ADMINISTRATIVE JUSTICE IN EUROPE

– Report for Sweden –

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

At an early stage in Sweden's history the king exercised judicial authority. As time went by, the king was perceived as a sort of court of appeal. The general courts developed earlier than the administrative courts. The first administrative court was a court of appeal and was established in 1799. By the beginning of the 1900s the review function had broken out and the judicial function was directed to reconsidering tax cases and administrative matters.

The administrative cases became a steadily growing burden on the Government. The Supreme Administrative Court was established in 1909. Fundamentally, the Supreme Administrative Court assumed responsibility for cases relating to judicial application while the Government reserved its right to rule in cases of appropriateness of the law involved.

The system of the administrative courts was progressively developed and was completed in 1979. A considerable part of the review was however still reserved to the Government.

During the last years of the 20th century more and more cases were transferred from the Government to the administrative courts. Generally speaking, today all administrative decisions which affect an individual's civil rights can be brought under the review of the administrative courts. Cf. question 25.

2. Purpose of the review of administrative acts

Most cases before the administrative courts are lodged by an appeal against a decision taken by an administrative authority. There are two main categories of appeal. The first and most important one encompasses most disputes between public authorities and private individuals. Examples of such cases are tax cases and social insurance cases. The ruling of the court will then relate both to legality and the appropriateness of the appealed decision and the ruling of the court will supersede the decision which was reached by the administrative authority. This type of appeal aims to control the application of the law by the administrative authorities and to protect individual rights.

The second, more limited category of appeal encompasses decisions taken by local or regional authorities that operate within the municipal self-government sector. On petition by any individual living in the municipality or region involved, a decision by these authorities can be sent for review by an administrative court. Such an appeal is however limited to a pure assessment of legality and permits only a simple rejection.

Besides the above mentioned judicial remedies, actions in different types of cases can be brought to the administrative courts through application. For such cases, there are no prior administrative decisions. Instead the authority in question makes an application at the court. This category includes cases involving inter alia the non-voluntary taking into care of children or adult drug-abusers and psychiatric care.

3. Definition of an administrative authority

In the legislative history of the Instrument of Government (part of the Constitution) it has been stated that administrative authorities are such bodies which are part of the organisation for state or municipal public administration. No general definition has been given.

When the question sometimes arises whether a certain body is an administrative authority or some other kind of body (e.g. a foundation), the court has to consider the matter with regard to the law concerned. In practice, there are on one hand central and local government authorities and on the other hand municipal and regional authorities.

4. Classification of administrative acts

With regard to the possibility of review by the administrative courts, there is a substantial difference between administrative decisions on one hand where the authority has applied a law or a regulation on an individual case and thereby decided about rights or obligations for a person (natural or legal), and on the other hand where the authority has decided to issue general directions in some respect.

The former, but not the latter, can be an object of review by the courts. Physical acts of an administrative authority cannot in themselves be the object of appeal, only the decision to undertake the act. As for contracts awarded by administrative authorities, they are – with the exception of cases concerning the specific rules for public procurement – considered as civil cases and tried only by the general courts.

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

A. COMPETENT BODIES

5. Non-judicial bodies competent to review administrative acts

As for acts that can be reviewed (cf. question 4), an appeal is on principle made to the administrative courts. However, when an appeal has been made the authority which has taken the decision in question is under the obligation to reconsider the matter and if the decision is found to be wrong or inappropriate change it, provided that the change is not detrimental to any person.

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

There are two general court organizations in Sweden; the general courts and the general administrative courts. The general courts handle criminal cases and civil disputes between individuals, i.e. civil law disputes. The general courts are the district courts, the courts of appeal and the Supreme Court. The general administrative courts primarily deal with case relating to matters between a public authority and a private individual. The general administrative courts are

the administrative courts, the administrative courts of appeal and the Supreme Administrative Court.

Since 2006 and subsequently 2013 four administrative courts (the ones in Stockholm, Göteborg, Malmö and Luleå) serve as special migration courts. Decisions made by the Swedish Migration Board can be appealed against to one of those four courts. A judgment made by a Migration Court can be appealed against to the Migration Court of Appeal, which is located at the Administrative Court of Appeal in Stockholm.

Beside the general court system there is one special court, the Labour Court. As is the case for migration law, there are specialized divisions within the general court system for environmental law as well as for patent and market law. There is no constitutional court.

All general administrative courts are competent to review the administrative acts relevant in each case (cf. questions 2 and 4). As a rule, an appeal against any administrative decision that affects the rights or obligation of a private person can be made to a general administrative court.

B. RULES GOVERNING THE COMPETENT BODIES

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

It is necessary to distinguish between the full review of an administrative act in a particular case, both with regard to legality and appropriateness, and a review of the regulation or statute itself which has been applied in the case before the court. The review of the particular decision is delimited only with regard to the petitions made by the parties. These provisions are found in the Administrative Court Procedure Act.

As for statutes, the court has a certain right to ascertain whether a statute meets the standards set out by superordinate provisions (like the Constitution or EC-law), so-called statutory examination. If a statute is found to be in conflict with a superior provision it is not applied (i.e. the statute can not be annulled, cf. question 4). These rules are given in the Instrument of Government.

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

The competence and duties of the general administrative courts are governed by the above mentioned Administrative Court Procedure Act and the Act on General Administrative Courts. Provisions concerning the procedure and duties of the courts may also be found in other legislation (e.g. time limits for urgent cases and legal aid). The interpretation of the provisions is developed by the case-law of the Supreme Administrative Court.

C. INTERNAL ORGANIZATION AND COMPOSITION OF THE COMPETENT BODIES

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

It is not the task of general courts to review administrative acts.

10. Internal organization of the administrative courts
Appeal against an administrative act is as a rule made to the administrative courts. There are 12 such courts throughout Sweden.

There are no special requirements for appeals made to the administrative courts, apart from formal ones (appeal in writing etc.). Appeals against the judgments of the administrative courts can be made to one of the four administrative courts of appeal (which one depends on where the administrative court is situated. Leave to appeal is required in most cases. Cf. question 26.

Appeals against the judgments of the administrative courts of appeal can be made to the Supreme Administrative Court. The most important task of the Supreme Administrative Court is to, through its judgment of individual cases, set precedents which can be of guidance to courts and others who exercise law in Sweden. Leave to appeal is required in the large majority of cases, but grated only in very few.

As for the migration courts, cf. question 6.

D. JUDGES

11. Status of judges who review administrative acts

Judges of the general administrative courts shall be competent to handle any case that may appear before the court. Nevertheless, judges in the lower courts may for a period of time work at a specialized division of their court. Also in the Supreme Administrative Court, the Judge referees work with certain categories of cases within one of the Supreme Administrative Court's three units.

It might be added that in certain types of cases the court may use the possibility to consult an independent specialist (e.g. a psychiatrist in cases on psychiatric care).

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

Permanent judges are recruited through an open application procedure. The applications are prepared by the Appointment Review Board, which gives a nomination to the Government. The nomination of the Board shall principally be based on an assessment of the competence of the candidates.

There are also deputy judges and other legally trained persons working at the courts. These are recruited by the courts in a more simplified manner.

13. Professional training of judges

There is no other formal requirement than a law degree to be appointed. Thus, also for example solicitors and public prosecutors may also be appointed.

The majority of appointed judges have, however, followed a judicial career with training of judges within the court system.

The training of judges begins with a two year clerkship at a court of first instance. After application to a court of appeal a clerk can be admitted to the four years long special judge training program. During the first of those four years they serve as a Legal Clerks at the court of appeal, the following two years they service as Junior Judges at a court of first instance. During the last year of judge training they serve in the court of appeal as temporary associate judges. After finishing the last year they become associate judges. As an associate judge, one often serves outside the court, as a legal advisor in a ministry or as a secretary to a legislative committee. After a couple of years the associate judge can apply for a permanent position.

14. Promotion of judges

Cf question 12.

15. Professional mobility of judges

Associate judges have a large degree of professional mobility. With leave from the court of appeal where they are employed they can widen their legal experience by working at different state offices, especially ministries and Parliament (cf. question 13). For permanent judges this is rather limited. It is difficult for them to obtain leave from their position. For judges of the two supreme courts it is not allowed at all.

E. ROLE OF THE COMPETENT BODIES

16. Available kinds of recourse against administrative acts

Cf. answers to questions 2 and 4. The following is valid only for the most common kind of cases before the administrative courts, i.e. where an individual has lodged an appeal against a decision taken by an administrative authority in accordance with existing legislation.

The decision is reviewed with regard both to its compliance with the law and to its appropriateness and fairness. The judgment may entail an obligation for the administrative authority concerned to act in some manner. Where a procedure of public procurement is judged, the court can decide that the procedure must be done over again. The court cannot cancel contracts or award damages; such matters are considered as civil disputes and are tried only by the general courts. In a municipal appeal the court may only examine whether a municipality has exceeded the boundaries of the law in its decision-making. If the court quashes a decision made by a municipality no new decision can be set in its place.

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

Generally speaking there is no such mechanism. There are however some specific provisions for tax cases which are to some extent similar. It is possible for a court to give a ruling with regard to one question in a case which is decisive for the outcome of the remaining case. Such a ruling can be appealed against separately while the rest of the case is pending.

Furthermore, there is in the tax field a special board (the Council for Advanced Tax Ruling) with the task to give answers to specific questions concerning a person's assessment for tax. An answer of the Board can be appealed against directly to the Supreme Administrative Court. The answer is, when it has legal force, binding to the tax authorities.

18. Advisory functions of the competent bodies

The courts themselves have only judicial functions. However, the Justices of the Supreme Court and the Justices of the Supreme Administrative Court occasionally serve at the Council on Legislation. This body consists of two divisions with each three members and is consulted by the Government to give a statement on important legislative proposals before they are presented to the Parliament. The Council scrutinizes the proposed legislation from the legal view-point and may suggest modifications. Its opinion is not binding to the Government.

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

Cf. question 18.

F. ALLOCATION OF DUTIES AND RELATIONSHIP BETWEEN THE COMPETENT BODIES

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

The appeal courts (i.e. the courts of intermediate instance) have no formal procedure to ensure the uniform application and interpretation of law. The most important means is to study the case-law of the supreme courts. When e.g. the Supreme Administrative Court has made a ruling where the interpretation of a provision has been clarified, the appeal courts will adjust their application of the law accordingly. The rulings of the Supreme Administrative Court are not formally binding, but in practice they are followed.

II – JUDICIAL REVIEW OF ADMINISTRATIVE ACTS

A. ACCESS TO JUSTICE

21. Preconditions of access to the courts

Cf. question 4. As for the rest, the only precondition for the right to appeal against an administrative decision is that the complainant is directly affected in some way by the decision and that the decision goes against his wishes (there are of course also necessary conditions concerning legal competence etc.)

If the law provides that review should first be made by a higher administrative authority such a review must first take place. Appeal is then made to an administrative court against the second decision. An appeal must be done in writing.

22. Right to bring a case before the court

There are no specific restrictions as to who may bring a case before an administrative court, but the complainant must fulfil the general precondition mentioned in question 21. Accordingly, every natural or legal person who is directly affected by an administrative decision can on principle appeal to a court. As for legal persons, this means a more limited possibility since they are only considered to be affected by certain types of administrative decisions, like decisions on their taxation and construction permits for their real estate.

As for administrative bodies, there are some examples of provisions allowing a municipality to bring a case before a court. There are also certain decisions that must be taken directly by a court on the demand of an administrative body (like cases about taking children into care). But generally, administrative authorities only appear as the opposite party to a private person who has made an appeal to a court.

23. Admissibility conditions

Cf. questions 21 and 22. If it is unclear whether a complainant is affected by the decision appealed against – it is usually evident if that is the case or not – he must state the reasons why he considers himself entitled to appeal.

24. Time limits to apply to the courts

Appeals against administrative decisions must be made within certain time-limits. This is usually three weeks after the communication of the decision. For certain types of decisions longer time-limits are provided (tax cases and cases concerning social insurance). Authorities and courts are obliged to inform parties about time-limits and other formal conditions for appeal. The court can not grant an extension of the time-limit for appeal, but once the appeal has been made on time, the documents may be completed later (however, this does not apply to municipal appeals). There is also an extraordinary means to grant an extended time-limit in cases where the complainant can prove that he could not make the appeal on time because of reasons beyond his control.

Time-limits are calculated starting the day after the formal communication of the decision to the claimant. The corresponding day of the week three weeks later is the limit for appeal. When longer time-limits are provided, the time-limit will be the corresponding date e.g. two months later. When a time-limit ends on a Sunday or a public holiday the appeal may be made on the following day. As for administrative bodies the time-limit is calculated starting the day after the decision.

25. Administrative acts excluded from judicial review

Cf. question 2 and 4. Administrative acts which do not concern rights, obligations or interests of private or legal persons are on principle not open to review by the courts (with the exception of the legal review of decisions taken in the sector of municipal self-government). Decisions taken during the administrative procedure, e.g. to circulate a document for comment, are not open to review unless otherwise stated. Only the final decision may be the object of appeal.

In this context it should be mentioned that there are still some administrative issues where the Government will take the final decision and where there is no ordinary appeal to an administrative court (cf. question 1). These issues are such where political considerations are predominant (e.g. city planning, the localization of railways etc.). When such decisions affect an individual’s civil rights he has the possibility to bring the decision under review by the Supreme Administrative Court. The review, so called Judicial Review, is strictly legal but takes into account not only the law applied but also general legal principles and the case-law of the European Court of Human Rights. If the Court finds that a legal principle has been infringed the Court may quash the decision. There is a time-limit of three months from the day of the decision to apply for such legal review.

26. Screening procedures

Generally each application must be scrutinized with regard to whether formal requirements for review are fulfilled and whether the claimant is entitled to bring the case before the court. Apart from that there is no screening at the administrative courts. At the administrative courts of appeal there is in most cases a requirement for a leave to appeal. Leave to appeal shall be granted if it is of importance for the guidance of the application of law that a superior court considers the appeal, reason exists for changing or reversing the conclusion made by the administrative court, that the court without a leave to appeal is unable to assess the conclusion made by the administrative court, or there are otherwise extraordinary reasons to entertain the appeal.

The procedure of leave to appeal may be regarded as a screening procedure. Normally two judges decide whether leave to appeal shall be granted or not. If leave to appeal is granted, the case is decided by three judges. Also applications for review by the Supreme Administrative Court are mostly subjected to a leave to appeal procedure. Leave to appeal is grated only in very few cases, primarily such where a ruling of the Supreme Administrative Court can clarify an important legal issue and be of guidance to lower courts and public authorities. The Supreme Administrative Court can also grant leave to appeal when there are extraordinary reasons to consider the appeal.

In the Supreme Administrative Court one or three justices decide the question whether leave to appeal shall be granted or not. When a case has been granted leave to appeal, the final examination normally is entrusted to a panel of five Justices.

27. Form of application

The application must be in writing. It shall indicate the decision appealed against, the change requested and the reason for the request. If leave to appeal is required it shall also indicate the reasons why leave to appeal ought to be granted. The applicant is free to choose the format.

28. Possibility of bringing proceedings via information technologies

An appeal against a decision shall be made in writing, but there is no longer a requirement of a personal signature.

Regarding the use of modern technology during hearings the possibilities for the courts to have hearings with parties or witnesses by means of video have increased during the last years. When deciding if such a hearing should be held, the court must consider the parties’ cost for their

physical appearance and if someone experiences an obvious fear if he or she is forced to physical appearance before the court.

29. Court fees

There is no charge for lodging an application or an appeal to an administrative court.

30. Compulsory representation

There is no requirement to engage a solicitor or other legal counsel. In the great majority of cases before the administrative courts the applicants act on their own. The administrative courts are obliged to assume responsibility for the investigation of each case and to point out to individual applicants what might be missing. However, in some types of cases the parties are entitled to a public counsel. This category includes cases involving inter alia the taking into care of children or adult drug-abusers and psychiatric care. In other cases the court may, if it is needed, grant the applicant legal aid in the form of a lawyer against a limited charge.

31. Legal aid

Applications for legal aid are made directly to the Legal Aid Authority unless the case has already gone to court. In that case it is the court that decides on the legal aid. Not everyone is entitled to legal aid. Legal aid applies first and foremost to private individuals. If the person's income is too high (more than SEK 260.000 per year) he is not entitled to legal aid from the State. If the person has legal protection cover through insurance, he cannot be granted legal aid. Another requirement that has to be fulfilled in order to obtain legal aid is that there is a need for legal assistance and that it is reasonable that the State pays the costs in the dispute. Because of this, the possibility being granted legal aid in cases handled by an administrative court is rather small.

If the court has decided to complement the documents of the case, e.g. with a medical certificate, that is free of charge for the parties.

32. Fine for abusive or unjustified applications

There is no fine for abusive or unjustified applications .

B. MAIN TRIAL

33. Fundamental principles of the main trial

Since 1996 there is on principle a mandatory two-party procedure at the general administrative courts. This means that if an individual appeals to a court against the decision of an administrative authority, the authority that first decided on the matter shall be the opposite party to the complainant.

Proceedings are in writing, but there are possibilities for an oral hearing. In certain cases an oral hearing is more or less obligatory. In other cases the court will decide about an oral hearing if a

party so requests and it is not unwarranted. These provisions are found in Swedish law, but the courts also have regard to the case-law of the European Court of Human Rights.

The court will, irrespective of what has been presented at an oral hearing, base its judgment on all the material in the case. It is the duty of the court to ensure that the case is as well prepared as its nature requires.

34. Judicial impartiality

Provisions to ensure the impartiality of a judge are laid down in the Code of Judicial Procedure and are the same for all courts. A judge who has a personal interest in the case or who has previously taken a decision on that same matter must not take part in the management of the case. A judge whose impartiality may be questioned is obliged to make this known.

If a party considers a judge challengeable he must make an objection in that regard. A special decision is then taken by the court, which can be appealed against. If, when a final judgment has been delivered, it is found that a judge was challengeable and should not have participated, the judgment may be annulled.

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

As long as the application or the petition remains the same there is on principle no delimitation as to what legal arguments may be raised in support of the application. It is however not necessary for a private person to present relevant legal arguments. The court is obliged to apply the law correctly also when a party does not have the capacity to plead his case.
As for the legal review of decisions taken by municipalities (cf. question 2), all objections against the decision must be made within the time-limit for appeal.

36. Persons allowed to intervene during the main hearing

Only parties and persons who otherwise are directly concerned by the case are allowed to intervene during the main hearing.

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

It is the duty of the administrative authority who is the opposing party in the case to develop arguments of general interest. It might be mentioned that as for the Supreme Administrative Court there are certain provisions according to which only the relevant national authority may make an appeal.

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

No, cf. question 37. The court may however ask any state authority with the relevant expertise to give an opinion on a case. Such an opinion is not binding for the court.

39. Termination of court proceedings before the final judgment

Withdrawal of the application is not uncommon. If death of the applicant leads to an end of proceedings depends on the case. Some cases will come to nothing, but in others the estate of the deceased has the right to continue the pleading. The situation is similar as to situations of bankruptcy. Proceedings could also come to an end because of new facts which make a judgment meaningless (e.g. a lower authority has granted a later request which satisfies the aim of the appeal).

40. Role of the court registry in serving procedural documents

Any written document which contains new information or arguments is forwarded to the opposing party.

41. Duty to provide evidence

The court has a general obligation to ensure that the case is adequately prepared. That includes procuring documents etc. that should be part of the case. But since the reform of the mandatory two-party procedure (cf. question 33) the responsible administrative authority will play a more active role to provide the documents and the evidence needed.

There is no obligation for a private person to provide evidence, but if he neglects to clarify the facts of the case this may be to his disadvantage. In practice it is not unusual that complainants present their own evidence (e.g. medical certificates).

42. Form of the hearing

Oral hearings are as a general rule public. The court may order that negotiations shall be held *in camera*, if it may be assumed that information will be presented at the hearing for which secrecy applies at the court as referred to in the Secrecy Act. Oral hearings are usually held in camera with cases concerning e.g. compulsory psychiatric care and care of children.

43. Judicial deliberation

Only members of the court (and sometimes a court clerk) are present at the deliberation. This is stated in law. Judges are not entitled to reveal what has been said during deliberation. The situation that a judge has delivered an opinion in public before the judgment would be considered as a case where his impartiality could be questioned and thus that he should not take part either in deliberations or judgment.

C. JUDGMENT

44. Grounds for the judgment

A decision shall contain the reasons for the outcome. It varies from case to case how much detail is given. A guiding principle is that an answer should be given to all relevant objections and that the individual concerned should understand the reasoning.

The decisions of the appeal courts are often short if they share the opinion of the county court.

The legal reasoning of the Supreme Administrative Court, whose rulings are precedents to lower courts, is usually well developed.

45. Applicable national and international legal norms

The most used national legal norms are acts decided by Parliament and decrees decided by the Government, together with the interpretation made by the Supreme Administrative Court in its case-law. The Convention for the Protection of Human Rights and Fundamental Freedoms (the European Convention) is part of Swedish law. Since Sweden is a member of the European Union, the administrative courts must also apply the law of the European Union.

46. Criteria and methods of judicial review

When a full review is made (which is usually the case, cf. question 2, 16 and 25) the court is – where this is demanded by the applicant – free to look for other solutions allowed by the law and modify the administrative authority's decision in a way which is found to be more appropriate. Drawbacks and advantages of the decision will be taken into account, provided that the applicable law gives room for such deliberation.

The legal review by the Supreme Administrative Court of some governmental decisions which has been mentioned under question 25 is obviously more restricted.

47. Distribution of legal costs

There are usually no legal costs involved with the procedure of the administrative courts. Cf. questions 30 and 31. Apart from what has been said there, it could be mentioned that there is a specific possibility for the court to grant compensation for costs in difficult tax cases where the applicant has needed legal advice.

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

In the administrative courts of first instance most cases are decided by a legally trained judge together with three lay judges. Simple or very urgent cases may be decided by only the legally trained judge. As for the administrative courts of appeal, cases are usually decided by three legally trained judges, in some cases together with two lay judges.

When there is only question about whether a leave to appeal shall be granted or not, the matter is decided by two or three legally trained judges. As for the Supreme Administrative Court, cases

are usually decided by five Justices. There are no lay judges in the Supreme Administrative Court.

49. Dissenting opinions

Dissenting opinions are allowed in all administrative courts.

50. Public pronouncement and notification of the judgment

The court's decision is always given in writing and notified to the parties together with information about requirements for appeal.

D. EFFECTS AND EXECUTION OF JUDGMENT

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

It follows from the nature of the administrative procedure that most decisions are taken with regard to the present situation and therefore are relevant only for the future. Thus, res judicata is not common, but may appear e.g. in cases concerning taxes or a social security benefits for a given period in the past. There is no delimitation as to the possibility to apply for e.g. a licence of some kind over and over again.

On principle, a judicial decision produces effects only for the parties.

Previous decisions in similar cases are not binding. The court is free to make a different judgment. Not even the precedents of the Supreme Administrative Court are formally binding, but in practice they are followed.

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

It depends on whether that has been provided for in the relevant legislation. Normally courts would not make such an arrangement.

53. Right to the execution of judgment

It follows from the nature of the decisions of the general administrative courts that execution in the formal sense normally is not required. Administrative authorities are supposed to respect and follow the court's decision.

However, certain problems have been observed where municipalities are under the obligation to provide housing or special treatment according to a court's decision. The delay has sometimes been unacceptable. Thus, there is a sanction for municipalities who do not execute such court decisions within reasonable time. A considerable charge will have to be paid. Issues concerning this special charge shall be considered upon the application of the county administrative court by the administrative court within whose judicial district the municipality is located.

In certain cases there may be a question of ordering an individual to do or not to do something. Then the court normally has the power to give the order under penalty of a fine.

54. Recent efforts to reduce the length of court proceedings

Continuous efforts are made to speed up the proceedings of the courts. Special attention has been given to possibilities to simplify the procedure and the use of technical means such as video. The requirement for leave to appeal has been important to speed up the procedure in the higher courts.

E. REMEDIES

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

It is the administrative court which is supposed to examine the cases in detail. Oral hearings can be part of the procedure in the administrative courts.

The higher courts focus to a large extent on whether the procedure in the administrative court has been satisfactory and whether its decision is convincing and in accordance with the law. However, if leave to appeal is granted the case is tried by the administrative court of appeal in every aspect which has been raised in the appeal. It often comes to a full review.

As for the Supreme Administrative Court, the court may limit its review to certain aspects of a case and focus on the legal question which is of interest for the guidance of the lower courts and the public authorities.

56. Recourse against judgments

In principle, all decisions by an administrative court can be challenged before a court of appeal, either separately during the procedure or together with the judgment of the case. A leave to appeal is usually required. The same applies for decisions by a court of appeal, whose decisions and judgments can be challenged before the Supreme Administrative Court.

F. EMERGENCY AND SUMMARY PROCEEDINGS / APPLICATIONS FOR INTERIM RELIEF

57. Existence of emergency and/or summary proceedings

There is a general provision in the Administrative Court Procedure Act which allows an administrative court to stop the execution of an administrative decision appealed against where an execution may lead to unreasonable consequences before the case is tried on the merits. It also allows the court to take other provisional decisions deemed necessary.

Apart from that there are special provisions in some legislative acts which allow a speedy intervention before the whole case is tried on the merits (e.g. the immediate taking into care of a child in danger of abuse).

Decisions for emergency measures of this kind may be taken by fewer judges than is required for the full review of the case (details in the above mentioned act). There is no formal obstacle against the same judge taking part in both the emergency procedure and the main hearing.

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

According to the specific provisions on certain emergency measures (cf. question 57) it is only possible to decide the measures indicated in those provisions. It is often measures of protection. In the tax field there is possibility to postpone the payment of taxes until the case has been tried by a court.

As for the general provision, it is usually only the suspension of the execution of the decision appealed against that is demanded. Sometimes a provisional decision that a disputable decision shall gain legal force and be put into effect without delay can also be made.

59. Kinds of summary proceedings

The provisions mentioned in questions 57 and 58 are general but will on principle only be applied in disputes between an administrative authority and a private person.

III – NON-JUDICIAL SETTLEMENT OF ADMINISTRATIVE DISPUTES

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

An administrative authority has a legal obligation to change a previous decision if that decision is found to be obviously wrong, because of new facts or for other reasons. A condition is that the change is quick and simple and not detrimental to any private person. In cases where a person has appealed against the first decision and the authority then changes it in the way the applicant has demanded, there will be no case before the court.

There is no other way for the authority itself to settle disputes on the application of the law in an individual case.

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

In many fields there are special supervisory bodies or authorities who can give their opinion on the local authorities' handling of cases and application of the law, either because of complaints from private persons or on the supervisory bodies own initiative. Such opinions will usually be followed, but formally they can not change a decision taken. That can only be done by an administrative court (provided that the responsible authority itself is not willing to change its decision, cf. question 60).

62. Alternative dispute resolution

Cf. questions 60 and 61.

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

4,4 percent of the State budget, or SEK 41,5 billion, was allocated to the judicial system (for example police service, the judiciary, the prison and probation service and legal aid) for year 2016. SEK 5.4 billion of that is allocated to the judiciary.

64. Total number of magistrates and judges

About 1 190 permanent judges work in the legal system.

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

About a third of the judges are assigned to the review of administrative acts.

66. Number of assistants of judges

Judges do not have personal assistants. But the preparation of the dossiers is, especially in the higher courts, to a large extent done by legally trained officers employed by the court. Many of these officers are training to become judges and are in the beginning of their judicial career.

67. Documentary resources

As for the library of the Supreme Administrative Court, the library contains primarily works on the legal history of different statutes and on the relevant jurisprudence (both Swedish and European). It also contains various news letters on legal issues.

68. Access to information technologies

Each judge has access to a computer which he can use for research as well as for drafting his own texts. Computer assistance is nowadays essential for the work of administrative courts.

69. Websites of courts and other competent bodies

The courts have websites, among them the Supreme Administrative Court. The website is for information purposes and does not itself allow for communication with the public. Most information about the courts and the work carried out there is distributed by the National Courts Administration. The judgments of the courts can be found in several legal data bases and most of them can also be found on the court’s website. The rulings of the Supreme Administrative Court are also published in a yearbook.

B. OTHER STATISTICS

70. Number of new applications registered every year

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

72. Number of pending cases

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	Cases lodged			Cases disposed of			Cases pending		
Year	S.A.C.	A.C.A.	A.C.	S.A.C.	A.C.A.	A.C.	S.A.C.	A.C.A.	A.C.
2014	7036	34859	133161	7896	32064	136849	1996	12034	39090
2015	7369	33368	127707	7460	32971	133000	1905	12431	33797

S.A.C. = Supreme Administrative Court
A.C.A. = Administrative Courts of Appeal
A.C. = Administrative Courts

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

The average time taken between the lodging of a claim and judgment would not be very relevant because of the great differences between different categories of cases. There is e.g. a substantial difference between tax cases and cases about psychiatric care. Thus, we have tried to indicate the average time taken for the main categories of cases.

Average time taken between the lodging of a claim and a decision in the matter of leave to appeal

Supreme Administrative Court

Category	2014 Median value Months		2015 Median value Months
Taxes	4,7		2,7
Congestion Tax	0,9		1,2
Social insurance Act	4,6		3,3
Social Services Act	2,7		2
Psychiatric Care Cases	0,8		0,9
Care of Yound Persons Act	1		1,3
Care of Alcoholics, Drug Abusers and Abusers of Colatile Solvents Act	0,7		0,9
Public Procurement Act	0,8		1,5
Cases concerning property taxation, national registration, the Prison Treatment Act, driving licences and sudent aid	2,7		3,9
Other cases	4,2		3,5

Average time taken between the lodging of a claim and judgment

Administrative Courts of Appeal

Category	2014 Median value Months		2015 Median value Months
Taxes	8,1		8,9
Social insurance Act	4,2		4,1
Social Services Act	1,9		1,7
Other cases excl. priority cases and migration	2,2		2
Migration	1		0,9

Administrative Courts

Category	2014 Median value Months		2015 Median value Months
Taxes	7		5,4
Social insurance Act	5,7		6
Social Services Act	2,9		2,3
Other cases excl. priority cases and migration	2,6		2,5
Migration	1,3		1,1

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

Percentage of the annulment of administrative acts decisions against administrative authorities by the lower courts

Supreme Administrative Court

Category	2014		2015
Taxes	22,30%		1,40%
Congestion Tax	0%		0%
Social insurance Act	0,80%		0,90%
Social Services Act	0,80%		0,50%
Psychiatric Care Cases	0%		0%
Care of Yound Persons Act	0,80%		0,90%
Care of Alcoholics, Drug Abusers and Abusers of Colatile Solvents Act	0%		0%
Public Procurement Act	2,60%		1%
Cases concerning property taxation, national registration, the Prison Treatment Act, driving licences and sudent aid	0,50%		0,20%
Other Cases	1,10%		1,30%

Administrative Courts of Appeal

Category	2014		2015
Taxes	34,10%		28,50%
Congestion Tax	0,00%		0,00%
Social insurance Act	12,60%		10,40%
Social Services Act	12,20%		9,9%%
Psychiatric Care Cases	2,30%		2,40%
Care of Yound Persons Act	7,50%		8,50%
Care of Alcoholics, Drug Abusers and Abusers of Colatile Solvents Act	3,00%		0,60%
Public Procurement Act	13,20%		19,10%
Cases concerning property taxation, national registration, the Prison Treatment Act, driving licences and sudent aid	11,20%		7,00%
Cases concerning residence permits, Swedish nationality and other similar matters	0,80%		0,90%
Other Cases	18,10%		18,40%

Administrative Courts

Reliable information is unfortunately not available.

75. The volume of litigation per field

Supreme Administrative Court

Category	2014 Cases lodged		2015 Cases lodged
Taxes	1432		2009
Congestion Tax	30		29
Social insurance Act	1283		1097
Social Services Act	483		526
Psychiatric Care Cases	280		278
Care of Yound Persons Act	390		458
Care of Alcoholics, Drug Abusers and Abusers of Colatile Solvents Act	29		35
Public Procurement Act	236		206
Cases concerning property taxation, national registration, the Prison Treatment Act, driving licences and sudent aid	499		445
Other cases	2374		2289

Administrative Courts of Appeal

Category	2014 Cases lodged		2015 Cases lodged
Taxes	5709		5034
Congestion Tax	96		38
Social insurance Act	5392		4670
Social Services Act	2119		2231
Psychiatric Care Cases	1501		1465
Care of Yound Persons Act	1468		1693
Care of Alcoholics, Drug Abusers and Abusers of Colatile Solvents Act	296		313
Public Procurement Act	798		621
Cases concerning property taxation, national registration, the Prison Treatment Act, driving licences and sudent aid	1549		1480
Cases concerning residence permits, Swedish nationality and other similar matters	10020		10006
Other Cases	5911		5817

Administrative Courts

Category	2014 Cases lodged		2015 Cases lodged
Taxes	14730		12857
Congestion Tax	489		238
Social insurance Act	13886		11361
Social Services Act	25093		24211
Psychiatric Care Cases	13788		14068
Care of Yound Persons Act	4043		4364
Care of Alcoholics, Drug Abusers and Abusers of Colatile Solvents Act	1421		1451
Public Procurement Act	3508		2973
Cases concerning property taxation, national registration, the Prison Treatment Act, driving licences and sudent aid	10593		9706
Cases concerning residence permits, Swedish nationality and other similar matters	27052		25817
Other Cases	18558		20661

C. ECONOMICS OF ADMINISTRATIVE JUSTICE

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

Not known.