions is governed by Chapter XX of the Code of Civil Procedure. Hence, there is no special code for the judicial review of administrative acts.

C. INTERNAL ORGANIZATION AND COMPOSITION OF THE COMPETENT BODIES

9. Internal organization of the ordinary courts competent to review administrative acts

Second instance – Regional appellate courts

According to the Act CLXI of 2011 on the Organisation and Administration of the Courts, regional appellate courts are headed by a President and are legal entities. Within the regional appellate courts judicial panels, groups as well as criminal, civil, economic and administrative-labour divisions operate; these divisions operate either separately or jointly.

Final instance – Curia of Hungary

According to Act CLXI of 2011 on the Organisation and Administration of the Courts, the Curia is headed by a President. The Curia consists of three different divisions: criminal, civil and administrative-labour divisions. Each division has various panels: panels hearing appellate cases, panels passing uniformity decisions, panels issuing decisions of principles and working groups examining jurisprudence.

Within the divisions judges work in panels consisting of three judges. A panel adopting uniformity decisions consists of five judges and is chaired by the head of the division at issue; however, in cases where the joint work of several divisions is needed, the panel shall consist of seven members.

10. Internal organization of the administrative courts

According to Act CLXI of 2011 on the Organisation and Administration of the Courts, administrative and labour courts are headed by a President but are not independent legal entities (are formally dependent on the county courts). At the administrative and labour courts groups for handling certain types of cases may be set up.

D. JUDGES

11. Status of judges who review administrative acts

According to the Fundamental Law and to Act CLXII of 2011 on the Legal Status and Remuneration of Judges, administrative judges are appointed by the President of the Republic upon completion of a multi-level application process in which the self-governing bodies of the judiciary do participate. According to the Fundamental Law, judges may only be removed from office for the reasons and in a procedure specified in the relevant Act.

12. Recruitment of judges in charge of review of administrative acts

Administrative judges are recruited partly from public administration and partly from among the trainee-judges of the courts. There is no special condition for the position.

13. Professional training of judges

The body primarily responsible for the professional training of judge is the Hungarian Judicial Academy. However, the Association of Hungarian Administrative Judges also organises conferences on various judicial activities-related topics.

14. Promotion of judges

Each judge's position is filled via an open call for application. The administrative division and the self-governing body of the judges express an opinion about the candidates. (Self-governing bodies are elected at each court, except for the lowest level courts, for 6 years by the judges of the court.)

Promotion in wages depends on the length of judicial service (automatically increases in 3-year periods), as well as on the level of the given court in the national judicial system.

15. Professional mobility of judges

Judges cannot work outside the court, except for the Ministry of Justice, where they can take part in the work of the law-drafting department as “temporary drafters of law”. Court work cannot be exercised while such temporary law-drafting work is performed. No other position in public administration can, however, be taken by judges.

Judges usually move from a lower court to a higher court; they rarely move from one court to another court at the same level.

E. ROLE OF THE COMPETENT BODIES

16. Available kinds of recourse against administrative acts

As a rule, on-merits administrative final decisions are subject to judicial review in litigious proceedings. The court shall proceed upon a request and within the confines of the request specifying the alleged violation of law. In exceptional cases orders taken by an administrative authority on procedural issues (e.g. suspension or termination of the proceeding, imposition of a fine) may also be reviewed by the court, namely where they are subject to appeal in the administrative proceedings.

Where an order is not subject to appeal under the law, the client may challenge the lawfulness of the proceedings within the claim filed against the on-merits decision (e.g. tax authority orders are not subject to judicial review).

As a rule, the judicial review of a decision may only be sought if one of the parties involved in the administrative proceedings has exhausted the right of appeal, or appeal is excluded under the law (e.g. the court shall only review the final tax authority decision, which is taken by the second instance tax authority).

The administrative court shall examine – upon the request of a party, in litigious or non-litigious proceedings – whether the administrative decision is lawful or not in respect of the issues specified

by the party. The court's judgement shall be based on the facts as they existed when the administrative decision was taken, and shall be governed by the law as it was in force when the administrative decision was taken. Unlawfulness may be found in respect of either a procedural or a substantive issue; however, the administrative decision shall only be quashed where the infringement of the procedural law had a bearing on the merits of the case and could not be remedied in the court proceedings.

In case an infringement having a bearing on the merits of the case is found, the administrative court shall, as a rule, quash the administrative decision and where it is needed it shall instruct the administrative authority to conduct new proceedings according to certain criteria specified by the court. In certain cases the court may also modify the decision of the administrative authority – the cases are specified in the Code of Civil Procedure (e.g. taxation, public procurement, real estates etc.) The administrative court is entitled to review appeals filed against discretionary decisions.

If an administrative authority fails to execute its vested authority in a non-litigious proceeding the court shall, at the client's request, order the authority to conclude the procedure. If the administrative authority fails to fulfil an administrative contract as agreed and fails to comply with the client's notice requiring performance, the client may seek remedy at the court of jurisdiction for administrative actions.

17. Existence of mechanisms for the delivery of a preliminary ruling apart from the procedure under the Article 234 of the EC Treaty

The Constitutional Court has competence to examine the constitutionality of a law applicable in an administrative review case. Where the administrative judge perceives the unconstitutionality of a law, he shall suspend the case and shall request the Constitutional Court to examine the law in question. If the Constitutional Court annuls the law in question, it cannot be applied in the given case.

18. Advisory functions of the competent bodies

All bills and the drafts of government decrees affecting the jurisdiction or competence of the courts are sent to the Curia. The Curia issues expert opinion, and some judges take part in the work of the law-drafting committees as representative of the Curia.

19. Organization of the judicial and advisory functions of the competent bodies

This competence belongs to the activity of the Curia, and not to the individual judge.

F. ALLOCATION OF DUTIES AND RELATIONSHIP BETWEEN THE COMPETENT BODIES

20. Role of the supreme courts in ensuring the uniform application and interpretation of law

The Curia has several means to ensure the uniform application and interpretation of law. These means include the adoption of uniformity decisions; the analysis of jurisprudence by jurisprudence-analysing working groups and the publishing of decisions of principles.

In case of divergences in the case law or between lower courts, or between the chambers of the Curia, or in case jurisprudence needs to be further developed, there exists a special procedure for ensuring the uniformity of law. A uniformity decision (binding within the judicial system of Hungary on all other courts) is passed by an extended panel of five or seven judges.

The jurisprudence-analysing working groups consist of professional judges as well as of experts of the subject area analysed by the group. The topics to be analysed are determined by the President of the Curia annually, after consultations with the departments of the Curia. The groups analyse final court decisions and draft summary opinions on the basis of the results of their analysis, which are published on the Curia's website. Based on these opinions the President of the Curia initiates the adoption of a uniformity decision or requests the President of the National Office for the Judiciary to initiate legislative changes.

II – JUDICIAL REVIEW OF ADMINISTRATIVE ACTS

A. ACCESS TO JUSTICE

21. Preconditions of access to the courts

It is essential that proper remedies, such as an appeal within the administrative system, be exhausted in the proceedings conducted before the administrative authority.

22. Right to bring a case before the court

Any (natural or legal) person whose rights or legal interests are directly affected by an administrative decision can bring a case to the court. Such persons include even administrative authorities whose competence is affected by the case or civil organisations whose main activity is related to a fundamental right or a public interest.

According to Uniformity Decisions nos. 1/2004 and 4/2010 of the Hungarian Supreme Court, civil organisations set up by citizens for the representation of their environmental interests and other social organisations active in the impact area shall be entitled, in their respective areas, to the legal status of being a party in environmental cases. These requirements are in conformity with the Convention of Aarhus, which ensures the position of a party even for persons whose rights or interests are not affected by the case. The County Administrative Office can also ask for a review without being affected by the case.

23. Admissibility conditions

The action has to specify its factual and legal basis, but the court shall examine *ex officio* whether the plaintiff's rights or interests are affected by the administrative decision.

The grounds for inadmissibility are set forth in the Code of Civil Procedure. Claims for judicial review are dismissed by the court where, for example, the court lacks jurisdiction or competence

or territorial competence, or where a final judgement has already been taken in the case, or where the action was either prematurely or belatedly submitted, or the plaintiff lacked capacity to sue.

24. Time limits to apply to the courts

A claim for judicial review should be filed within 30 days from the delivery of the administrative decision. The time limit is the same for actions complaining of the inactivity of an authority, but in such cases the 30 days will start on the date when the authority was to perform its duty.

For the time limits applicable to the decision-making of the courts see: item 54

25. Administrative acts excluded from judicial review

Each decision is subject to a review procedure. Approximately 50% of acts of interim nature can be appealed and also challenged directly before a court (see item 16 on orders). Other acts of interim nature are reviewed indirectly, namely in the review-proceedings instituted against the final administrative decision.

26. Screening procedures

The rules ensuring a screening procedure was annulled by the Constitutional Court on the ground that the (former) Supreme Court (currently the Curia) cannot refuse a review of an individual case having general aspects of fundamental importance.

27. Form of application

The application must be filed in writing. The plaintiff has to enclose a copy of the contested decision with the application, or has to give the main dates of the decision. The application must specify the alleged infringement of law. The plaintiff must present the relevant facts and must specify the reasons for which and the extent to which the decision is challenged.

28. Possibility of bringing proceedings via information technologies

Only in certain proceedings, for example in elections-related cases.

29. Court fees

A court fee in the form of duty stamp amounting to HUF 30,000 (~ 100 €) is to be paid for actions against administrative decisions whereas HUF 70,000 (~ 233 €) is to be paid for review proceedings before the Curia. Where the obligation of the authority is a payment (taxes, customs, fines), a higher fee is to be paid: 6% of the contested sum but maximum HUF 1,500,000 (~ 5000 €) in first and second instance proceedings, and maximum HUF 3,500,000 (~ 11 666 €) in review proceedings before the Curia. Fees are paid only after the procedure in administrative cases.

30. Compulsory representation

Legal representation for clients before the Curia is mandatory. A client may be represented by an attorney, a law firm or a counsel.

31. Legal aid

The Legal Aid Service operating under the direction of the Ministry of Justice appoints a lawyer for indigent persons and for persons not having a lawyer on retainer. The status of appointed lawyers is identical with the status of retained lawyers. Legal aid is regulated by Act LXXX of 2003 on Legal Aid and by Decree no. 56 of 2007 of the Minister of Justice.

Upon request the courts may grant natural persons partial or full exemption from court costs where the persons seeking exemption are unable to cover those costs on account of their disadvantageous financial situation. Exemption from court costs may mean exemption from duties, from various proceedings-related costs or ensuring representation via an appointed lawyer.

32. Fine for abusive or unjustified applications

No such fine exists.

B. MAIN TRIAL

33. Fundamental principles of the main trial

The court is responsible for ensuring the fair determination of the rights of the parties within a reasonable time. Court proceedings are conducted upon request to the court. Unless a law stipulates otherwise, requests may only be submitted by a party having an interest in the dispute.

Unless otherwise provided by a law, the court is bound by the request and legal declarations of the parties, which the court shall consider not by their formal designation but according to their content. In taking its decision the court is bound neither by a decision of another authority or by a disciplinary decision, nor by facts established in those decisions.

Unless otherwise provided by a law, the court determines the case in public hearing. The language of the proceedings is Hungarian but nobody is placed at a disadvantage for not knowing Hungarian. In cases specified under the law, the court will, upon request, provide help in order to enable the party to turn to the court for asserting his/her rights and lawful interests. The court is obliged to provide the necessary information to parties not having legal representation and to remind him/her of his/her rights and obligations, and shall provide information to such parties about the possibility and conditions of availing of the services of a court appointed lawyer.

The hearings are public but upon request or ex officio the court may exclude the public from all or part of the trial (e.g. if it is considered necessary in order to keep a state or service secret or to protect the personal rights of a party or to protect the life and safety of a witness or a relative thereof).

34. Judicial impartiality

If a judge has a legal or personal interest in the outcome of the case or has determined the case at a lower instance or is otherwise biased, the judge has to be excluded from the case and another judge, panel or court has to determine the case.

Judges having participated in the determination of the case at administrative level or having worked earlier (in the previous 2 years) at an administrative authority shall also be excluded from the determination of the case.

35. Possibility to rely on the new legal arguments in the course of proceedings

Statements of claim can be amended until the end of the first hearing held at first instance. By amending giving a new direction to the review is meant. Elaborating the arguments or referring to a new paragraph shall not be an amending of the statement of claim. In proceedings before the Curia the petition cannot be amended after its filing.

36. Persons allowed to intervene during the main hearing

All clients of the administrative proceedings and anybody who is affected by the administrative decision may intervene until the end of the last hearing at first instance. The court will decide whether to allow or not to allow intervention.

37. Existence and role of the representative of the State (“ministère public”) in administrative cases

No right is granted for a State representative to intervene in judicial review proceedings.

38. Existence of an institution or a person with a role analogous to the French «Commissaire du gouvernement »

There is no such institution, but the Public Prosecutor’s Office has oversight powers over the administration, and may file an “appeal” against an administrative decision within the administrative law system. If the appeal is not accepted, the Office can file an action against the decision.

39. Termination of court proceedings before the final judgment

If the authority modifies its decision in a way satisfactory for the plaintiff, the latter may withdraw his/her complaint.

For reasons specified under the law (e.g. upon the parties' request, due to non-attendance of the parties) the case may be suspended for six months and if the parties do not request for the continuation of the proceedings, they shall be terminated.

The court shall terminate the proceedings in cases specified in the Code of Civil Procedure, e.g. the plaintiff does not attend the first hearing, the plaintiff withdraws his/her action, the parties together request for the termination of the case, a natural person dies or a legal person is terminated without a legal successor, upon request of a party if the extinct party has no successor, or if a plaintiff having to proceed with legal representation fails to arrange for legal representation instead of a terminated representation.

Moreover, the court will terminate a case on the basis of the Code of Civil Procedure where the case should have been dismissed when the action was filed on account of the existence of formal grounds for dismissal, such as the court's lack of jurisdiction, the falling of the case into the competence of another court, or where a final judgement has already been taken in the case, or where the action was prematurely or belatedly filed, or the plaintiff lacked capacity to file an action.

40. Role of the court registry in serving procedural documents

The court registry guarantees access to procedural documents. Additionally, the conditions of the access are specified in the relevant laws.

41. Duty to provide evidence

In administrative cases ex officio evidence shall only be provided by the court in exceptional cases, specified under the law; otherwise evidence shall be provided by the parties.

As a rule, proving the relevant facts shall be the burden of the party in whose interest the acceptance by the court of those facts as real is. Where, however, the administrative proceedings were launched ex officio or the administrative authority failed to comply with its obligation of establishing the

facts of the case, the administrative authority shall provide evidence regarding the facts of the case on which its decision was based where the facts are contested by the plaintiff.

In view of the principle of free assessment of evidence, the court is, as a rule, not bound by formal rules of evidence, by any specific mode of evidence or by the application of any specific means of evidence; it shall assess the declarations of the parties and any evidence suitable to disclose the facts of the case in a way it deems to be most expedient.

42. Form of the hearing

Oral hearings are generally open to the public. Taking into account the statements of the parties the judge will or will not allow the taking of photos and the making of video or audio records in the courtroom. Sensitive private and business data may justify hearings in camera.

Oral hearings are conducted in the same way as in civil law cases. The parties may express their opinions and may question the other parties, witnesses and experts. At the end they express their views and final proposals.

Judgements are pronounced publicly in court where a short reasoning is also given.

43. Judicial deliberation

A judgement is taken either by a single judge or by a panel of judges, thus deliberation is either carried out by the single adjudicator or by the panel, which deliberates the case in secret, in the discretion of the judges.

C. JUDGMENT

44. Grounds for the judgment

If the court finds that the decision of the administrative authority violates the law (save minor procedural violations), the court will quash the administrative decision and where necessary it will remit the case to the administrative authority for a new decision. In certain cases the court has power to change the administrative decision.

The judgements set forth the factual and legal grounds, the evidence before the court and the relevant objections raised by the parties. The explanation of the reasons for the court's finding must be sufficient to enable the parties to understand the finding.

45. Applicable national and international legal norms

Reference norms are usually national provisions but they also include the Constitution, EU law and the relevant jurisprudence.

46. Criteria and methods of judicial review

The parties must submit the factual and/or legal grounds upon which the contested decision is allegedly unlawful. The basic criteria for a judicial review is an alleged unlawfulness of the administrative decision.

If the court finds that the administrative decision is unlawful, it will quash or, in certain cases, change the administrative decision. Where the administrative authority had a margin of discretion in delivering the decision, the reviewing court will examine whether the power of discretion was or was not used in an arbitrary manner.

Courts normally do not conduct any inquiry of their own. Higher courts may change lower instance judgements or may modify their reasoning.

47. Distribution of legal costs

The legal costs of the successful party are paid by the losing party, but if both parties are partly successful and partly unsuccessful, the court may order that the parties should bear their respective costs.

48. Composition of the court (single judge or a panel)

Decisions at first instance are almost always taken by a single judge, whereas decisions at second instance and at the Curia are taken by three-judge panels. However, a single judge at first instance may order that the case be dealt with by a panel, where the single judge deems the case complex. Similarly, at the Curia a five-judge panel may be ordered, where the complexity and difficulty of the case so requires.

49. Dissenting opinions

The issue of dissenting opinion may, obviously, only arise in cases where the judgement is given by a panel. Judgments in a panel are delivered by votes and the opinion of the majority of the panel will become the judgment. Dissenting opinion may be attached to the judgment in a closed envelope and may only be read by the higher court panel in case the judgment is appealed or is requested to be reviewed by the Supreme Court.

50. Public pronouncement and notification of the judgment

Judgments are pronounced publicly and delivered in writing. The written version is to be completed within 15 days from the date of pronouncement of the judgment.

Based on Act CLXI of 2011 on the Organisation and Administration of the Courts, the anonymised and digitalised versions of the court decisions are made accessible to the public in the Collection of Judicial Decisions.

Uniformity decisions are published in the Hungarian Official Gazette and on the website of the Curia, whereas decisions of principles issued by the Curia are published in the Collection of Judicial Decisions and on the website of the Curia.

D. EFFECTS AND EXECUTION OF JUDGMENT

51. Authority of the judgment. *Res judicata, stare decisis*

A judgement becomes *res iudicata* when it is pronounced, where no appeal is allowed under the law or no appeal has been filed within the time limit open for appeals, or when the parties have waived their right of appeal. However, in the latter case the filing of the appeal will delay the *res iudicata* effect.

The uniformity decisions of the Curia are binding on all courts, ordinary court decisions, however, do not operate as *stare decisis*.

52. Powers of the court in limiting the effects of judgment in time

Courts cannot limit the effect of a judgment in time.

53. Right to the execution of judgment

The court judgements are binding on all parties, including administrative authorities. Where in the judgement the case is remitted to the administrative authority, the guidance and instructions given in the reasoning of the judgement for the new proceedings are also binding on the administrative authorities.

Thereby it is guaranteed that the court's instructions and opinions are implemented and accepted by the administrative authorities. In case of inactivity a fine may be imposed on the authority.

54. Recent efforts to reduce the length of court proceedings

Where no preliminary evidence is available, the court shall schedule the first hearing so that it can be held within 60 days, at the latest, from the receipt by the court of the documents. Where the complaint necessitates the taking of a court measure, the time limit for the first hearing shall be calculated from the date on which the required measure was taken.

Where extraordinary remedies are sought, the Curia shall take a decision within 120 days from the receipt of the petition.

Orders and judgements shall be pronounced at hearings. The pronouncement of a judgement may be postponed with maximum 15 days but, at the same time, a new date for the pronouncement must be fixed by which date judgement must be drafted in writing.

Save where the pronouncement of a decision is postponed, the decision shall be drafted in writing within 15 days from its pronouncement and shall be served on the parties within 8 days therefrom. If the pronouncement of the decision has been postponed, the written decision shall be served on parties attending the pronouncement of the decision immediately, whereas on non-attending parties within 8 days.

If the claim includes a request for suspension of the execution of the administrative decision, the court has to take decision within 8 days.

In certain administrative cases the Code of Civil Procedure orders the courts to pass a decision in an expedited procedure, e.g. cases involving minors, election cases.

E. REMEDIES

55. Sharing out of competencies between the lower courts and the supreme courts

See item 6.

56. Recourse against judgments

See item 6.

F. EMERGENCY AND SUMMARY PROCEEDINGS / APPLICATIONS FOR INTERIM RELIEF

57. Existence of emergency and/or summary proceedings

The cases of exceptional urgency are enumerated under the law (issues related to the authority of guardians, disputes related to elections etc) and are to be expedited.

Upon the plaintiff's request the execution of an administrative decision may be suspended where the execution would cause irrecoverable harm to the plaintiff or the plaintiff's interest in the suspension outweighs public interest in the execution. Decision-making on granting such suspensions is also expedited.

58. Requests eligible for the emergency and/or summary proceedings

A request for the suspension of the execution of an administrative decision has to substantiate a threat of serious harm. Otherwise, since the cases in which emergency proceedings are to be conducted are laid down in the law, such proceedings are applied by the courts ex officio.

59. Kinds of summary proceedings

The cases of exceptional urgency are enumerated under law (issues related to the authority of guardians, disputes related to elections etc). There are strict time limits for holding a hearing and passing the final decision.

III – NON-JUDICIAL SETTLEMENT OF ADMINISTRATIVE DISPUTES

60. Role of administrative authorities in the settlement of administrative disputes

Prior to the adoption of the final decision the first instance authority may, within one year from the delivery of its decision, revoke or modify its decision, provided that the revocation or modification does not prejudice or violate any right acquired and exercised in good faith. If the plaintiff is satisfied with the new decision, the proceedings will be terminated.

Under the Act on Administrative Procedure, administrative authorities proceeding at first instance are under the duty of attempting to reach a settlement between the parties in certain types of cases (e.g. custody cases) or when the authority holds a hearing. In case a settlement is reached at administrative level, no judicial review is allowed.

61. Role of independent non-judicial bodies in the settlement of administrative disputes

The Ombudsman has no competence in court cases. His/her recommendations can prevent court actions. Reliance on mediation is not a prerequisite for filing a court action in the administrative field.

62. Alternative dispute resolution

There is no arbitration in the administrative field.

IV – ADMINISTRATION OF JUSTICE AND STATISTIC DATA

A. FINANCIAL RESOURCES MADE AVAILABLE FOR THE REVIEW OF ADMINISTRATIVE ACTS

63. Proportion of the State budget allocated to the administration of justice

The expenses of administrative justice are not monitored separately.

64. Total number of magistrates and judges

Approximately 2,800 judges and 8,000 judicial officers (administrative assistants, trainee judges and court secretaries) work at the Hungarian courts.

65. Percentage of judges assigned to the review of administrative acts

In 2014 119 judges worked in administrative justice (~0,4%).

66. Number of assistants of judges

The number of judicial officers (administrative assistants, trainee judges and court secretaries) working in administrative justice at the Hungarian courts is not monitored separately.

The Administrative Section of the Administrative and Labour Department of the Curia of Hungary comprises 18 judicial officers (administrative assistants, trainee judges, court secretaries and chief legal advisors) in six different judicial panels. Each panel is composed of 3-5 judges, 1-2 administrative assistants and 1-2 trainee judges or court secretaries. Some panels are assisted by a chief legal advisor.

67. Documentary resources

Every courthouse has a law library where judges can find earlier and recent legal literature. Every month a bulletin containing information on new articles and books is published.

68. Access to information technologies

The National Office for the Judiciary, a centralised judicial body responsible for the administration of the Hungarian courts, operates its own website and a central on-line portal for the whole judiciary where relevant and useful information are made available about the courts' activities. The Curia of Hungary and some of the lower instance courts also have their own websites.

All judges and judicial officers have Internet access and access to electronic legal databases containing information on Hungarian, European and international law, on the jurisprudence of the Hungarian courts and on the case law of the supranational judicial forums. Judges and judicial officers can contact each other via an internal e mail system.

69. Websites of courts and other competent bodies

The following courts and judicial bodies have a website of their own: the Curia of Hungary, the regional appellate courts and the county tribunals, as well as the National Office for the Judiciary, the National Judicial Council and the Hungarian Judicial Academy.

B. OTHER STATISTICS

70. Number of new applications registered every year

There is no statistics on non-litigious cases.

New applications (litigious cases):

Year – All courts – Supreme Court/Curia

2005 – 13 330 – 1 060

2006 – 15 757 – 1 282

2007 – 12 687 – 1 356

2008 – 12 928 – 1 394

2009 – 15 602 – 1 535

2010 – 8 769 – 1 847

2011 – 15 273 – 1 764

2012 – 14 953 – 1 666

2013 – 14 306 – 1 495

2014 (first half) – 7 224 – 905

Statistics show that about 10% of the cases are reviewed (in the framework of an extraordinary remedy procedure) by the Curia of Hungary.

The Budapest Regional Court (and its legal successor, the Budapest Administrative and Labour Court acting as first instance administrative court as of 1 January 2013) deals with approximately 4,000 6,000 new applications (cases) per year, while the Regional Appellate Court of Budapest (and its legal successor, the Metropolitan Tribunal of Budapest acting as second instance administrative court as of 1 January 2013) receives approximately 600 new applications (cases) per year.

71. Number of cases heard every year by the courts or other competent bodies

Cases disposed of by the courts:

Year – By all courts – By the Supreme Court/Curia

2005 – 12 635 – 794

2006 – 15 705 – 1 060

2007 – 12 462 – 1 164

2008 – 12 834 – 1 222

2009 – 15 074 – 1 743

2010 – 16 190 – 1 765

2011 – 15 968 – 1 740

2012 – 15 757 – 1 488

2013 – 15 177 – 1 759

2014 (first half) – 7 793 – 1 041

On average, the Metropolitan Tribunal of Budapest (and its legal successor, the Metropolitan Administrative and Labour Court acting as first instance administrative court as of 1 January 2013) disposes of half the number of incoming cases, while the Regional Appellate Court of Budapest

(and its legal successor, the Metropolitan Tribunal of Budapest acting as second instance administrative court as of 1 January 2013) disposes of as many cases as it receives.

72. Number of pending cases

There are annually 6,000 8,000 cases pending before the administrative courts of Hungary.

73. Average time taken between the lodging of a claim and a judgment

The average length of proceedings is approximately 7 months before the first instance administrative courts, and it is ca. 4 months before the second instance administrative courts. At the Curia of Hungary, 20% of the cases are disposed of within 3 months, 10% within 3 6 months, 60% within 6 12 months and the rest beyond one year.

74. Percentage and rate of the annulment of administrative acts decisions by the lower courts

The number of such annulments is currently not monitored separately. Prior to 2009, out of all applications, the first instance administrative courts annulled 10 20% of the contested administrative decisions.

75. The volume of litigation per field

Ca. 25% of the registered cases concern taxation, customs, excise duties and duties, while the rest of the cases are related to diverse fields of law, such as building, migration and asylum seeking, public procurement, guardianship, competition, consumer protection, environmental protection, expropriation and actions against the decisions of the Hungarian Energy Authority or the National Media and Info communications Authority.

At the Curia of Hungary, approximately 30% of the cases registered concern taxation, customs, excise duties and duties, while the rest of the cases concern various fields of law, e.g. expropriation, environmental protection, public procurement, competition etc.

C. ECONOMICS OF ADMINISTRATIVE JUSTICE

76. Studies or works concerning the influence of judicial decisions against the administrative authorities on *public budgets*

No, in spite of the fact that as a result of certain court decisions the Hungarian State had to pay great amounts of money in social security cases.