ADMINISTRATIVE JUSTICE IN EUROPE

- Report for the Republic of Latvia -

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 Republic of Latvia was formed in 1918.

The administrative control over the administrative authorities was instituted by the Law on Administrative Courts of 4 March 1921. According to this law the power of administrative justice was held by the magistrate's courts, regional courts and the Supreme Court. The courts overviewed the protests and plaints of government officials who were responsible for managing of local government's decisions. Besides, the courts decided on the offences of the law or ordinances, on the cases concerned with employment of mandate, avoidance of the obligations, etc.

After Latvia was incorporated in the USSR in 1940, the reform of the court system began, namely, the magistrate's courts were reformed as "nation courts", regional courts rested as regional courts, the Supreme Court Senate was abolished and the court chambers were instituted in the Supreme Court.

Until the 80's of the 20th century it was not possible to file claims against the State. Only in beginning of 80's Chapter 24-A was incorporated in the Civil Procedure Code of Soviet Latvia. According to this Chapter a person could bring an action against the State official or local government official in the court if the rights of the person were injured, i.e., if the person was abnegated to realize the rights granted by the law or if a duty was imposed to the person.

Only after Latvia regained its independence it became possible to establish a new court system corresponding with the principles of democracy. The three-level court system was re-instituted. Despite that, the administrative courts began their work only in 2004, until that people could bring actions against the State officials and local government officials in the civil courts. The justification for such rights was Civil Procedure Law (the transitional provisions, paragraph No. 1), the Chapter 24-A of the Civil Procedure Code (which was applicable with many amendments in Latvia after the break-up of the USSR) and the Administrative Violations Code.

Since 1 February 2004 (the date, when the Administrative Procedure Law came into force), the decisions and acts of administrative authorities are reviewed by the Administrative District Court, the Administrative Regional Court and the Department of Administrative Cases of the Supreme Court, which function according to the Administrative Procedure Law.

2. Purpose of the review of administrative acts

The administration of the State is subordinated to the rule of law. Under Section 2 of Administrative Procedure Law the aim of the review of administrative acts and actions by the courts is following:

1) to ensure the observance of basic democratic, law-governed state principles, especially human rights, in specific public legal relations between the State and a private person;

2) to subject actions of executive power relating to specific public legal relations between the State and a private person to the control of an independent, impartial and competent judicial power; and

3) to ensure just, accurate and effective application of the norms of law in public legal relations.

3. Definition of an administrative authority

There is a definition of administrative authority, which is formulated as a term "institution", in Administrative Procedure Law. Under Section 1 Paragraph 1 of Administrative Procedure Law an institution is a legal entity (an authority, a unit or an official) on which specific public authority powers in the field of State administration have been conferred by a regulatory enactment or public law contract.

The term "institution" covers following administrative authorities: 1) institutions of direct administration which represent the Republic of Latvia; 2) derived public person – a local government or other public person established by law or on the basis of law; 3) a private individual or another public person to whom the administrative tasks as include the taking of administrative decisions are delegated; 4) official persons which are authorized to make public (administrative) decisions.

The term "institution" does not cover the constitutional institutions which take constitutional and political decisions.

4. Classification of administrative acts

In Latvia the classification of *public acts* is the following:

1) unilateral acts:

1.1. externally directed acts:

a) normative acts;

b) individual acts – administrative acts and acts which are concerned with execution of court judgment.

1.2. internal acts – the administration's prescriptions and individual acts – internal orders.

2) bilateral acts – contracts which are governed by public law.

Administrative act should be directed externally, which is issued by an institution in an area of public law with regard to an individually indicated person or individually indicated persons establishing, altering, determining or terminating specific legal relations or determining an actual situation.

Decisions or other types of actions of an institution in the sphere of private law, and internal decisions which affect only the institution itself, bodies subordinate to it or persons specially subordinated to it, are not administrative acts. Political decisions (political announcements, declarations, invitations, election of officials, and similar) by the Parliament, the President, the Cabinet or local government city councils (district and parish councils), as well as decisions regarding criminal proceedings and court adjudications are also not administrative acts. Similarly preparatory acts do not fall within the term of an administrative act.

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

A. COMPETENT BODIES

5. Non-judicial bodies competent to review administrative acts

The control of general bodies is ensured by the administrative courts, which are distinguished from the institutions. However the right to submit an application before the court a person acquires after his/her complaint or application is reviewed by the higher administrative authority.

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

Judicial power in Latvia is vested in district (city) courts, regional courts, the Supreme Court and the Constitutional Court.

There are two types of district (city) courts and regional courts, namely, district (city) courts of general jurisdiction (in total – 10) and the Administrative district court, as well as regional courts of general jurisdiction (in total – 5) and the Administrative regional court. District (city) courts of general jurisdiction and regional courts of general jurisdiction deal with civil cases and criminal cases.

A district (city) court is the court of first instance for civil cases, criminal cases, and cases, which arise from administrative legal relations. In civil cases, courts shall adjudge a trial, adjudicate and decide in court hearings on cases concerning disputes, which are related to the protection of the civil rights, employment rights, family rights, and other rights and lawful interests of individuals and legal entities.

In criminal cases, courts shall adjudge a trial, adjudicate and decide in court hearings on the validity of charges brought against persons, and shall either acquit persons who are not guilty, or find persons guilty of committing a crime and impose punishment on them. In administrative cases, courts shall adjudge a trial, adjudicate and decide in court hearings on cases concerning complaints filed by persons against actions of State administrative institutions and officials, as well as other cases arising from administrative legal relations.

The Supreme Court is the court of cassation for all cases, which have been adjudicated by district (city) courts and regional courts. The Supreme Court also is the court of first instance for cases concerning Central Election Commission’s decision to refuse registration of bills and amendment to the Constitution and for cases concerning persons, to whom the entry to the Republic of Latvia is prohibited. The Supreme Court is composed of three departments: the Department of Civil Cases, the Department of Criminal Cases and the Department of Administrative Cases.

The Constitutional Court is an independent institution of judicial power, which within the jurisdiction set forth in the Constitution of the Republic of Latvia and in the Constitutional Court Law shall review cases concerning the compliance of laws and other legal provisions with the Constitution, as well as other cases subjected to its jurisdiction. The Constitutional Court of Latvia does not review the administrative acts.

There are no specialized courts, inter alia, specialized administrative courts. The administrative courts in Latvia decide on all types of cases, which arise from administrative legal relations.

B. RULES GOVERNING THE COMPETENT BODIES

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

Administrative courts have exclusive jurisdiction to review administrative acts and actions.

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

The status of the administrative courts is required by Constitution of the Republic of Latvia and by the Law on Judicial Power. The aims, duties and competence of the administrative courts are set out in Administrative Procedure Law.

C. INTERNAL ORGANIZATION AND COMPOSITION OF THE COMPETENT BODIES

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

Judicial review is assumed by administrative courts.

10. Internal organization of the administrative courts

Administrative cases shall be adjudicated on the merits by a court of first instance (Administrative district court), but pursuant to a complaint of parties to administrative proceedings filed against a judgment of such court, also by a court of second instance under appeal procedure (Administrative regional court). Parties to administrative proceedings may appeal against a judgment of a court of second instance under cassation procedure. The cassation instance is the Department of Administrative Cases of the Supreme Court.

The Administrative district court consists of 43 judges. The Administrative regional court consists of 24 judges.

As it was mentioned above, the Supreme Court consists of three departments – the Department of Civil Cases, the Department of Criminal Cases and the Department of Administrative Cases. The Department of Administrative Cases is headed by the chairperson who is appointed by the Plenary Session of the Supreme Court. In the department there are ten judges.

D. JUDGES

11. Status of judges who review administrative acts

The general prerequisites (formation, conditions of nomination) for judges of administrative courts are similar to the general prerequisites for judges of ordinary courts. There are no different categories of judges according to the various kinds of control of administrative authorities.

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

The Minister of Justice shall nominate candidates to be appointed to or confirmed in the office of a judge of a district (city) court or of a judge of a regional court on the basis of an opinion of the Judicial Qualification Committee. A candidate for confirmation in the office of a judge of a Supreme Court shall be nominated by the Chief Justice of the Supreme Court, on the basis of a statement of the Judicial Qualification Committee.

Judges of a district (city) court shall be appointed to the office by the Parliament, upon the recommendation of the Minister of Justice, for three years. After a judge of a district (city) court has held office for three years, the Parliament, upon the recommendation of the Minister of Justice, and on the basis of a statement of the Judicial Qualifications Committee, shall confirm him or her in the office, for an unlimited term of office, or shall re-appoint him or her to the office for a period not exceeding two years. After the expiration of the repeated term of office, the Parliament, upon the recommendation of the Minister of Justice, shall confirm a judge of a district (city) court in the office for an unlimited term of office. If the work of a judge is unsatisfactory, the Minister of Justice, in accordance with a statement of the Judicial Qualification Committee, shall not nominate a judge as a candidate for a repeated appointment to or confirmation in the office.

Judge of a regional court shall be confirmed by the Parliament, upon a recommendation of the Minister of Justice, for an unlimited term of office. Judges of the Supreme Court, upon the recommendation of the Chief Justice of the Supreme Court shall be confirmed in the office by the Parliament, for an unlimited term of office. However, a judge shall be removed from office if a judge has reached the maximum age for fulfilling the office of a judge as specified by the law. The maximum age for holding office as a judge is 70 years.

In Latvia, in selection of a candidate for the office of a judge, the principle shall be observed that only Latvian citizens, who are highly qualified and fair lawyers, may work as judges. A candidate should meet various other requirements, e.g., he/she is fluent in the official language at the highest level, he/she has attained the age of at least 30 years, he/she has acquired a higher legal education, he/she has at least five years length of service in legal profession and has passed qualification examinations.

A judge of a district (city) court or a judge of a regional court, whose total length of service in the office of a judge is at least ten years and who has received a favourable opinion from the Council for the Judiciary in the extraordinary evaluation of the professional work of a judge may apply for the office of a judge of the Supreme Court. A judge of a district (city) court who had been approved in office for an unlimited term of office or a judge of a regional court who acquired a Master or Doctor degree in law and who had received a positive statement from the Council for the Judiciary in the extraordinary evaluation of the professional work of a judge may apply for the office of a judge of the Supreme Court. A person who has not less

than fifteen years total length of service in a position as an academic personnel in the legal specialities at an institution of higher education, a sworn advocate or a prosecutor, and who has passed the qualification examination, as well as a person who had held the office of a judge of the Constitutional Court, a judge of an international court or a judge of a supranational court, may apply for the office of a judge of the Supreme Court. A person who has reached the age of 40 years may apply for the office of a judge of the Supreme Court.

13. Professional training of judges

The procedures by which a candidate for a judge shall apprentice and take qualification examinations are determined by the Ministry of Justice. The time for apprenticeship is set at between one month to six months, taking into account the level of professional qualification of the candidate for the position of a judge.

The judges participate at different seminars and trainings organised by the Latvian Judge Training Centre (e.g., different questions and problems of administrative, civil and criminal matters) and take part at seminars organised by different entities (e.g., seminars about the banking system).

14. Promotion of judges

There is no organized particular career structure. Allocation of a judge to a higher court takes place following discussion of Chief Justices of correspondent courts and the Ministry of Justice. There is only a fixed order on supplements to the salaries of judges, which considers the categories of the qualification class.

15. Professional mobility of judges

A judge with his/her consent and the permission of the Chief Judge for specific time may be assigned to work in another court (also higher instance courts), the Ministry of Justice or an international organisation. A judge may be assigned to work in another institution for time, which is not less than three months, but does not exceed three years. During this time the judge may not exercise the duties of a judge in the court from which he or she is assigned to work in another institution. A judge in performing work in another institution shall receive a judge's basic salary and supplements for the qualification class if only the institution has not taken over the obligation to pay the judge a salary. Work in another institution shall be counted for the length of service of the judge.

E. ROLE OF THE COMPETENT BODIES

16. Available kinds of recourse against administrative acts

A court shall render judgment having examined whether: 1) the administrative acts have been issued in compliance with procedural and formal preconditions; 2) the administrative acts comply with the norms of substantive law; and 3) the bases for administrative acts justify duties imposed on addressees or rights conferred, confirmed or denied to addressees. In assessing the legality of an administrative act, the court in its judgment shall have regard only to those facts referred to by the institution as the basis for the administrative act. In

regard to actual actions of institutions, a court shall render judgment having examined whether the actual action has been carried out in compliance with procedural and formal preconditions, and whether it complies with the norms of substantive law.

If a court finds an application for setting aside an administrative act or declaring it invalid as well-founded, it set aside the relevant administrative act in full or in part or declares it invalid. In cases provided for by law a court may vary an administrative act and determine the specific substance thereof. If a court acknowledges the right of the applicant to compensation, it shall direct in the judgment that compensation be paid to the applicant and shall specify the amount thereof.

If a court finds an application regarding the issue of an administrative act to be well-founded, it instructs the institution to issue an appropriate administrative act. In the judgment the court specifies the substance of the administrative act and the time period for its issue if the institution is not still required to carry out consideration of its usefulness.

If a court finds an application requesting an actual action from an institution to be well-founded, it renders a judgment regarding the duty of the institution to carry out specific actions and specify the time period for the carrying out thereof. If a court finds an application, which requests that an institution be prohibited from carrying out a specific actual action, to be well-founded, the court shall render a judgment in which the institution is prohibited from carrying out the specific actual action.

If the subject-matter of an application is the determination of the existence or non-existence, or the substance of specific public legal relations, a court renders a judgment in which it shall be determined that the specific public legal relations exist or that they do not exist, or in which the substance of the specific public legal relations shall be determined (the rights and duties arising therefrom).

If an application regarding the setting aside of a public legal contract is recognised by a court as justified, it sets aside the relevant public legal contract fully or a part thereof. If an application regarding which an institution is requested to enter into a public legal contract is recognised by a court as justified, it renders a judgment regarding the duty of the institution to enter into a public legal contract and determines the time period for the fulfilment thereof. If the subject-matter of the application is the validity of a specific public legal contract, a court renders a judgment in which it is determined that the specific public legal contract is in effect or is not in effect. If the subject-matter of the application is the correctness of the fulfilment of a public legal contract, a court renders a judgment in which it is determined whether the public legal contract has been correctly fulfilled or how it should be correctly fulfilled. If a court acknowledges the right of the applicant to compensation, it directs in the judgment that compensation be paid to the applicant and specifies the amount thereof.

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

Apart from the procedure under Article 234 of the Treaty establishing European Community an Administrative Court shall wait for a preliminary ruling delivered by another (civil, criminal, international) if the adjudicating of the matter is not possible until another matter has been decided in a court or an institution. In this case the Administrative Court stays the proceeding.

If a court acknowledges that a norm of law does not conform to the Constitution (*Satversme*) or norms (acts) of international law, it shall suspend court proceedings in the matter and

send a substantiated application to the Constitutional Court. After the coming into force of the decision or judgment of the Constitutional Court, the court proceedings in the matter shall be renewed the following court proceedings shall be based upon the view of the Constitutional Court.

18. Advisory functions of the competent bodies

The administrative courts have only judicial functions, the advisory function for legislator or executive bodies is excluded. However in practice, opinions of the Supreme Court are often asked in the preparation of new normative acts.

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

The administrative courts have no advisory role.

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

There are some particular procedures to ensure the harmonised and uniform application and interpretation of law in similar cases.

Under law the interpretation (construing) of the norms of law stated in a judgment of a court of cassation instance is mandatory for the court which adjudicates the matter *de novo*.

A judge may submit proposals on issues concerning the explanation of laws to a conference of judges, as well as directly to the Supreme Court. The conference of judges is a self-governing judicial institution and it shall examine current issues of court practice. All the judges of the Republic shall participate in its work.

The judges of the Supreme Court (judges of panels and departments) sitting in a Plenary Session could decide on the practice of interpretation and application of law. Those decisions are not legally binding for the lower courts, but judges could follow this expressed legal opinion.

The decisions which are significant for decision-making process are published on Supreme Court website.

See also Question #67 below.

II – JUDICIAL REVIEW OF ADMINISTRATIVE ACTS

A. ACCESS TO JUSTICE

21. Preconditions of access to the courts

For every natural and legal person who brings an action before administrative court is essential that remedies in the proceeding before administrative authority are exhausted. Under Section 191 of the Administrative Procedure Law a judge shall refuse to accept an application if the

applicant has not complied with preliminary extrajudicial examination procedures prescribed by law for such category of matter.

Every natural and legal person must also observe the terms stated by the law for bringing an action in administrative court. If a person misses the term stated by the law it is executed that the person has no right to submit an application in the court.

22. Right to bring a case before the court

Every natural person, legal private person, association can bring an action before administrative court if their rights or legal interests have been infringed or may be infringed by a decision of administrative authority. There is also possible that the administrative proceeding is initiated between two "collectivités infra-étatiques", e.g., a local municipality enterprise can bring an action against state institution.

23. Admissibility conditions

No proves of infringement of rights and legal interests are required for admissibility. See also Question #22 above.

24. Time limits to apply to the courts

The recourse to the administrative court is a subject to time-limits. See also Question #21 above.

A procedural time period, which is to be calculated in years, months or days, shall commence on the day following the date or event pursuant to which its commencement is stipulated. A time period stipulated to run until a specific date expires on that date. Procedural actions for which a time period expires may be performed until midnight of the final day of the time period. If a document has been submitted to the communications authority (post office) on the last day of the time period by midnight, it shall be considered to have been submitted within the time period. If such action is to be performed in an institution or a court, the time period shall be considered to have expired at the hour when the relevant institution or court closes.

The right to perform procedural actions shall lapse after expiration of the time period stipulated by law, an institution, a court or a judge. A time period stipulated by an institution, a court or a judge may be extended pursuant to the petition of a party to administrative proceedings. The court shall decide on the issue in a court hearing upon prior notice to the parties to the administrative proceedings of the time and place of the hearing. Failure of such persons to attend is not an impediment to the deciding on the issue in the court.

The terms of the bringing an action before the court are stated in the law: Administrative Procedure Law and other particular laws.

In general, an application regarding the issue, setting aside or validity of an administrative act may be submitted within one month from the day, when the administrative act comes into effect. If it is not set out in the administrative act, where and within what time period it may be appealed, the application may be submitted in respective cases within a year from the day the administrative act comes into effect. An application regarding an actual action of an

institution may be submitted within a year from the day, when the applicant comes to know of the specific actual action of the institution, if a restriction regarding the time period is not prescribed by other laws or the Cabinet regulations. If an institution or a higher institution has failed to notify the applicant of the decision regarding his or her submission, the application may be submitted to a court within a year from the day when the person addressed the institution or the higher institution with his or her submission.

25. Administrative acts excluded from judicial review

All categories of administrative acts or actions are subject of reviewing by the courts. See also Question #4 above.

26. Screening procedures

There is a screening procedure in the Administrative district court. According to the Section 191-1 of the Administrative Procedure Law, the court may refuse to accept an application if it is manifestly ill-founded, obviously unacceptable or incomprehensible. The decision may be appealed.

There is also a screening procedure related to initiating of cassation proceedings in the Department of Administrative Cases of the Supreme Court. The screening procedure involves a preliminary admission of the appeal decided by the panel of three judges. The screening procedure in the Supreme Court takes place without hearing, but with summary statement of reasons. Decision to admit or to reject (not accept) the cassation complaint is decided by three judges. According to the Section 338-1 of the Administrative Procedure Law: 1) the cassation complaint must be rejected if it does not correspond with the requirements of the Administrative Procedure Law; 2) the cassation complaint may be rejected if there is previous judicature and the judgment of the appellate court conforms with the judicature of the Supreme Court; or if there is no doubt about the correctness of the judgment of the appellate court and if the case has no value for the judicature.

27. Form of application

Applications shall be submitted in writing. In an application shall be set out: the name of the court to which the application is submitted; the given name, surname and place of residence or other address where the person is reachable, of the applicant, and of his or her representative if the application is submitted by a representative. If the applicant or his or her representative is a legal person, its name, registration number, if any, and the legal address shall be indicated; e-mail, if the applicant agrees to correspondence electronically; the name and address of the institution; the grounds for the application and evidence, if it is at the applicant's disposal; the claim; the amount of the claim, if it contains a claim for compensation for losses; a list of documents appended to the application, if they have been appended; and the place and time of the completion of the application.

The application shall be signed by the applicant or his or her representative. If the application is submitted on behalf of the applicant by a representative, he or she shall attach to the application an appropriate authorisation or other document which confirms the authorisation of the representative to submit the application.

An application shall have appended documents, which attest to the following: the payment of State fees; compliance with extrajudicial examination procedures, if such are prescribed by law; and the facts on which the claim is based. The application and the documents appended to it shall be submitted to the court, with as many copies as there are defendants and third parties in the matter. A judge, depending on the circumstances and nature of the matter, may relieve an applicant who is a natural person of the duty to submit copies of the application and documents appended to it for forwarding to defendants and third parties.

28. Possibility of bringing proceedings via information technologies

According to the Electronic Documents Law there is a possibility to submit an application or any other document electronically. The court as well may send its decision to the participants electronically.

29. Court fees

A State fee in the amount of 30 euros shall be paid in regard to the submission of an application regarding initiation of a case in court. A State fee in the amount of 60 euros shall be paid in regard to an appellate complaint. Upon a cassation complaint being submitted, a security deposit shall be paid in the amount of 70 euro.

Legal entities – legal entities having the right to defend the rights and legal interests of private persons – shall be exempted from payment of the State fee. If a previous legal entity withdraws an application which has been submitted on behalf of a person, but such person demands that the case should be adjudicated on the merits, the State fee shall be paid in accordance with general provisions.

A court or a judge, taking into account the financial situation of a natural person, may decrease the amount of the State fee or security deposit.

30. Compulsory representation

There is no obligation to use the assistance of a lawyer/solicitor, barrister/advocate bringing an action before the administrative court.

31. Legal aid

Under the Law on Legal Aid every citizen of Latvia, non-citizen, EU citizen (which is not a Latvian citizen), citizen of third person legally residing in Latvia, refuge and a person within some other categories mentioned in the Law holds the rights to a legal aid ensured by the State. The above-mentioned persons are rightful to the legal aid if taking note of their special situation, status of their property and incomes these persons cannot ensure their protection of rights. A State guarantees a legal aid to every person, which is indigent and has got a status of an indigent person.

The responsible institution for the legal aid is the Administration of Legal aid. The Administration’s decision to award the legal aid or to refuse the legal aid is an administrative act. So this decision is a subject of reviewing by the Ministry of Justice and then by the administrative courts.

A provider (executor) of legal aid can be: 1)solicitor/lawyer, 2)barrister/advocate, 3)a bailiff; 4)a scholar in law; 5)natural person according to the Law.

32. Fine for abusive or unjustified applications

There is no fine for unjustified applications, but under Section 224 of the Administrative Procedure Law if there is no other evidence or the evidence is not sufficiently reliable, an applicant who is a natural person may, pursuant to the invitation of the court, affirm by an oath his or her explanations containing information concerning facts on which his or her claims or objections are based.

B. MAIN TRIAL

33. Fundamental principles of the main trial

Under Section 4 of Administrative Procedure Law the following general principles of law shall be applied in administrative proceedings:

1) the principle of observance of the rights of private persons;

2) the principle of equality;

3) the principle of the rule of law;

4) the principle of reasonable application of the norms of law;

5) the principle of not allowing arbitrariness;

6) the principle of confidence in legality of actions;

7) the principle of lawful basis;

8) the principle of democratic structure;

9) the principle of proportionality;

10) the principle of priority of laws;

and 11) the principle of procedural equity.

In administrative proceedings, general principles of law not referred to in this Section, which have been discovered, derived or developed within institutional practice, or within jurisprudence, as well as legal science shall also be applied. Administrative acts, and the actual actions of institutions, shall comply with the general principles of law.

34. Judicial impartiality

A judge, who has participated in the adjudicating of a case in a court of first instance, may not participate in adjudicating of such case in a court of appellate or cassation instance, or in re-adjudication of the case in a court of first instance, if the adjudication rendered with participation of the judge has been set aside. A judge who has participated in the adjudicating of a case in a court of appellate or cassation instance may not participate in an adjudication de novo of this case in a court of first instance or of appellate instance. A judge who has participated in adjudication of a case in a court of appellate instance may not

participate in adjudication of this case in a court of cassation instance, except for a case, when the case is adjudicated in a joint session of the Department of Administrative Cases.

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

There is a possibility for the applicant to rely on legal arguments raised for the first time in the course of the proceedings.

36. Persons allowed to intervene during the main hearing

An applicant and third party can intervene the hearing. Third parties shall be admitted or invited to participate in the matter in accordance with a court decision. A third party who does not submit independent claims has the procedural rights and duties of an applicant and defendant, except the right to amend the basis or subject-matter of the application, withdraw the claim, admit a claim or require execution of the court judgment. A person should set out in a submission regarding invitation of a third party to participate in a matter and the submission of a third party regarding entering into a matter on the side of the applicant or the defendant why a third party should be allowed to participate in the matter. The court is obliged to invite as a participant in the administrative proceeding a person whose rights or legal interests may be infringed by the judgment of the court.

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

In cases provided for in law, public legal entities or public law legal persons (e.g., public prosecutor) have the right to submit a submission to an institution or an application to a court in order to defend the rights and legal interests of private persons. In Administrative Procedure Law those entities are called Legal Entities Having the Right to Defend the Rights and Legal Interests of Private Persons. A legal entity may become acquainted with the materials of a matter, apply for refusals or removals, provide explanations, submit evidence, participate in the examination of evidence, submit petitions, dispute and appeal administrative acts or actual actions, as well as carry out other procedural actions provided for by law, regarding submitters or applicants.

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

There is no such institution or a person in administrative procedure. But such person exists in civil matters. This function is executed by the public procurator.

39. Termination of court proceedings before the final judgment

A court shall terminate judicial proceedings in case, if:

1) the case may not be adjudicated in accordance with the procedure regarding administrative proceedings;

2) an application is submitted by a person who is not entitled to submit the application;

3) a court judgment rendered in a case between the same parties to administrative proceedings, regarding the same subject-case and on the same basis has come into effect;

4) the applicant withdraws his or her application;

5) rights regarding the disputed legal relations are not capable of being assumed following the death of the individual, who is the applicant in the case;

6) the legal person, who is the applicant in the case, has ceased to exist and there is no successor in interest thereto;

7) controversy, which was the ground to submit the application, has ended because an administrative agreement was signed or the institution set aside the appealed administrative act;

8) time period for the submission of the application has expired and the court has not renewed the time period;

9) an application is submitted more than three years after the administrative act has become valid or three years after the applicant got to know about the action of the institution;

10) an application is submitted to establish a procedural infringement, but the court has decided that the infringement has not violated substantial rights or legitimate interests.

40. Role of the court registry in serving procedural documents

The court registry itself sends a copy of the application to the defendant or the third party (if it exists), the copy of the application or comments on the application made by the applicants or defendant – to the applicant, defendant or the third party.

41. Duty to provide evidence

An institution shall prove the facts upon which it relies as the grounds for its objections. An institution may only refer to those grounds that have been stated in an administrative act. An applicant, according to his or her capacity, shall participate in collecting evidence. If the evidence submitted by a participant in an administrative proceeding is not sufficient, the court shall collect it on its own initiative.

According to the Administrative Procedure Law within the course of administrative proceedings, while performing its duties, a court shall itself (*ex officio*) objectively determine the circumstances of a matter and provide a legal assessment of these, adjudicating the matter within a reasonable time.

There are some exceptions in cases concerned State taxes. As a paying of taxes is a duty of person, a person itself must provide the evidences that she or he has payed all necessary taxes. A person, challenging the tax authority's decision on collection of taxes, must prove that the arguments stated by the tax authority are not correct.

42. Form of the hearing

The oral hearing in the administrative court is publicly held in a courtroom. The number of persons to be admitted to a courtroom shall be determined in accordance with the number of places in the courtroom. Relatives of the applicant or other persons invited by the applicant,

and mass media representatives have priority rights in regard to being present at the adjudicating of a matter.

A court sitting shall be presided over by one of the judges who is participating in the adjudication of the matter. The chairperson of the court sitting shall so preside over the adjudicating of the matter that equal opportunity to participate in examining the facts of the matter and the objective adjudicating of the matter is ensured for all participants in the administrative proceeding.

Before the adjudicating of matter, the court makes such actions – verification of attendance of summoned and summonsed persons, deciding on the participation of interpreters in a court sitting, explanation of rights and duties to participants in administrative proceedings, deciding on refusals and removals, explanation of rights and duties to experts, deciding petitions presented by participants in administrative proceedings.

Witnesses shall be excluded from a courtroom until commencement of their examination. The chairperson of the court sitting shall ensure that witnesses who have been examined by the court do not communicate with witnesses who have not been examined.

During adjudicating the matter the court takes the following steps: reads a report by a judge regarding the facts of the matter. After the report, the court shall determine whether the applicant maintains the claim contained in the application, and whether the defendant admits it; listens the explanations of participants, takes an oath of applicant, makes the questions to the parties, allows the questions between the parties, examines the evidence (examination of witnesses, reading out testimony of a witness, examination of expert opinion and examining experts, examination of documentary evidence, examination of demonstrative evidence, hearing opinions of authorities); terminates the adjudicating of a matter on the merits, discovers the part of debats and replications.

In administrative jurisdiction the hearing is not conducted in camera.

43. Judicial deliberation

If a matter being adjudicated collegially, the matter shall be decided by a majority vote of judges. None of the judges is entitled to abstain from voting.

C. JUDGMENT

44. Grounds for the judgment

The grounds of the decision are given in details. Judgments shall be legal and well-founded.

Judgments shall be drawn up in writing. A judgment shall consist of an introductory part, a descriptive part, a reasoned part and an operative part. In the introductory part shall be set out that the judgment has been rendered in the name of the people of Latvia, the time when the judgment is rendered, the name of the court which rendered the judgment, the court panel, the participants in the administrative proceeding and the subject-matter of the application. In the descriptive part shall be set out the claims of the applicant and the objections of the defendant, as well as the substance of the explanations given by the participants in the administrative proceeding.

In the reasoned part shall be set out: 1) the facts determined in the matter, the evidence upon which the court conclusions are based and the arguments pursuant to which one or more items of evidence have been rejected; 2) the norms of law on which the court has based itself; 3) legal assessment of the facts determined in the matter; 4) references to published court judgments and legal literature, as well as to other special literature, which has been used by the court in its reasoning; and 5) the court conclusions regarding the validity of the application. In the operative part shall be set out the judgment of the court regarding the allowing or the dismissal, in full or in part, of the application, and the substance of the judgment. Additionally, there shall be set out who is to pay State fees, the time periods specified in Section 253, 254 and 255 of Administrative Procedure Law, and the time period and procedures for appeal of the judgment.

45. Applicable national and international legal norms

As the justification of the judgment a court uses first of all national law and constitution. To make a judgment compatible with the norms of the Community law or of the Convention for the Protection of Human Rights the court uses also these norms and interpretation of those norms given in European Court of Justice and European Court of Human Rights case-law.

46. Criteria and methods of judicial review

In cases the administrative authority is mandatory to make a decision (obligatory administrative act) provided by the law, the court carries out a formal control on the administrative authority's decision, i.e., the court controls the execution of formal prerequisites by the authority.

In cases the authority is rightful to choose whether to issue an administrative act or not to issue or of what content the administrative act to issue, the court controls not only formal aspects, but also legality and validity of administrative acts. It means, the court considers also the advantages and drawbacks of the administrative act, considers the citizen's rights, legal principles, especially the principle of observance of the rights of person, principle of equality and others.

47. Distribution of legal costs

A State fee shall be repaid fully or partly in the following cases: 1) the fee paid exceeds the fee prescribed by law; 2) a judge refuses to accept the application; 3) judicial proceedings in the matter are terminated on the grounds that the matter may not be adjudicated in accordance with the procedures set out in this Law; or 4) the application is left without adjudication on the grounds that the applicant has not complied with prescribed extrajudicial examination procedures or the application has been submitted by a person lacking capacity to act or the application is left without adjudication pursuant to a petition of the applicant prior to commencement of the adjudication of the matter on the merits, but in a proceeding by way of written procedure – before the court sitting for pronouncement of the judgment has been set. A State fee shall be repaid if the application for its repayment has been submitted to the court within one year from the day when the relevant amount was paid into the State budget.

The reimbursement of legal aid (received from the legal advisors) is not provided in the Administrative Procedure Law.

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

At a court of first instance, an administrative matter shall be adjudicated by a judge sitting alone. If the matter is particularly complicated, the chief judge of the court of first instance may stipulate that the matter be adjudicated collegially. In such case, the matter shall be adjudicated by a panel of three judges of the court of first instance. Administrative matters in courts of appellate or cassation instance shall be adjudicated collegially by panel of the tree judges of court of appeal or of court of cassation.

49. Dissenting opinions

Where the case is adjudicated in joint session of the Department of Administrative Cases, a judge, who has dissenting opinion, shall deliver it in writing in 15 days after the judgement of joint session has been delivered.

50. Public pronouncement and notification of the judgment

A judgment shall be pronounced at a court sitting by being read out by the chairperson of the court sitting. With the assent of the participants in the administrative proceeding the court may read out only the introductory part and the operative part of the judgment. In such case a copy of the court judgment shall be given to the participants in the administrative proceeding immediately after the pronouncement of the judgment. When pronouncing an abridged judgment, the court shall announce the date when a full judgment will be drawn up. After a judgment is pronounced, the court shall explain the substance thereof and the procedures and time periods for appeal therefrom.

If a matter has been adjudicated by way of written procedure, the participants in the proceedings shall be notified in good time of the date when a true copy of the judgment may be received from the office of the clerk of court. Such date shall be deemed the date of the pronouncement of the judgment.

After the judgment is prepared the court delivers the judgment to the participants of the case and provides the access to the judgment to anyone who is interested to.

D. EFFECTS AND EXECUTION OF JUDGMENT

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

A decision of a court is legally binding to the applicant and the administration authority as well as to other parties to particular administrative proceedings.

The interpretation (construing) of the norms of law stated in a judgment of a court of cassation instance (Supreme Court) is mandatory for the court, which adjudicates the case de novo.

If the decision of court was based on the same facts and on the same legal issues as in present case, administrative authority and court can follow this interpretation.

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

Under law administrative court can not limit the effect of judgement in time.

53. Right to the execution of judgment

The right of execution of judicial decision is guaranteed by Administrative Procedure Law (Division Nine "Execution of Court Adjudications") and other laws (e.g., in the field of tax there is a particular regulation).

It is the duty of an institution to properly and in good time to execute a judgment or other decision (adjudication) directed against it, rendered or taken by a court in an administrative matter. An institution may not act contrary to a court judgment. If an institution does not execute a court adjudication voluntarily, compulsory execution shall be directed at the institution. The complaint of a participant in the administrative proceedings which has arisen in connection with the execution of a court adjudication are adjudicated in a court sitting.

Under Administrative Procedure Law the Cabinet may specify an executive institution which shall perform compulsory execution of a court adjudication. If an executive institution having jurisdiction has not been determined, compulsory execution shall be performed by the ministry to which the institution which has issued the administrative act is subordinate. If the institution which has issued the administrative act is not subordinate to any ministry and another executive institution has not been determined by the Cabinet or prescribed by law, compulsory execution shall be performed by a bailiff, who applies to such compulsory execution the provisions of the Civil Procedure Law.

Under Administrative Procedure Law if until the commencement of compulsory execution the court adjudication has not been executed voluntarily, and not more than three years have elapsed since the court adjudication came into effect, a decision of court might be executed on a compulsory basis by means of substitute execution or pecuniary penalty. A decision of court may be executed by means of substitute execute if a decision of court imposes a duty on an institution to perform a specific action, which may practically and legally be performed also by an executive institution or another authority. A pecuniary penalty may be imposed on the head or another official of the institution if a decision of court imposes a duty on an institution to perform a specific action or refrain from a specific action and the institution does not fulfil such duty.

54. Recent efforts to reduce the length of court proceedings

There are several efforts to reduce the length of court proceedings. For example, most of complaints have been adjudicated in written procedure. Some categories of cases have been adjudicated only in one or two court instances, not in three instances, as usually (e.g., submission-to-state-institutions cases are adjudicated in one court instance). The screening procedures have been also provided to spare the court resources and thus to shorten the length of court proceedings (see Question #26).

E. REMEDIES

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

Generally the court of first instance (Administrative district court) and court of appeal (Administrative regional court) have the same functions, i.e., in adjudicating a case, shall itself examine the evidence in the case. An appellate instance court shall adjudicate only such claims as have been adjudicated by a court of first instance.

Inasmuch as Supreme Court is court of cassation in administrative cases, it has different function, i.e., in adjudicating a case by way of cassation procedure, a court shall examine the lawfulness of the existing judgment in the appealed part thereof in relation to a party to the administrative proceedings, who has appealed against the judgment or joined in a cassation complaint, and also the arguments which are referred to in a cassation complaint.

Under Administrative Procedure Law there are no provisions that particular functions are allotted only to lower jurisdiction or others reserved only to highest jurisdiction. There are two exceptions from a procedure mentioned before.

The Department of Administrative Cases of the Supreme Court is the court of first instance for cases concerning Central Election Commission's decision to refuse registration of bills and amendment to the Constitution. Under Immigration Law person may lodge application against the decision regarding including of an alien in the list of those persons, to whom the entry in the Republic of Latvia is prohibited (taken by the Minister of Interior). In that case the Department of Administrative Cases of the Supreme Court also is the court of first instance.

56. Recourse against judgments

See Question #55 above.

F. EMERGENCY AND SUMMARY PROCEEDINGS / APPLICATIONS FOR INTERIM RELIEF

57. Existence of emergency and/or summary proceedings

There are no summery of jurisdiction proceedings.

Under Administrative Procedure Law Submission of an application to the court regarding the setting aside of an administrative act or declaring it as having ceased to be in effect or invalid, stays the operation of the administrative act from the day the application is submitted. However regarding to some matters provision mentioned before is not applicable (e.g., 1) the administrative act imposes a duty to pay tax, duties or another payment into the State or a local government budget; 2) the institution, setting out grounds for urgency of execution in respect of the specific matter, has specifically provided in the administrative act that it shall be executed without delay; 3) an administrative act of the police, border guard, national guard, fire-fighting service and other officials authorised by law is issued with the aim of immediate prevention of direct danger to State security, public order, or the life, health or property of persons). In that case a person may petition the court, providing reasons for his or her petition, to stay the operation of the administrative act. The court shall adjudicate the petition within seven days.

If there is a reason to believe that execution of a court judgment in a matter may become problematic or impossible, a court may, pursuant to the reasoned request of an applicant, take a decision regarding provisional regulation. Provisional regulation may be applied at any stage of the matter. Means of provisional regulation may be as 1) a court decision which, pending judgment of the court, substitutes for the requested administrative act or actual action of the institution, or 2) a court decision which imposes an duty on the relevant institution to carry out a specific action within a specified time period or prohibits a specific action. An application for provisional regulation adjudicates in a court sitting.

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

Under Administrative Procedure Law if a person has a reason to believe that the submitting of the evidence necessary for him/her may later be impossible or problematic, they may petition the court to secure such evidence. An application regarding securing of evidence may be submitted either before initiation of court proceedings or during the adjudicating of a matter.

See also Question #57 above.

59. Kinds of summary proceedings

There are no summery of jurisdiction proceedings.

III – NON-JUDICIAL SETTLEMENT OF ADMINISTRATIVE DISPUTES

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

Administrative authority may revoke a legal administrative act unfavourable to an addressee at any time, except for the case where in accordance with the norms of law it would be required that an administrative act of the same content immediately be issued anew. Administrative authority may revoke legal administrative act favourable to the addressee if certainty circumstances, which are indicated by law, exist. Administrative authority may revoke an unlawful administrative act unfavourable to the addressee at any time. Authority may revoke An administrative act favourable to the addressee if certainty circumstances which are indicated by law exist.

Administrative authority may revoke an administrative act on the basis of a submission of the addressee or pursuant to its own initiative.

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

Administrative disputes can not be settled by independent bodies.

62. Alternative dispute resolution

Administrative disputes can be resolved not only by recourse to the courts, but also using some alternative methods. Theoretically the participants of the administrative proceedings may refer, for example, to a mediator and try to achieve friendly settlement. Unfortunately, there

is a lack of normative base for such a possibility therefore alternative dispute resolution in administrative matters is not common at the moment.

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

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64. Total number of magistrates and judges

	Judges in district courts of general jurisdiction (civil and criminal)	Judges in regional courts of general jurisdiction	Judges working in Land Registry offices	Judges in administrative courts
Staff seats	285	142	77	77

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

See Question #64 above.

66. Number of assistants of judges

Generally, each judge in administrative courts has one assistant. The judicial assistants are masters or bachelors of law. Recently, the Supreme Court has introduced position of senior assistants (advisors) to judges. See chart of number of judges and assistants in administrative courts below.

Court	Number of judges	Number of assistants to judges
Administrative District Court	43	44
Administrative Regional Court	24	29
Department of Administrative Cases of the Supreme Court	10	16

67. Documentary resources

The judicial literature and different codifications of law is accessible in the Division of Case-law. It prepares the compilations of Latvian court decisions. The compilations are sent to all the courts of Latvia and are published in the internet home page of the Supreme Court of Latvia (www.at.gov.lv). The Supreme Court has also its own museum where it is possible to find different books, scientific articles concerning the law written before the Latvia's incorporation in USSR.

68. Access to information technologies

Every judge and judicial assistant has access to information technology – internet, different public data bases like Resident Registry, Land Registry, Enterprise Registry and private data bases (the data base of normative acts, the data base of court decisions) and internal data base - data base of court decisions intended for internal (court system) use only.

69. Websites of courts and other competent bodies

The Supreme Court has its own website (www.at.gov.lv). The Administrative District Court and The Administrative Regional Court have not web-sites. Their addresses, phone numbers and staff information is published on the general website of courts (https://manas.tiesas.lv/eTiesas/).

B. OTHER STATISTICS

70. Number of new applications registered every year

	Administrative district court	**Administrative regional court**	**Department of Administrative Cases of the Supreme Court**
2017	2213	1152	1106
2016	2511	1289	1235
2015	2364	1399	1331

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

	Administrative district court	Administrative regional court	Department of Administrative Cases of the Supreme Court
2017	2191	1516	994
2016	2394	1714	1142
2015	2527	1845	1145

72. Number of pending cases

	Administrative district court	Administrative regional court	Department of Administrative Cases of the Supreme Court
2017	1431	1007	957
2016	1309	1432	752
2015	1469	1830	566

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

Administrative district court: 7 months.

Under law:

1) 7 days to decide whether to accept an application lodged before the court;

2) maximum 1 month to wait for the explanatory notes from the respondent;

3) a period for preparing the case and to decide on the date of the hearing/sitting – no terms mentioned in the law;

4) 21 days to prepare the judgment.

Administrative regional court: 6 months.

Under law:

1) 3 days to announce the participants that an appeal is lodged before the court;

2) 1 month to wait for the explanatory notes from the other party (opposite side) of the case;

3) deciding on whether to accept or not to accept the appeal and deciding on the date of the hearing/sitting – the term is not mentioned in the law;

4) 21 days to prepare the judgment.

The Department of Administrative Cases of the Supreme Court: in 2017 the average duration of cassation proceedings at the Department of Administrative Cases was 278 days.

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

Administrative District Court: N/A

Administrative Regional Court: N/A

75. The volume of litigation per field

The below given numbers in chart are concerning the cases already reviewed by the courts.

2017	**Administrative district court**	**Administrative regional court**	**Department of Administrative Cases of the Supreme Court**
Cases corncerning tax authority's decisions	508	479	242
Cases concerning decisions of local governments	171	107	64
Cases concerning decisions of social authorities	142	105	52
Citizenship and migration cases	98	31	13

C. ECONOMICS OF ADMINISTRATIVE JUSTICE

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

N/A