

## INTRODUCTION (HISTORY, PURPOSE OF THE REVIEW AND CLASSIFICATION OF ADMINISTRATIVE ACTS, DEFINITION OF AN ADMINISTRATIVE AUTHORITY)

### *Question 1. Main dates in the evolution of the review of administrative acts*

The history of administrative justice in the Netherlands is described below. As views differed on an acceptable division of duties between the judiciary and the administration, the question of whether it was desirable and practicable for independent courts to have general jurisdiction to hear disputes between citizens and the authorities about the latter's acts and actions remained disputed in the Netherlands until well into the 20th century. This led to the adoption of ad hoc solutions in cases where the need for judicial review prevailed. The evolution of administrative justice has therefore been marked by a piecemeal division of jurisdiction between administrative and judicial bodies that resulted in a veritable jungle of review procedures.

The solution chosen in many areas of administrative law was administrative review (*administratief beroep*), i.e. a right to apply to a different (higher) administrative authority for review of a decision. This review authority could substitute the attacked decision by its own decision. Often there was also a further right to appeal to the Crown, in which case the final decision rested with the Crown. To ensure the independence of the ruling in such cases, the Crown based its decision on an opinion submitted by the Administrative Disputes Division of the Council of State (*Afdeling geschillen van bestuur van de Raad van State*) following an adversarial procedure as regulated in the Council of State Act of 1861. If the Crown decided not to follow the opinion, it had to comply with special rules (justice retenue). "Contrary decisions", as they were called, were rather rare. Less than 0,5%.

After the principle of independent administrative justice (i.e. judicial review of administrative acts and actions) was accepted in 1887 – in article 154 of the Constitution of those days – proposals were made for the introduction of a general system of administrative justice, but they were never implemented. Instead, provisions were introduced piecemeal in fields where administrative justice was accepted on account of the highly binding nature of specific statutory rules and there was no disagreement about the authority to be given jurisdiction (the usually specialised nature of the authority helped to inspire confidence). This compartmentalisation of administrative justice was strengthened by – and itself in turn strengthened – the sector-oriented development of substantive administrative law, in which general norms and doctrines played little part.

The decisions of specialised tribunals established to hear applications for review of **tax cases** evolved into a separate tax jurisdiction, which was later assigned to the Courts of Appeal (*gerechtshoven*) and the Court of Cassation (*Hoge Raad*).<sup>1</sup>

The administration of justice in **social security cases** was originally assigned to specialised tribunals, which were later integrated by the Social Security Appeals Act of 1955 statute into tribunals spread throughout the Netherlands. The appeal court has been the Higher Social Security Court (*Centrale Raad van Beroep*<sup>2</sup>) since 1902. Social assistance disputes were not added to the jurisdiction of this court until 1 January 1994. Before that date appeal in such disputes lay to the Crown, since 1863 the Administrative Disputes Division of the Council of State.

**Cases** involving the legal position of **public servants** were heard at first instance by public service tribunals, which had the same president as the social security tribunals. Appeal lay to the CRvB. The Food Supply Tribunal was established for **economic administrative law** in 1941. When the regulatory

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<sup>1</sup> Hereinafter: HR.

<sup>2</sup> Hereinafter: CRvB.

industrial organisations were established under public law in the 1950s its jurisdiction was transferred to the Administrative Court for Trade and Industry (*College van Beroep voor het bedrijfsleven*)<sup>3</sup>. The core function of the CBb has changed from the supervision of regulatory industrial organisations to regulatory and subsidy law and disciplinary law.

Just as in the tax field, administrative jurisdiction in other areas of the law was sometimes assigned to the ordinary courts (i.e. the district courts and courts of appeal and the Court of Cassation as provided for in the Judiciary (Organisation) Act since 1838).

As time passed, the willingness to accept the many gaps left by this fragmentation diminished. This was why general, supplementary administrative jurisdiction was created in the 1960s and 1970s. Although this filled the gaps (once again within certain limits), it left the existing jurisdictions intact.

The Administrative Decisions (Review) Act (*Wet beroep administratieve beschikkingen*) of 1963 still conferred jurisdiction on the Crown. However, the Administrative Decisions Appeals Act of 1975 gave jurisdiction to hear appeals to the Judicial Division of the Council of State, which was established at that time. Like the Administrative Decisions (Review) Act, the Administrative Decisions Appeals Act related only to individual administrative decisions (*beschikkingen*). From 1975 onwards it became customary in new statutes to take for granted the jurisdiction created under the Administrative Decisions Appeals Act by not making any special provision for judicial review. As a result, the Judicial Division quickly evolved into the general administrative court for the Netherlands.

The General Administrative Law Act<sup>4</sup> entered into force on 1 January 1994. This statute regulates the law of administrative procedure and, to an increasing extent, substantive general administrative law. The system described at I has applied since then.

### **Question 2. Purpose of the review of administrative acts**

The review by the courts of administrative acts and actions is intended to protect the rights of the appellants against the administration. The administrative authorities must comply with both statute law and unwritten law. However, the review of the acts and actions of administrative authorities is not intended as a general review of the lawful functioning of the administration.

### **Question 3. Definition of an administrative authority**

"Administrative authority" means (a) an organ of a legal person that has been established under public law or (e.g. the State, province, municipalities, water-board districts)(b) another person or body which is invested with any public authority (article 1:1, subsection 1 Awb).

### **Question 4. Classification of administrative acts**

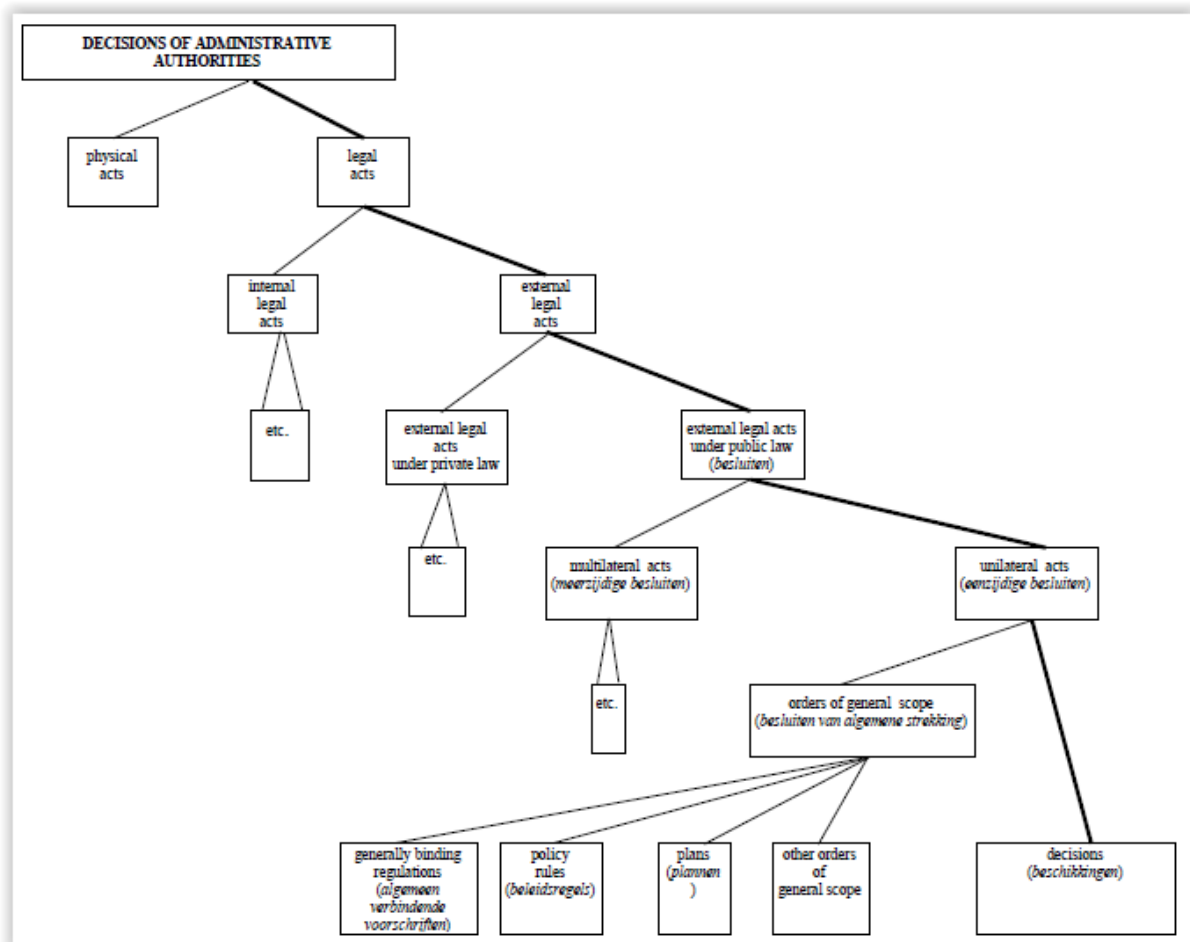
In Dutch law decisions of administrative authorities are classified in accordance with the following schedule. Section 1:3 Awb defines the different external legal acts under public law.

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<sup>3</sup> Hereinafter: CBb.

<sup>4</sup> *Algemene wet bestuursrecht*; hereinafter: Awb

CHART accompanying Question nr. 4



Explanation of some terms used in the chart above

- Generally binding regulations: lois au sens matériel edicted by administrative authorities.
- Policy rules: in French circulaires.
- Whether or not acts of administrative authorities can be challenged depends on their classification:
  - decisions, plans and other orders of general scope can be challenged;
  - generally binding regulations and policy rules cannot be challenged (article 8:3 Awb);
  - multilateral "orders" may be challenged only in accordance with the doctrine of acte détachable.

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

*The expression "administrative acts" may be understood in accordance with Recommendation R (2004) 20 of the Committee of Ministers of the Council of Europe to Member States on judicial review of administrative acts, that is to say: "legal acts – both individual and normative – and physical acts of the administration taken in the exercise of public authority which may affect the rights or interests of natural or legal persons; situations of refusal to act or an omission to do so in cases where the administrative authority is under an obligation to implement a procedure following a request". It is also possible to refer to Resolution R (77) 31 on the protection of the individual in relation to the acts of administrative authorities.*

Introductory explanation by the author

Although under Recommendation R (2004) 20 "administrative acts" are, strictly speaking, taken to include physical acts of the administrative authority, I will confine my answers to "orders", i.e. legal acts (orders of general application, or decisions in individual cases) under public law (article 1:3, subsection 1 Awb). An "order" includes a refusal or failure to make an "order" (article 6:2 Awb). In the great majority of cases action can or will be taken against the administration only when there is an express "order".

Only the civil courts are competent to hear cases involving loss or damage caused by physical acts of the administration. Where loss or damage is caused by orders, the administrative courts have had jurisdiction since the late 1990s as the result of several landmark judgments. For the time being, the civil courts also consider that they have jurisdiction.

Below I will set out the rules governing the law of administrative procedure as contained in the Awb. Occasionally I will also refer to provisions of specific statutes.

## **I-A – COMPETENT BODIES**

### ***Question 5. Non-judicial bodies competent to review administrative acts***

The procedure starts with an objection which may (or must) be lodged with the administrative authority concerned. The order is then reconsidered in the light of the objection (article 7:11, subsection 1 Awb). Where appropriate, the administrative authority may decide on the basis of the reconsideration to rescind the contested order and, in so far as necessary, make a new one replacing it (article 7:11, subsection 2 Awb).

In a limited number of cases no objection can be lodged, but application can be made to another higher administrative authority for review of the decision. Such an administrative authority has much the same options open to it as an authority hearing an objection.<sup>5</sup>

An interested party may apply to an independent court for judicial review of the decision taken in pursuance of the objection or the application for administrative review. See answer to question 6.

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

#### At first instance

As a rule, the administrative law sectors of the 11 district courts are competent to hear disputes in all areas of administrative law (after completion of the objection and administrative review stages). However, there are two exceptions to this. The Administrative Jurisdiction Division of the Council of State (*Afdeling bestuursrechtspraak van de Raad van State*<sup>6</sup>)<sup>7</sup> administers justice at first and sole instance in cases concerning spatial planning law and environmental law and in a few other cases, for example cases concerning electoral law and some cases concerning education. The CRvB administers justice at first and sole instance in cases relating to legislation concerning benefits for victims of war

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<sup>5</sup> No objection or application for administrative review can be lodged in cases concerning spatial planning or environmental law. In these matters a consultation exercise applies in which can be responded to a draft order. The final orders may be challenged before the administrative courts.

<sup>6</sup> Hereinafter: ABRvS.

<sup>7</sup> In 1994 the Administrative Jurisdiction Division replaced the existing Administrative Disputes Division (*Afdeling Geschillen van Bestuur*) and the Judicial Division (*Afdeling Rechtspraak*).

and a special category pension cases. The CbB administers justice at first and sole instance in applications for the review of decisions of the Regulatory Industrial Organisation (*Publiekrechtelijke Bedrijfsorganisatie (PBO)*). Furthermore, the CbB has also the competence with regard to decisions based on various social-economic laws; sometimes in first and sole instance, sometimes in appeal.

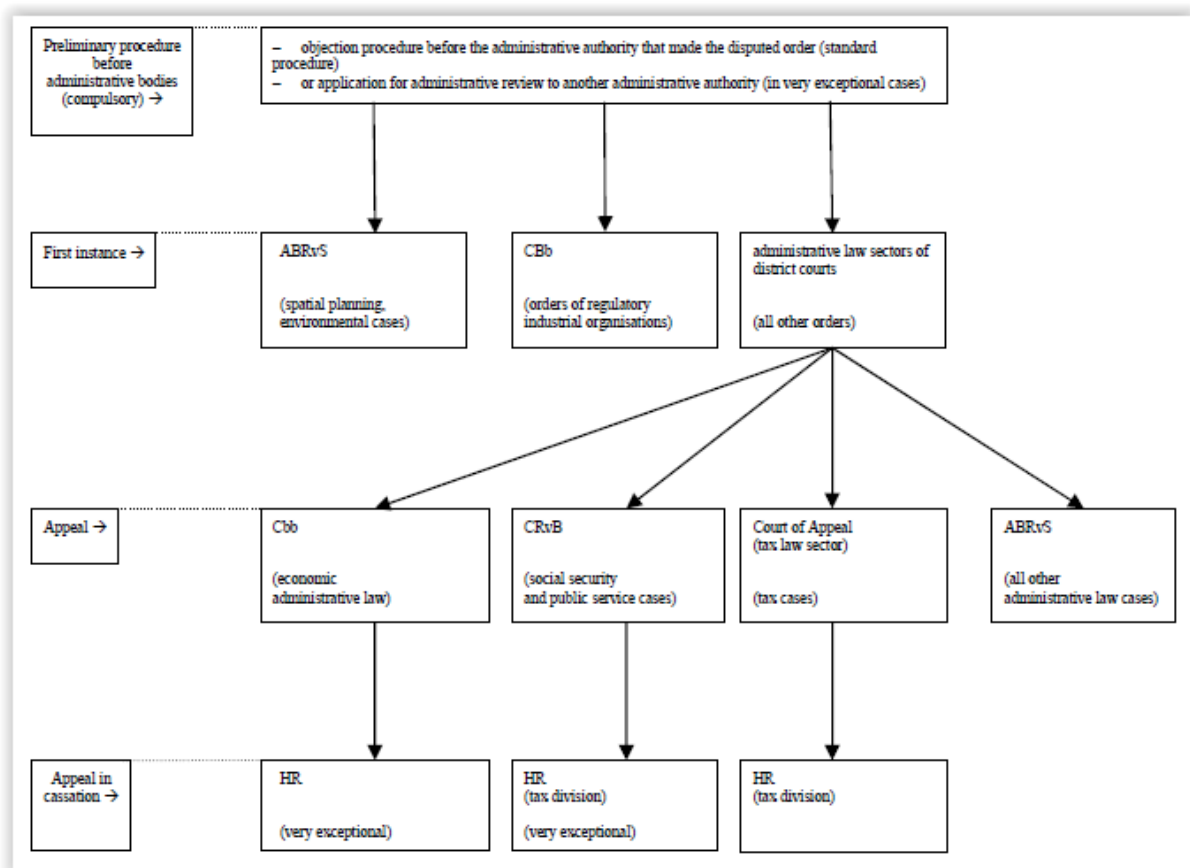
On appeal

Appellate jurisdiction is divided among a number of courts:

- (a) tax cases: the courts of appeal, with the possibility of cassation by the HR;
- (b) social insurance cases and cases involving public servants (including the judiciary): CRvB;
- (c) administrative law in economic cases: CbB,<sup>8</sup>
- (d) other cases: ABRvS.

CHART accompanying Question nr. 6

**Administrative justice in the Netherlands**



**I-B – RULES GOVERNING COMPETENT BODIES**

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

<sup>8</sup> In exceptional cases in categories (b) and (c), appeal in cassation may lie to the HR, namely for the interpretation of terms that also play a role in tax law or civil law (e.g. "pay" and "employee").

Some of the administrative courts referred to in the answer to question 6 are ordinary courts, namely the district courts (administrative law sector), the courts of appeal (tax law sector) and the HR (tax division). However, their power to review administrative acts is regulated in the specific statutes mentioned in the answer to question 8.

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

Chapter 8 of the Awb is always applicable.

**I-C – INTERNAL ORGANIZATION AND COMPOSITION OF COMPETENT BODIES**

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

Provisions governing the organisation of the administrative law sectors of the district courts are contained in the Judiciary (Organisation) Act. These provisions deal with the staff of the courts, the court management boards and the decision-making procedure. A district court has the following sectors: administrative law, civil law and criminal law. The administrative law sector has three-judge and single-judge divisions. The courts of appeal have civil law, criminal law and tax law sectors. Here too there are three-judge and single-judge divisions. The HR has a civil law division, a criminal law division and a tax division. In exceptional cases in category (b) and (c), appeal in cassation may lie to the HR (tax division): see the answer to question 6.

**Question 10. Internal organization of the administrative courts**

(a) The ABRvS has three chambers: spatial planning, general cases (mostly appeals) and appeals in asylum and immigration cases. Cases may be heard either by a judge sitting alone, by a three-judge chamber, or by a five-judge chamber (*grote kamer*): The latter is a new instrument that is given to the courts of appeal in 2013 in order to improve the development of legal unity. The chamber is formed by judges from the diverse courts of appeal. The ABRvS had on 31 december 2016 a support staff of 190 jurists (FTEs)<sup>9</sup>.

(b) The CBb has two articles, each of which has more or less the same jurisdiction. Cases may be heard either by a judge sitting alone, by three-judge chamber, or by a five-judge chamber. The CBb had on 31 december 2016 a support staff of approximately .. court legal assistants (*gerechtsauditeurs*) (FTEs).

(c) The CRvB has three articles, each of which consists of specialised, three-judge, chambers. The CRvB had on 31 december 2016 a support staff of ... court legal assistants and judicial clerks (*gerechtsauditeurs* and *gerechtssecretarissen*) (FTEs).

**I-D – JUDGES**

**Question 11. Status of judges who review administrative acts**

(a) The judges (*rechters*) of the district courts and the justices (*raadsheren*) of the courts of appeal are members of the ordinary judiciary. They may circulate among the different sectors of a court.

(b) The justices (*raadsheren*) of the CRvB and the CBb are also members of the ordinary judiciary.

(c) The members of the HR form a separate category.

(d) The members of the ABRvS form a separate category, which can in turn be divided into three subgroups:

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<sup>9</sup> FTE: full time employment.

(i) 42 State Councillors, whose duties involve only administering justice (*staatsraden, leden van de ABRvS*), all of whom are jurist. In general, they do not have another separate permanent job;

(ii) .5 State Councillors, who are full-timers and whose duties involve both advising on legislation and administering justice (*leden van de Raad van State*), all of whom are jurist;

(iii) 8 extraordinary State Councillors (*staatsraden in buitengewone dienst*), who have another main function. 7 of them are president or justice of the HR, the CRvB and the CBb. They occasionally are part of a three-judge or five-judge chamber (unity of law). 1 extraordinary State Councillor is professor in the law of European Integration. He can be part of a three-judge chamber when there is a case with a European law aspect.

The three categories of State Councillor have as administrative judges the same rights.

### **Question 12. Recruitment of judges in charge of review of administrative courts**

Judges of the district courts are selected by a committee for the recruitment of members of the judiciary (this is different at the ABRvS). They are nominated by the Court for life. As regards the training of these judges, see the answer to question 13.

Judges of the district courts can apply for the position of justice at the courts of appeal, the CRvB or the CBb. Generally speaking, only administrative judges are eligible for appointment to appellate administrative courts. By the same token, administrative judges without experience of civil or criminal law are not usually eligible for appointment as justices of a court of appeal. Hitherto, tax judges at the courts of appeal could not be recruited from the ranks of district court judges as the tax sectors at these district courts have only recently been instituted.

Not all of the justices of the CRvB are appointed from the district court judges; the others are lawyers who have previously held a different kind of job, for example in public administration or at a university. Most of the justices of the CBb previously were judges at the district courts. The State Councillors also have a varied background. They include former professors, former judges and justices, former attorneys, former civil servants and also 1-2 former politicians. They are appointed for life.

### **Question 13. Professional training of judges**

Jurists who have two to five years of work experience, including at least two years outside the judiciary, who have completed the selection process successfully, will become 'judge in training' (*rechter in opleiding; rio*). They follow a 4-year course. Jurists with at least five years of relevant work experience, including two years outside the judiciary, who have completed the selection process successfully, will also become rio en they follow a course of fifteen months up to three years. Both courses cover internships at the prosecution and at courts of appeal. The rio's are supervised in presiding over court hearings and drafting judgments.

### **Question 14. Promotion of judges**

Members of the judiciary are promoted only if they choose to apply for promotion and obtain the requisite qualifications. There are no senior judicial posts that carry a form of automatic promotion. Judges can be appointed as president of a court. The president is, with two other members of the board (a judicial member and a non-judicial member), responsible for the primary process, for managerial and organisational and for the operation of the court.

### **Question 15. Professional mobility of judges**

There is no established policy of professional mobility. Some judges remain a permanent member of

"their" court and others switch to another court (whether or not higher) court within the ordinary court system<sup>10</sup>; some members of the judiciary also switch from the ordinary courts to an administrative court or vice versa. There are no fixed career patterns in the Dutch system.

## I-E – ROLE OF COMPETENT BODIES

### **Question 16. Available kinds of recourse**

(a) Application to the administrative courts is in principle an application for annulment. Its purpose is to obtain the full or partial annulment of an order of an administrative authority. If an order is annulled on a procedural ground, the administrative authority will generally have to make a new one.<sup>11</sup> If the order is eligible for annulment on a substantive ground, there are basically two alternatives:

(1) the administrative authority is given the possibility to make a substantially new order; in such a case, the administrative court quashes the existing one<sup>12</sup> or the court orders to repair the defects of the order that the court has noticed<sup>13</sup>;

(2) there is no longer any latitude since it is clear what the new order must be; in such a case, the court itself makes the new order to replace the one it has annulled.

The final decision in cases involving damages, administrative fines and tax cases is generally taken by the court itself.

(b) In all cases the administrative court reviews all aspects of the contested order to determine its legality (i.e. lack of competence or breach of statute law or unwritten law). In so far as the statute allows the administration latitude to decide, the administrative court merely checks that this power has not been exercised in a manifestly unreasonable manner.

(c) The relationship between the appeal court and the court of first instance can be disregarded. It should, however, be noted that an appeal generally involves all aspects of the judgment (i.e. issues of fact and law). Only in immigration and asylum appeals is the scope of review by the court severely restricted.

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

No.

### **Question 18. Advisory functions of the competent bodies**

Only the Council of State has a role in addition to its judicial function. This additional role involves providing advice (requested and no-requested) to the legislator on statutes and to the Crown on orders in council (article 73, paragraph 1 of the Constitution).

The Council of State has to advise on the following legislative matters:

- parliamentary bills (*projets de loi*);
- draft orders in council<sup>14</sup>;

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<sup>10</sup> District courts, courts of appeal and the HR.

<sup>11</sup> If it is a procedural defect which is not to the detriment of any interested party, the administrative judge may himself rectify the defect (article 6:22 Awb).

<sup>12</sup> An administrative court may set the administration a time-limit for this purpose, if necessary supported by a penalty payment for failure to comply. See article 8:72, subarticle 6 Awb.

<sup>13</sup> Article 8:51a Awb (*de bestuurlijke lus*).

- bills proposed by members of the House of Representatives (*propositions de loi*);
- ratification of treaties;
- expropriation orders (but not on the amount of compensation).

In addition, the Council of State or one of its divisions *may* be heard on such matters as the government considers necessary. Examples are government policy documents, government positions, amendments to legislation and also the national budget (article 15a of the Council of State Act).

The Council of State is also the independent body that supervises the compliance with the European budgetary agreements.

### **Question 19. Organisation of the judicial and advisory functions of the competent bodies**

The 5 State Councillors whose duties involve both advising on legislation and administering justice are member of the consultative division (*Afdeling advisering*) and member of the ABRvS. A State Councillor who has been involved in giving an opinion on the lawfulness or constitutionality of a statute or order in council may not subsequently sit as a member of the ABRvS to try a case in which this same matter is raised afresh.<sup>15</sup> Although the Council of State Act does not yet contain a specific provision to this effect, this is established practice. In fact, "same case" situations of this kind are extremely uncommon.

As the Administrative Jurisdiction Division consists in total of 55 State Councillors of which 5 State Councillors who also advise on legislation, a chamber can always be formed which is "Procola & Kleyn-proof".

## **I-F – ALLOCATION OF DUTIES AND RELATIONSHIP BETWEEN COMPETENT BODIES**

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

The first form of harmonisation and cooperation between the highest appeal courts in the field of administrative law is the consultation that takes place in the committee unity of law (*Commissie rechtseenheid*), in which all the highest administrative judges are represented. They ensure unity of law between the highest administrative courts by eliminating and prevent differences in jurisdiction. The highest administrative courts have proved well able to prevent major divergences in the case law.

Furthermore members of the appeal courts can be member of the five-judge chamber (*grote kamer* ; see the answer to question 10 a) and there can be informal consultation between the presidents of the appeal courts.

At staff level there is consultation between the liaison officers.

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<sup>14</sup> This also applies to draft Kingdom statutes (*Rijkswet*) and Kingdom orders in council (*Algemene maatregel van rijksbestuur*), i.e. legislation which, put simply, applies not only to the Netherlands in Europe but also to the Caribbean parts of the Kingdom (i.e. the Netherlands Antilles and Aruba).

<sup>15</sup> See the judgments of the ECtHR in the cases of Procola (judgment no. 14570/89), Kleyn and others (judgment no. 39343/98, 39651/98, 43147/98, 46664/99) and Sacilor-Lormines (judgment no. 65411/01).

## II – JUDICIAL REVIEW OF ADMINISTRATIVE ACTS

### II-A – ACCESS TO JUSTICE

#### **Question 21. Preconditions of access to the courts**

See the answer to question 5.

#### **Question 22. Right to bring a case before the court**

Every interested party may lodge an application for review or appeal to an administrative court. An interested party is a person whose interests are directly affected by an order (article 1:2, subsection 1 Awb). According to the case law such a person must have an:

- own
- objectively definable
- current
- personal interest
- and be directly affected by the contested order.

This is broader than the German case law but narrower than the French.

An interested party may be either a natural or a legal person. Administrative authorities too may qualify as interested parties (article 1:2, subsection 2 Awb). The interests entrusted to them are deemed to be their own interests. General and collective interests may only be defended by legal entities (article 1:2, subsection 3 Awb).

It is quite possible in administrative law proceedings for both the appellant and the respondent to be part of the administration.

Administrative authorities can also lodge an appeal themselves against an order of other administrative authorities in case they are an interested party.

Since half 2013, there is the possibility of cross-appeal (*incidenteel hoger beroep*). Any other party involved in the case, which initially was not going to lodge appeal, can do yet after the appeal period, in response to an appeal from another party. An appellant may deteriorate because of another party cross-appealed.

#### **Question 23. Admissibility conditions**

Before the substance of an application for review or appeal can be assessed by an administrative court, the requirements for admissibility must have been satisfied. For example:

- the application for review or appeal must have been lodged in time (article 6:7 and article 6:24, subsection 1 Awb);
- the court registry fee must have been paid in time (article 8:41 Awb in the case of review and article 8:109 in the case of appeal);
- the notice of appeal must contain (a) a description of the decision or judgment that is challenged by the application for review or appeal respectively and (b) the grounds for the application for review or appeal (article 6:5, subsection 1, opening words and (c) and (d) and article 6:24, subsection 1 Awb).

The admissibility requirements are the same for all categories of appellants.

If an admissibility requirement (other than submission within the time-limit) has not been fulfilled the appellant must be given the opportunity to rectify the default. If he fails to do so or to do so in time, the application for review or appeal can be declared inadmissible.

If a time limit is not observed, the application will not be declared inadmissible if the appellant cannot reasonably be held to have been in default (article 6:11 and article 6:24, subsection 1 Awb).

An interested party can only lodge an appeal against an order which affects him directly. In other words only a person whose interests are directly affected by an order qualifies as an interested party. See also the answer to question 22.

#### **Question 24. Time limits to apply to the courts**

The usual time-limit for submission of an application for review or appeal is six weeks after notification of the order (article 6:7 Awb) or the judgment (article 6:7 and article 6:24, subsection 1 Awb). An order of an administrative authority and a judgment of an administrative court always contain an explanation of the remedies available and the relevant time-limits (articles 3:45 and 8:77, subsection 1, opening words and (f) Awb).

This time-limit cannot be extended. However, a pro forma application is possible: after an application for review or appeal has been lodged on grounds to be stated later, the court specifies a period within such grounds must be lodged.

In a small number of cases there is a deviation of the period of six weeks, for example, two or four weeks in the Elections Act (*Kieswet*) and the Aliens Act 2000 (*Vreemdelingenwet 2000*).

If an order is challenged on the ground that it has not been made in time ("administrative silence"), the objection or application for review is not subject to a time-limit (article 6:12, subsection 1 Awb). However, the objection or application for review is declared inadmissible if it has been lodged unreasonably late (article 6:12, subsection 4 Awb).

#### **Question 25. Administrative acts excluded from judicial review**

No application for review may be lodged against (a) orders containing a generally binding regulation or a policy rule or the annulment, or endorsement of a generally binding regulation or policy rule (article 8:3 Awb); (b) an order preparing a legal act under private law (article 8:3 Awb); (c) an order belonging to any of the varied categories specified in article 8:4 Awb; (d) any order on the negative list referred to in article 8:5 Awb. This list consists mainly of orders which are closely connected with other irrevocable orders against which a separate right of review would result in unnecessary proceedings, and various orders in respect of which the possibility of review by the administrative judge was not considered expedient for political or other reasons.

The Dutch administrative law knows no such a thing as a *théorie de l'acte de gouvernement* (political question theory).

#### **Question 26. Screening procedures**

Applications for judicial review and appeal are in administrative law not subject to separate screening procedures. The Court of Cassation (*Hoge Raad*), however, has some kind of screening procedure, also in tax cases, by requiring the use of grounds for appeal in cassation (*cassatiemiddelen*) which have to meet strict formal requirements.

### **Question 27. Form of application**

An application for review or appeal does not have to fulfil specific presentation requirements. In practice, it may even be lodged by fax.

Question 28. Has the possibility of bringing proceedings via the Internet been envisaged in your country or is it already possible? Are there reflections or plans for the introduction of teleprocedures or e-procedures (e-registry office)?

A draft act has been sent to the Parliament. This act will complete the Awb with rules about e-contact with the administrative judge (Wet elektronisch verkeer met de bestuursrechter). In the meantime administrative judges are experimenting with e-files.

### **Question 29. Court fees**

With a few exceptions, a registry fee is charged for lodging an application for judicial review or appeal. For example, the charge for an application lodged by a natural person with the ABRvS is € 168,00 in the case of review or € 250,00 in the case of appeal. If the application is lodged by a legal person, the charges are doubled. When someone considers himself unable to pay the fee, he can recourse to insolvency. There are strict criteria in order to qualify to insolvency in that context.

### **Question 30. Compulsory representation**

The assistance of legal counsel or an advocate is not compulsory, but is fairly common in practice. This makes little difference to the processing of the application. The assistance of a lawyer/attorney (*advocaat*) is only compulsory in appeal in cassation to the HR, when there is a hearing.

### **Question 31. Legal aid**

An interested party may be assigned legal counsel or an advocate under the legal aid system if he or she is unable to pay the costs of administrative law proceedings. Income and capital tests are applied. An assignment is usually issued, on request, by one of the five independent Legal Aid Councils (*Raden voor rechtsbijstand*). In a few cases regulated by statute, counsel may be assigned under the legal aid system by a court. A person refused an assignment may challenge the decision before the administrative courts.

### **Question 32. Fine for abusive or unjustified applications**

Only in cases of manifestly unreasonable use of procedural law (*kennelijk onredelijk gebruik van procesrecht*) is it possible that an appellant whose appeal has been considered well-founded, is ordered to pay the costs of the proceedings incurred by the opposing party. This is very seldom.

## **II-B – MAIN TRIAL**

### **Question 33. Fundamental principles of the main trial**

The main trial hearing is governed by the fundamental principle that both parties should be heard (*audi alteram partem*). This derives from articles 8:42 and 8:43 Awb.43 44 Section 8:42 provides that an administrative authority may lodge a defence to the application for judicial review. Section 8:43 makes provision for the submission of a written reply and rejoinder. In addition, each of the parties may also address the court at the hearing. It should be noted that the basic principle is that each case should be dealt with orally at a hearing. Under article 8:54 Awb, judgment can be given without a hearing only if the district court manifestly lacks jurisdiction or the application for judicial review is

manifestly inadmissible, manifestly unfounded or manifestly well-founded. This provision is applicable *mutatis mutandis* on appeal.<sup>16</sup> In practice, the hearing is of great importance. At the hearing parties are actively interrogated by the judges. These statutory provisions also give effect to the principle of equality of arms.

The hearing is held in public (article 8:62, subsection 1 Awb). However, the district court may determine that the court hearing will be held wholly or partly in camera in the interests of public order or morals, in the interests of State security, in the interests of safeguarding the interests of minors or protecting the privacy of the parties or if a public hearing would seriously prejudice the proper administration of justice (article 8:62, subsection 2 Awb). The judgment is given in writing (article 8:66, subsection 1 Awb) and only rarely in open court, and states the grounds for the decision (article 8:77, subsection 1, opening words and (b) Awb). If the judgment finds that the application for review is well-founded, it states what written or unwritten rule of law or general principle of law is considered to have been infringed (article 8:77, subsection 2 Awb). Judgments are i.a. published on the internet ([www.rechtspraak.nl](http://www.rechtspraak.nl)).

With the exception of the subject-matter of question 34, the influence of article 6 of the European Convention on Human Rights<sup>17</sup> is reflected above all in the abolition in 1994 of the appeal to the Crown (*het administratieve beroep op de Kroon*) (see above, question 1)<sup>18</sup>, the broader scope for parties to comment on reports prepared by experts appointed by the court<sup>19</sup>, and a more strict application of the time limits for the duration of judicial procedures. The cassation procedure in tax cases is the only procedure before an administrative court in which an advocate general submits an opinion before the court gives judgment.<sup>20</sup> Parties are given the opportunity to comment on this opinion before the HR gives judgment.

### **Question 34. Judicial impartiality**

The independence of the judiciary is guaranteed by article 117 of the Constitution. A crucial factor is that all judges are appointed for life. They are appointed by Royal Decree. Also appointed for life by Royal Decree are the State Councillors (articles 2 and 3 of the Council of State Act).

Judicial impartiality is also guaranteed by the following rules of the Awb. If there are facts or circumstances that could prejudice his impartiality any judge may recuse himself from hearing the case (article 8:19, subsection 1 Awb). Section 8:15 Awb provides that on the grounds of these facts or circumstances a party may request the disqualification of any of the judges hearing a case. A judge whose disqualification has been requested may acquiesce in the disqualification (article 8:17 Awb). Otherwise the disqualification request must be heard by a disqualification panel (article 8:18 Awb). Finally, state councillors are subject to the rule (not yet enacted) that a person who has helped to draft an opinion on the constitutionality or legality of a statutory provision may not sit as a member of the ABRvS trying the "same case". See above at question 19.

### **Question 35. Possibility to rely on the new on new legal arguments raised in the course of the proceedings**

Legal arguments that have not been included in the notice of objection or the application for

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<sup>16</sup> The situation is different only on appeal in asylum and immigration cases. Section 8:54, subarticle 2 Awb and article 8:55 Awb shall not apply (article 88, subarticle 1 Aliens Act 2000 (Vreemdelingenwet 2000)).

<sup>17</sup> Hereinafter: ECHR.

<sup>18</sup> As a consequence of the judgment of the ECtHR in the Benthem case (no. 8848/80).

<sup>19</sup> Cf ECtHR 18 March 1997, Mantovanelli (no. 8/1996/627/810).

<sup>20</sup> A draft act is expected in 2009-2010 which should introduce advocates general at the ABRvS, CRvB and CBB.

administrative review may be raised in the application for judicial review. New legal grounds may also be raised on appeal. This right is subject to two limits: (a) the arguments must relate to a part of the order that was previously disputed (this can be inferred from article 6:13 Awb), and (b) an important new argument may not be raised at the hearing or at an unreasonably late date prior to the hearing. The courts have ruled that this would be contrary to the rules of good procedure.

***Question 36. Persons allowed to intervene during the main hearing?***

During the main hearing the parties may address the court. They can also lodge written documents. The parties are in any event the appellant or appellants and the administrative authority<sup>21</sup> whose order is the subject of the application. If the appellant is challenging an order addressed to a third party (e.g. a permit holder or person awarded a grant), the third party is also party to the proceedings. Other interested parties who have lodged an objection at an earlier stage or have applied for judicial review are also heard as a party at their request.

Witnesses and experts can also play a role. And the court may appoint interpreters (article 8:60, subsection 1 Awb).

***Question 37. Existence and role of the representative of the State ("ministère public")***

There is no such body.

***Question 38. Existence of an institution or a person with a role analogous to the French "commissaire du gouvernement" before the Conseil d'Etat***

Where the function of advocate general existed for a longer time at the HR, this function is introduced at the ABRvS, CRvB and CBb since in January 2013. The president of these courts have since then the possibility to ask a opinion from the advocate general (article 8:12a Awb). This official is independent and impartial and gives a legal opinion after analysing the legal arguments. That opinion is more than the judgment itself served to put a legal question in a broader context. The opinion may contribute to the quality and transparency of the development of law by the higher courts.

***Question 39. Termination of court proceedings before the final judgment***

Proceedings can end prematurely if the application for judicial review or appeal is withdrawn before the court has given judgment. The death of a party may, but need not, signify the end of the proceedings. If the order does not relate solely to the deceased, the proceedings may be continued by his heirs either in the name of the deceased or in their own name.

***Question 40. Role of the court registry in serving procedural documents***

This question relates to what has been stated at the beginning of answer 33. The main trial hearing is governed by the fundamental principle that both parties should be heard (*audi alteram partem*) something which on a practical level is overseen by the court registry.

***Question 41. Duty to provide evidence***

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<sup>21</sup> In the Dutch law of administrative procedure only administrative authorities are parties for the administration, not the legal person to which they belong (state, municipality, etc.).

At first instance, the parties are responsible for providing evidence of their submissions. If, however, the court considers it necessary to hear a witness or expert in order to ascertain the facts, it may call a witness or appoint an expert (article 8:60, subsection 1 Awb). This may also occur during the preliminary examination (articles 8:46 and 8:47 Awb).<sup>65 66</sup> It is mainly in matters of spatial planning or environmental law but also on medical matters that the court (e.g. the ABRvS or the CBb) itself appoints an independent expert.

#### **Question 42. Form of the hearing**

The hearing is conducted by a judge sitting singly or by the judges of a three-judge or five-judge chamber. It takes place in public (article 8:62, subsection 1 Awb). However, the court may determine that the trial will take place wholly or partly in camera in the interests of public order or morals, in the interests of State security, in the interests of safeguarding the interests of minors or protecting the privacy of the parties or if a public hearing would seriously prejudice the proper administration of justice (article 8:62, subsection 2 Awb). See also the answer to question 33. In practice this hardly ever occurs.

A party may be represented or assisted by counsel (article 8:24 Awb). After the parties have addressed the court, they are questioned in person by the court. Witnesses and experts may be brought by the parties or summoned to attend the hearing (article 8:60, subsection 4 and article 8:63, subsections 2 and 3 Awb). They may also be questioned under oath, but this occurs relatively infrequently. In practice, the parties on more than one occasion bring with them other people who wish to address the court. Witnesses and experts may also be summoned or appointed by the administrative court (article 8:60, subsection 1 Awb). See also the answer to question 41.

The hearing takes place in a rather informal atmosphere.

#### **Question 43. Judicial deliberation**

Where a case is heard by a panel of three or five judges, the deliberations in chambers are conducted by the presiding judge. The practice is fairly informal. In many quarters it is the custom for the youngest judge to open the deliberations. In the ABRvS one of the two members of the chamber is always designated as *rapporteur*, in other words he opens the questioning at the hearing and gives his opinion first during the deliberations in chambers. The clerk of the court also may take part in the deliberations in chambers.

No independent opinion is given at the hearing by an advocate general or member of the court (*commissaire du gouvernement*). The advocate general at the HR, ABRvS, CRvB and CBb submits a written opinion on which the parties can comment in writing. He does not take part in the deliberations in chambers (nor has he ever done). See also the answer to question 33.

## **II-C – JUDGMENT**

#### **Question 44. Grounds of the judgment**

The grounds for judgments are usually explained in some detail (article 8:77, subsection 1, opening words and (b) Awb). Normally, each point raised in an argument is dealt with in the judgment. If there are different arguments for quashing an order, all of them are usually dealt with in order to ensure that when the new order is made it will not be the subject of unnecessary challenges.

#### **Question 45. Applicable national and international legal norms**

The reference frameworks are written and non-written national and international standards. They include the national Constitution, laws, general rules of law and administrative regulations as well as rules from community law (treaties, secondary community legislation, general rules of community law) and international conventions, notably the European Convention for the Protection of Human Rights and Fundamental Freedoms.

#### **Question 46. Criteria and methods of judicial review**

The legality test in the narrow sense is carried out strictly (incompatibility with written law or a general principle of law). If the law grants an administrative authority a discretionary power, the court merely assesses whether the authority exercised its powers reasonably (i.e. no manifestly unreasonable assessment of interests or manifestly incorrect classification). The extent of the judicial review depends on the degree of discretion granted by the legislator to the administrative authority. Powers to impose administrative sanctions of a punitive nature are never supposed to be discretionary (article 6 ECHR).

NB: Often an administrative authority that has a discretionary power has adopted policy rules (*beleidsregels*) for this purpose. The court checks i.a. whether these policy rules have been correctly applied.

The HR does not decide on the facts. The HR annuls acts, judgments, rulings and orders on the grounds of a) failure to observe procedural requirements, where non-observance explicitly entails nullity or nullity follows from the nature of the procedural requirement that has not been observed, of b) misapplication of the law, with the exception of the law of foreign States (article 79, subsection 1, Judiciary (Organisation) Act).

#### **Question 47. Distribution of legal costs**

The administrative court has exclusive jurisdiction to order a party to bear the costs incurred by another party in connection with the institution of certain forms of legal redress. An exhaustive fixed-penalty system is applied for this purpose.<sup>22</sup>69 This provides a contribution towards certain costs.

A natural person can be ordered to bear the costs only if he has made manifestly unreasonable use of his procedural rights. In practice, a person other than an administrative authority is hardly ever ordered to bear the costs of the other party. To this extent an appellant runs little risk in lodging an application for judicial review or appeal. If he loses, he need only bear his own costs.

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

Cases are normally heard by a single judge in the district courts. Complicated cases are referred to a panel of three judges. The converse rule applies in the ABRvS, the CRvB and the CBb. In other words, appeals are generally heard by panels of three judges, unless the cases are less complicated. In some cases the ABRvS, CRvB and CBb are heard by a five judge chamber (see questions 10 and 43). The tax division of the HR generally sits as a panel of three judges (sometimes five).

#### **Question 49. Dissenting opinions**

Dutch procedural law makes no provision for the possibility of a dissenting or concurring opinion.

#### **Question 50. Public pronouncement and notification of the judgment**

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<sup>22</sup> This is governed by the Legal Costs (Administrative Law) Decree (*Besluit proceskosten bestuursrecht*).

Almost all judgments are given in writing (article 8:66, subsection 1 and article 8:77 Awb). If judgment is given orally, a record of it is drawn up and sent to the parties (article 8:67, subsections 1 and 3 Awb). The decision in the judgment (i.e. not necessarily all the grounds of the judgment) is given in open court. When a hearing is held the parties are informed when judgment will be given. This is no later than six weeks after the close of the hearing (article 8:66, subsection 1 Awb). This period may be extended in special circumstances (article 8:66, subsection 2 Awb). In practice the public pronouncement is a formality; it is considered of more importance that judgments are made available on the internet (through [www.rechtspraak.nl](http://www.rechtspraak.nl) or [www.raadvanstate.nl](http://www.raadvanstate.nl)).

## II-D – EFFECTS OF DECISIONS AND EXECUTION OF JUDGMENTS

### **Question 51. Authority of the decision. *Res judicata*, *stare decisis***

The judgment constitutes *res judicata* between the parties, i.e. only the parties are bound by the judgment of the administrative court. However, annulment of the order is binding *erga omnes*. The decision is always given in the case under consideration, although similar decisions will be given in similar cases of course. To this extent, a judgment also has a bearing on other cases. Dutch procedural law does not recognise the doctrine of *stare decisis*. When a highest judge changes his settled case law, he in general does that *expressis verbis*.

### **Question 52. Powers of the court in limiting the effects of judgment in time**

A decision in a judgment can always be subject to a time limit. For example, a decision may be given until the time (in the future) when a fresh decision is given by the administrative authority on the objection. The court may also limit the retroactive effect of the annulment of a decision. This is longestablished case law, which is not derived from international case law.

### **Question 53. Right to the execution of judgment**

The execution of court judgments is guaranteed in the Netherlands. No special legal procedure is necessary for this purpose. The judgment – possibly certified by the court – constitutes an enforceable order. Administrative authorities, directed by an administrative court to make a fresh order will almost always follow the decision of the court; however, it is quite common for the fresh order to be made later than directed by the court. In certain circumstances, for example refusal of the administrative authority to make a fresh order, the administrative court may specify in its decision a time-limit within which the administrative authority must take some action, for example make a fresh order (article 8:72, subsection 5 Awb). The administrative court may rule that the administrative authority owes a penalty payment in the event of failure to make an order (article 8:72, subsection 7 Awb).

Under the law of civil procedure, a pecuniary penalty can be enforced without difficulty against a public body to which the administrative authority belongs (e.g. the State or a province or municipality). In practice, this is hardly ever necessary. Public officials and individual administrators cannot be held individually liable in civil or criminal proceedings for failure to implement judgments. Nor is there felt to be a need for such liability.

### **Question 54. Recent efforts to reduce the lengths of court proceedings**

All courts try to dispose of cases as quickly as possible. See also answer to question 73.

## II-E – REMEDIES

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

Basically, first instance courts and appeal courts have the same functions in relation to the public administration. However, one difference is that on appeal the disputed order is only an indirect subject of dispute, since the appeal is directed against the judgment of the lower court.

As a court of cassation the HR receives only appeals in cassation (appeals on points of law). It does not decide on the facts. In tax cases, however, it can, if necessary, itself determine the amount of the tax to be paid.

**Question 56. Recourse against judgments**

Appeal lies against the judgment of a district court to the ABRvS, CRvB, CBb or to a court of appeal, depending on the field of law. Appeal in cassation against the judgment of a court of appeal lies to the HR. See also the answer to questions 6 and 55. The written judgment that forms the subject of the appeal gives information about who is entitled to appeal, within what time limit, and to what administrative court appeal lies (article 8:77, subsection 1, opening words and (f) Awb).

For the manner of review, see the answers to questions 16 and 46.

**II-F – EMERGENCY PROCEEDINGS AND SUMMARY JURISDICTION /APPLICATIONS FOR INTERIM RELIEF**

**Question 57. Existence of emergency and/or summary proceedings**

The appellants can apply for interim relief (article 8:81 Awb). Such an application is heard by a single judge of the court before which the application for judicial review or appeal is pending. If the dispute is still at the stage of objection or administrative review, application for interim relief may be made to the court to which application for judicial review can in due course be made. Interim relief can be granted if the appellant has an urgent interest. Where a court grants interim relief, it merely gives a provisional opinion on the legal issue or dispute submitted to it. Interim relief is often granted in a situation in which the disputed order will have irreversible consequences, for example the granting of a planning permission, the refusal of a permit for selling fireworks to the public during the last days of the year.

A judge who hears an application for interim relief should not, in principle, be involved in hearing the main proceedings. This is, however, not prohibited by law.

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

Interim relief may take any form. The law contains no restrictions. In the case of orders that impose a burden (e.g. withdrawal of a grant or permit, an order backed by enforcement action by an administrative authority, an order backed by a penalty payment or an administrative fine) the appellant often requests a full or partial suspension. Similarly, a rule whose observance is a condition of a permit may be temporarily amended, suspended or temporarily expanded by way of interim relief.

Where a permit for a one-off activity which must take place very shortly (e.g. a collection for a good cause on a particular day, a demonstration, or the sale of fireworks in the last few days of December) is refused, the court may sometimes give permission for the activity to take place after all.

Whether the court grants interim relief depends on various factors. For example whether it seems likely that all or part of the disputed order will be annulled and how the interests of the appellant in obtaining the requested remedy compare with those of the defendants. The interim relief should

normally last until the decision in the main proceedings plus the appeal period of six weeks, but the court may specify a shorter period. If necessary, this can be decided upon within a few weeks. No appeal lies against a ruling on an application for interim relief. However, an interested party can always apply for amendment or cancellation of the interim relief or submit a new application.

**Question 59. Kinds of summary proceedings**

Under the Awb there is just one form of summary jurisdiction, namely where the court manifestly lacks jurisdiction or the application is manifestly inadmissible, manifestly unfounded or manifestly well-founded (article 8:54 Awb). See the answer to question 33.

**III – CAN ADMINISTRATIVE DISPUTES BE SETTLED BY NONJUDICIAL BODIES?**

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

There is a role at the stage of the objection procedure or, where provision is made for this by law, at the stage of administrative review. See the answer to question 5.

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

Various administrative courts, including the environment chamber of the ABRvS, have tried resolving cases by mediation. Although not all final evaluations are yet known, mediation would seem to be an interesting alternative in some cases. At this moment the CRvB and the CBb have set up the necessary arrangements to make mediation possible.

The National ombudsman (Nationale ombudsman) (and local ombudsmen) cannot settle disputes. Instead, the ombudsman investigates instances of maladministration and publishes his opinion and recommendations after first attempting mediation (quite often with success). Sometimes he intervenes successfully when an administrative authority is too late in replying to applications (this is unfortunately a persistent problem).

**Question 62. Alternative dispute resolution**

As regards mediation, see the answer to question 61. An advisory committee sometimes attempts to mediate during the objection stage, but this is not very common. Arbitration occurs in administrative disputes only in relation to claims for compensation.

**IV – ADMINISTRATION OF JUSTICE AND STATISTICAL DATA**

**IV-A – FINANCIAL RESOURCES MADE AVAILABLE FOR THE REVIEW OF ADMINISTRATIVE ACTS?**

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

The “Justice” State Budget (2016) programme has 1,16 milliard Euros<sup>23</sup>, i.e. 0.44 of the general budget<sup>24</sup>. There is no separate budget for administrative justice.

**Question 64. Total number of magistrates and judges**

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<sup>23</sup> NB Jaarverslag rechtspraak 2016: totaal kosten € 1.088.003.000; jaarverslag Raad van State BRS: € 50.238.000,00; jaarverslag HR (alleen cijfers gevonden uit 2014): € 25.796.843,00.

<sup>24</sup> Miljoenennota 2016 uitgaven: 262,1 miljard.

On 31 December 2016 the number of judges working in all courts in the Netherlands totalled 2.148 FTEs.

**Question 65. Percentage of judges assigned to the review of administrative authorities**

The number of judges assigned to the administrative law sectors of the district courts is unknown. At the tax divisions of the Courts of Appeal the figure is also not available.

On 31 December 2016 there were 40 judges (FTEs) on the ABRvS. This includes both those hearing cases at first instance and those hearing appeals. The CbB had on the same date 16,4 (FTE) justices charged with administrative justice. The numbers from CRvB and HR are unknown.

**Question 66. Number of assistant judges**

The judges who work in the administrative law sectors of the district courts are helped by assistants (i.e. persons other than the court registry staff) during hearings and in drafting judgments. The total support staff number is unknown.

The support staff for the ABRvS (first instance and appeal) consisted on 31 December 2016 213 lawyers (FTEs). On 31 December 2016 8,8 FTE court legal assistants (*gerechtsauditeurs*) worked at the CbB. Numbers for CRvB and HR are not available.

**Question 67. Documentary resources**

All courts have libraries. These libraries stock the hard copy versions of the relevant literature (including standard textbooks and handbooks) and the main professional journals as well as law reports and legislation.

**Question 68. Access to information technology**

All courts have online access to databases containing case law. These databases are maintained and updated by publishers and by the courts itself. CD-ROMs containing statute law and law reports are also available through the local network. There also exists 'Porta iuris' which includes 'Porta Europea', electronic portals which provide access to national and European case law and other relevant legal information.

The administrative law sectors of the district courts use various systems to register cases. These systems are maintained at national level. Law reports are also available online at [www.rechtspraak.nl](http://www.rechtspraak.nl) and [www.raadvanstate.nl](http://www.raadvanstate.nl). These contain all judgments since the first months of 2000 and 1 April 2002 respectively.

There is also digital management information, which is thought for the most part to be developed and managed locally. Word and Justword are the programs used when drafting judgments.

**Question 69. Website of courts and other competent bodies**

[www.raadvanstate.nl](http://www.raadvanstate.nl) is the website used by the Council of State to provide information to and communicate with the public. The other courts use the website at [www.rechtspraak.nl](http://www.rechtspraak.nl) for this purpose.

#### IV-B – OTHER STATISTICS AND FIGURES

##### **Question 70. Number of new applications registered every year**

Year	2014	2015	2016
	ALL PROCEEDINGS	ALL PROCEEDINGS	ALL PROCEEDINGS
Districts courts	108.980	99.290	111.700
Courts of appeal, tax law sector	5.140	5.180	6.690
HR, tax division	1.020	800	910
CRvB + CBb	8.150	9.670	9.550
ABRvS	12.090	10.890	11.720

##### **Question 71. Number of cases heard every year by the court or other competent bodies**

N.A.

##### **Question 72. Number of pending cases**

Year	2014	2015	2016
	ALL PROCEEDINGS	ALL PROCEEDINGS	ALL PROCEEDINGS
Districts courts	49890	46540	51340
Courts of appeal, tax law sector	4880	5170	4410
HR, tax division	760	630	620
CRvB + CBb	10330	10970	11630
ABRvS	4880	3970	4730

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

Year	2014	2015	2016
	ALL PROCEEDINGS	ALL PROCEEDINGS	ALL PROCEEDINGS
Districts courts - norm 1 90% ≤ 1 year	85%	82%	83%
Districts courts - norm 2 70% ≤ 9 months	70%	68%	68%
C.A. * tax law - norm 1 90% ≤ 18 months	75%	78%	85%
C.A. tax law - norm 2 70% ≤ 1 year	53%	51%	67%
HR, tax division**	42	38	38
CBb**	69	59	56
CRvB**	68	64	65
ABRvS**	21	22	18
* C.A. - Court of Appeal			
** Lead times in weeks			

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

N.A.

**Question 75. The volume of litigation per field**

N.A.

#### IV-C – THE ECONOMICS OF ADMINISTRATIVE JUSTICE

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

No such studies are thought to have been made. Nor are there any indications that considerations of this kind play a significant role.