



Seminar organized by the Supreme Administrative Court of
the Czech Republic and ACA-Europe

Limits of judicial guarantee

Brno, 9 September 2019

Answers to questionnaire: Hungary



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ACA-Europe Seminar on Measures to Facilitate and Restrict Access to Administrative Courts

September 9, 2019

Nejvyšší správní soud Brno
(Supreme Administrative Court Brno)

Questionnaire

Introduction:

The role of the administrative judiciary determines the conditions under which administrative courts work. These include the limits on the right of access to these courts, as well as the rules on such cases potentially progressing further within the judicial hierarchy. It is an area defined by an ongoing tension between two principles: the right to a fair trial that would speak in favour of opening the gates of judicial review, with the efficiency of judicial review pulling in exactly the other direction, namely of limiting access to administrative courts, in particular the higher ones.

The seminar to be held in Brno, the Czech Republic, on September 9, 2019 at the Supreme Administrative Court, follows the path opened by the seminars in Dublin and Berlin. It shares the objective of contributing to mutual understanding of the scope of judicial review of administrative cases. Consequently, it broadens and deepens the topic of access to the courts. The seminar therefore deals with the issue before the administrative judiciary as a whole, including the administrative courts of lower instances. It covers both formal and material measures which either facilitate or restrict access to the courts.

The seminar attempts to merge the principles of fair trial and efficiency. Based on shared knowledge of member states, it aims to describe the areas where the administrative judiciary should remain open to litigants and to analyse those where it may constrain its current role or, on the contrary, may exceed it. In other words, it examines the proportionality of restrictions on access to the administrative courts.

I. The structure of the administrative judiciary

- a. Please describe briefly the structure of the administrative judiciary, i. e. how many instances your administrative judiciary (including all specialized jurisdictions, e. g. financial or social security) consists of and the relations of superiority and subordination between them, unless this information is available and up to date at the ACA-Europe webpage, Tour of Europe file.

In Hungary the adjudication of administrative cases is carried out in a three-tier regime by administrative-labour courts, high courts and the Curia of Hungary (“Curia”), this latter acting as a review court.

There are twenty administrative-labour courts in the country, which determine solely administrative and labour cases. Cases filed on 1 January 2018 or subsequently are, for the most part, adjudicated by eight administrative-labour courts having regional jurisdiction.

Also as of 1 January 2018 the Budapest High Court has exclusive competence and jurisdiction to proceed in administrative cases falling in high court competence. (Cases filed before that date are determined by the high courts of jurisdiction.)

The supreme judicial forum is the Curia. The Curia has Criminal, Civil and Administrative-Labour Departments.

Cases filed after 31 December 2017 are adjudicated as follows:

- As a rule, administrative-labour courts proceed at first instance, save for cases specified in the law which are adjudicated (solely) by the Budapest High Court or, exceptionally, by the Curia.
- Cases adjudicated at first instance by administrative-labour courts are adjudicated at second instance (solely) by the Budapest High Court, whereas cases adjudicated at first instance by the Budapest High Court are adjudicated at second instance by the Curia (in ordinary remedy proceedings). Exceptionally, the first instance decision of an administrative-labour court can also be challenged directly before the Curia, via the legal institution of the so-called ‘jumping appeal’ (explanation is below).
- Petitions for review, which can be filed against administrative-labour court decisions not subject to appeal and the second instance decisions of the Budapest High Court, are determined by the Curia (in extraordinary remedy proceedings). Against the decisions of the Curia no petition for review can be filed.

Under the new regulation which was to enter into force on 1 January 2020 but whose entry into force has been postponed for an unspecified period, a two-tier administrative court system will be set up which will be separate from the ordinary court system. At first instance, cases will be adjudicated by administrative high courts with regional jurisdiction. (These courts already exist in the sense that most of the administrative cases are, at present, too, determined by the eight administrative-labour courts from which the administrative high courts will be formed.)

An Administrative Superior Court will be set up (and, at the same time, the Curia’s Administrative Department will cease to exist), which will proceed at first instance in cases specified by the law, at second instance in cases determined at first instance by the administrative high courts and will also act as a review court (extraordinary remedy).

- b. How many administrative courts and judges are in each of the instances?
Please give numbers relevant at the end of the year 2018.

(Note: if your administrative judiciary consists of two instances, use columns I. and II.; if it consists of more than three instances, please adjust the table. The same applies to all the tables used in this questionnaire.)

Instance	I.	II.	III.
Name	administrative-labour courts	Budapest High Court	Curia
Number of courts	12/8	1	1
Number of judges	52+174*	41**	22 (administrative section)

Note: Judges of the administrative-labour courts may proceed both in administrative and labour cases. Whether they determine administrative cases or labour cases depends on the given court's case allocation system.

At high courts, including the Budapest High Court, administrative and labour cases are determined by judges appointed for that task. As of 1 January 2018, appeals filed in administrative cases are determined solely by the Budapest Regional Court, therefore the number of appointed judges indicated by asterisk relate only to the Budapest High Court.

- c. How many judges are in all jurisdictions (i. e. administrative, civil and penal) altogether? Please give numbers relevant at the end of the year 2018.

Note: In all the subsequent sections please give answers for each of the instances of the administrative judiciary, even if it is not specifically mentioned in the question.

2933 judges

II. Fees and access to the court

- a. Is access to the administrative court subject to a judicial (filing) fee? Please indicate the general principle (for exceptions see questions e., f. and g.). Answer yes/no.

Instance	I.	II.	III.
Judicial fee	yes	yes	yes

- b. If you answered *yes*, what is the amount of this fee (in euro)?

The judicial fee ("duty rate") at first instance is approximately EUR 100 (HUF 30000)

- c. Is the amount of the fee in each of the instances flat or can it differ? If the amount can differ, under what conditions and how (e. g. when the petitioner is required to correct or eliminate faults in the petition, the fee rises)?

In court actions seeking to establish a right or interest or obligation, and if the subject-matter of the proceedings is related to taxes, social security contributions, customs obligations, competition (save for press products and complaints), media services, electronic communications or public procurement, the duty base is the value in dispute of the proceedings at the time of the commencement of the proceedings, whereas in remedy proceedings the duty base is the challenged claim or the value of the challenged claim.

As a rule, the following duty rates and amounts are to be paid:

In first instance proceedings 6 %, but minimum EUR 50 (HUF 15000) and maximum EUR 5000 (HUF 1500000).

In appeal proceedings instituted against a judgment 8 %, but minimum EUR 50 (HUF 15000) and maximum around EUR 8300 (HUF 2500000).

In review proceedings instituted against a judgment 10 %, but minimum EUR 170 (HUF 50000) and maximum around EUR 11700 (HUF 3500000).

In proceedings challenging the legal basis of an expropriation decision, about EUR 30 (HUF 10000).

In proceedings related to public service legal relationship, EUR 30 (HUF 10000), provided that the value of the subject-matter in dispute cannot be determined.

In noncontentious administrative court proceedings: EUR 30 (HUF 10000).

In certain cases, the law provides to impose a reduced duty:

The duty shall be 10 % of the standard duty if

- the plaintiff has withdrawn the action
- the action is stayed and then terminated in consequence
- the respondent acknowledges or satisfies the claim,
- the parties reach a settlement,
- the parties jointly request that the proceedings be terminated

before the first hearing, at the latest, or, in case of out-of-court adjudication of the case, before a judgment is given by the court.

The duty shall be 30 % of the standard duty if the administrative court proceedings are terminated after the first hearing due to stay of the proceedings or the plaintiff's withdrawal from the suit, or upon the parties' joint request.

The duty shall be 50 % of the standard duty if in the administrative court proceedings the parties reach a settlement after the first hearing.

Where a ground for reducing the duty arises only in the appeal or review proceedings, the reduced duty shall be payable in the appeal or review proceedings.

- d. In what phase of the proceedings does the petitioner have to pay the fee (e. g. with the petition, after the proceedings commence, after the decision of the court is delivered)?
What are the consequences of not fulfilling the duty to pay the fee?

The fee is payable at the commencement of the proceedings by the party having instituted the proceedings, save where decision on the payment of fee is given at the end of the proceedings. In such cases the fee is payable by the party ordered by the court to pay. Where the party ordered to pay the fee fails, despite an invitation to that effect, to pay or to fully pay or to pay within the given time limit the fee, a default fine in an amount specified in the Act on Taxation shall be payable. In such cases the unpaid fee together with the default fine is levied by the tax authority.

In certain types of actions persons have exemption from the advance payment of court fee, due to the subject-matter of the action at issue. Save for actions related to public service legal relationship and actions related to administrative contracts filed by a contracting party, parties to administrative court proceedings are exempt from the advance payment of court fee.

- e. Are any petitioners (e. g. a public authority) or areas of disputes exempt by law from the duty to pay the fee?

Under the Act on Duties, certain organisations enjoy full exemption from the advance payment of court fee, namely:

- the State of Hungary;
- local governments and their associations;
- publicly financed bodies, the Hungarian National Asset Management Ltd., the Reserve Management Non-Profit Company and nonprofit business association functioning as such;
- associations, public bodies;
- legal entities of the church;
- foundations, including public foundations;
- water management companies, the health insurance administration agency and the central pension insurance agency;
- the National Bank of Hungary;
- the Duna Media Service Nonprofit Ltd and the Media Service Support and Asset Management Fund;
- the North Atlantic Treaty Organization, the armed forces of the Parties to the North Atlantic Treaty and other nations participating in the Partnership for Peace stationed in Hungary, and the military command posts set up within the framework of the North Atlantic Treaty Organization, including their staff and military and civilian personnel with citizenship other than Hungarian who are employed by such armed forces and command posts, in respect of duties which are related to the service obligations of such personnel;
- the development councils;
- nonprofit business associations registered as public-benefit and priority public-benefit organizations, public-benefit social cooperatives
- the European Communities, their institutions and bodies, agencies and separate funds;
- the National Asset Management Company;
- public education institutional councils;
- the National Deposit Insurance Fund;
- the Resolution Fund and the resolution asset management vehicle established by the Hungarian State or the Resolution Fund, owned exclusively by the founder, founders;

- the Investor Protection Fund;
- the Indemnification Fund.

The Act on Duties also lists the types of procedures in which statutory exemption is provided from the advance payment of court fee, namely:

- proceedings (including review and appeal proceedings) in which the initial submission starting the proceedings is rejected by the court
- remedy proceedings against a decision related to costs allocation
- proceedings related to electoral rolls
- administrative court action filed against an administrative decision given in a compensation-related case
- local governments' debt settlement proceedings
- proceedings instituted upon a successful constitutional complaint
- administrative court action filed against an administrative decision given in relation to the provision of legal aid
- remedy proceedings instituted against a temporary preventive restraining decision delivered on account of domestic violence, and noncontentious proceedings seeking the issue of a preventive restraining order
- administrative court action filed against an administrative decision given in relation to victim support
- proceedings aimed at assigning an administrative organ

If in the remedy (review) proceedings the court decision is quashed, in the resumed proceedings the party shall be exempt from repeated payment of the fee. If the claim is changed (increased), a fee needs to be paid only for the difference in value.

f. Are non-governmental organizations exempt from the duty to pay the fee?

Yes, as specified in point e) above, associations, public bodies and funds are exempt from the payment of fee. Nonprofit business associations registered as public-benefit and priority public-benefit organizations, public-benefit social cooperatives are only exempt to pay the fee if no corporate tax payment obligation arose from the entrepreneurial activities carried out in the tax year preceding the asset acquisition or the institution of the proceedings.

g. Can a petitioner be exempt from the duty to pay the fee by decision of the court? What are the conditions for the exemption?

A person exempt from payment of costs under a separate law may be exempted from payment of fee in a court decision.

(Personal) exemption from payment of fee shall be granted to a party, if

- his monthly net income (wage, pension, other regular monetary benefit) does not exceed the lowest amount of the actual full old-age pension and the party has no assets, either
- the party is eligible to active-age benefit or lives in the same household with a close relative of a person eligible to active-age benefit within the meaning of the Act of Parliament governing social care management and social care benefits,

- the party is in receipt of state-funded medication or has been found to be eligible to health services
- the party is a homeless person having recourse to temporary medication
- the party is a refugee or is granted subsidiary protection or temporary protection, or is seeking recognition as stateless person or provisional or additional protection, and based on his statements on his financial resources and assets he is eligible to the benefits and support granted under a law, or in his family he cares for a child whose eligibility to regular child care benefit has been established.

Moreover, a party must also be granted exemption from payment of costs if he does not meet the above criteria but in light of the party's other circumstances the court establishes that the party's subsistence is in danger.

- h.** Under what conditions is the fee returned to the petitioner (e. g. in case of the withdrawal of the petition)? Is the fee returned in full or partially?

The fee is to be returned *ex officio* or upon request of the obligor or his legal successor in the following cases:

- if the fee or the base of the fee was erroneously calculated or was imposed on a person other than the payment obligor, or if the fee was repeatedly imposed;
- if full fee or higher fee was paid in court proceedings that were exempt from the payment of fee, or in which reduced fee was payable.

Fee paid in appeal proceedings shall be returned if the court decision challenged in the appeal has been quashed upon a justification for noncompliance.

- i.** May a petitioner be required to pay a deposit before the proceedings commence? If you answered *yes*, please explain under what conditions.

Where it is probable that the costs will make up a significant amount or other circumstances justify, the court may, before the emergence of the costs, order a party to deposit an amount foreseeably covering the expected costs. Where the amount in deposit does not cover or exceeds the actual costs the court will, when specifying the actual costs, order the party to pay the arrears or will order to return the surplus to the party.

The court must order to deposit the amount foreseeably needed for covering the fee of the guardian ad litem or the appointed expert or the service of documents in a foreign country, as specified in an EU mandatory legal act or under an international convention.

- j.** Are frivolous petitions penalized? Please explain how and under what conditions.

For *mala fide* litigants the court may not grant cost allowance even if the statutory conditions thereof are met.

A statement of claim is to be rejected by the court if the objective conditions specified in the law are met, hence in this respect the court has no discretion.

The court shall dismiss the statement of claim if

- the case falls out of the jurisdiction of a Hungarian court,
- another court or authority has competence to adjudge the statement of claim, or another court has jurisdiction for the action, but the rules of transmission of the statement of claims cannot be applied due to lack of the necessary information,
- the action has been filed by a person not entitled to filing such action,
- the plaintiff challenges the lawfulness of an administrative activity the examination of which is excluded under the law,
- the plaintiff has filed an action without having recourse by either party to the available administrative remedy, or the court action needs to be preceded by other administrative proceedings,
- another action between the same parties for the examination of the lawfulness of the same administrative activity is already in progress before the same court or another court proceeding in administrative cases,
- the lawfulness of the challenged administrative activity has already been determined on the same legal basis under a final decision,
- the party lacks capacity to sue, or the party’s statutory representative was ignored, and this situation has not been remedied within the specified time limit,
- the plaintiff has failed to observe the time limit for filing a court action and has not submitted a justification for his failure, or the court has refused such application,
- the plaintiff has failed to resubmit the supplemented statement of claim within the given time limit or repeatedly submitted a deficient statement of claim, which therefore cannot be determined,
- the party has failed to specify the legal injury allegedly caused by the administrative activity within the time limit,
- the plaintiff or the legal representative obliged to submit submissions electronically has submitted the statement of claim in a manner other than electronically or has submitted it electronically but not in the manner required by the law.

- k.** Finally, is there any analysis (based on empirical studies or just your personal assessment) of the correlation between the amount of the fees payable within your system of administrative justice and the degree of any incentive or dissuasive effect those fees have on petitioners (in general or particular groups thereof) bringing or not bringing an action?

No such analysis has been made.

III. Costs of proceedings

- a.** Can the court adjudicate the compensation of costs of proceedings to the participant? If you answered *yes*, please explain under what conditions?

Unless specified differently by the law, the litigation costs of the winning party are to be reimbursed by the losing party. If the case is only partly won by a party, he will reimburse the adverse party’s court costs in proportion to the percentage of his loss. Where the difference between the proportion in which the party has won and the adverse party has lost and the difference between the court costs payable by the party and the adverse party is not significant, neither party shall pay reimbursement.

Where a settlement reached between the parties is approved by the court, the party indicated in the settlement shall reimburse the court costs to the adverse party.

- b.** Can the court adjudicate the compensation of costs of proceedings to the public authority? If you answered *yes*, please explain under what conditions? In particular, are there any cases/situations where by default, the costs incurred by the public authorities are not recoverable, even if the (private) petitioner was not successful (and, following the normal rule that costs follow the event, a costs order should normally be awarded in favour of the public authority)?

As a rule, where proceedings are discontinued, the court costs of the respondent (the authority) are to be reimbursed by the plaintiff, save where:

- proceedings are terminated due to withdrawal, if withdrawal took place because the defendant satisfied the claim after the opening of proceedings (in such cases the plaintiff's court costs shall be covered by the respondent),
- proceedings are terminated due to death or dissolution (in such cases neither party shall cover the court costs of the opposing party),
- proceedings are terminated upon the parties' joint request and the party specified in the parties' agreement shall pay the opposing party's court costs.

In the absence of an agreement, the respondent's court costs shall be covered by the plaintiff. If, however, the request was submitted because the respondent acknowledged the right asserted in the action after the commencement of the proceedings or satisfied the claim sought to be enforced in the action, the plaintiff's costs shall be covered by the respondent.

- c.** Can the court decide not to adjudicate the compensation of costs of proceedings, although the conditions described in answer to question a. are fulfilled? If you answered *yes*, please explain under what conditions?

Under the law, where proceedings are discontinued due to death or dissolution, neither party shall cover the court costs of the adverse party.

If proceedings are terminated upon the parties' joint request to that effect, the party specified in the parties' agreement shall pay the adverse party's court costs. In the absence of an agreement, the respondent's court costs shall be paid by the plaintiff. If, however, the request for termination was submitted because the respondent acknowledged the right asserted in the action after the commencement of the proceedings or satisfied the claim sought to be enforced in the action, the plaintiff's costs shall be covered by the respondent.

Where a party fails to carry out certain acts during the proceedings, falls in delay with certain acts without justification, fails to meet a deadline or time limit, or causes unnecessary expenses to the adverse party in any other way (either during the proceedings or previously), the party shall be required to cover those costs irrespective of the outcome of the action if such expenses are to be included in the costs of the proceedings.

If either of the parties to the mediation proceedings brings the case before the court despite an agreement made for the settlement of the dispute, the plaintiff shall cover the respondent's court costs.

The above rules are specified in statutes and are not based on court decision.

- d. Are there any specific areas of administrative law where different rules to those discussed in this section apply? What areas are those and how and why do the rules applicable therein differ?

A party is entitled to (subject-specific) exemption from court costs in litigations related to guardianship and in other court procedures specified by the law. Unless a party is entitled to subject-specific exemption from court costs under a mandatory legal act of the European Union or an international treaty, he shall be entitled to the suspension of payment of costs in court actions related to

- a child's origin
- child custody
- support due under the law, including the collection of support from an organ paying benefits to the obligor or from another person, termination of support obligation or modification of the amount payable in support, termination or limitation of the enforcement of a support, and proceedings instituted for the obtainment of the obligor's data in cross-border support cases
- labour matters or public service legal relationship, save for proceedings in which a party is entitled to subject-specific suspension of payment of a specific duty
- compensation for damage caused in a mine
- compensation for damage caused by a criminal offence committed against a person's life, bodily integrity or health, and payment of injury fee for violation of personality rights.

Full suspension of payment of costs must be granted where the party's net monthly revenue does not surpass 30% of the gross monthly average wage of the national economy in the second year preceding the actual year, as published by the Central Statistical Bureau, and the party has no assets.

Where a party ill-foundedly alleges his entitlement to a subject-specific cost allowance, the court shall establish in its decision the lack of such entitlement. Such decisions are subject to appeal.

- e. How does the court determine the amount of the costs of legal representation as a part of compensation of costs? Is it defined by a tariff (in that case describe the principal method of calculation), or is it based on a price stipulated between an attorney and his client (in that case describe also whether there is any limitation)?

Attorney's fee stipulated in the party's retainer agreement and justified expenses paid by the party to the attorney in reimbursement of expenditures can be claimed as costs of legal representation. In justified cases the court may reduce the attorney's fee, namely where such fee is disproportionate to the legal work actually done by the attorney. Such court decisions must contain reasons.

The winning party may also calculate the attorney's fee by relying on statutory provisions. To administrative litigations and other administrative court procedures the following statutory attorneys' fees apply:

- where the value in dispute does not surpass EUR 33000 (HUF 10 million), 5% of the value in dispute, but at least EUR 30 (HUF 10000),
- where the value in dispute surpasses EUR 33000 (HUF 10 million) but is below EUR 330000 (HUF 100 million), the attorney’s fee is as specified in point a) and 3 % of the amount surpassing EUR 33000 (HUF 10 million), but at least EUR 330 (HUF 100000),
- where the value in dispute surpasses EUR 330000 (HUF 100 million), the attorney’s fee is as specified in point b) and 1 % of the amount surpassing EUR 330000 (HUF 100 million), but at least EUR 3300 (HUF 1000000),

Where the value in dispute cannot be determined, the attorney’s fee is EUR 16 (HUF 5000) per commenced hour for hearings and justified pre-trial and out-of-court work, but at least EUR 32 (HUF 10000).

In appellate and review proceedings the attorney’s fee is 50% of the attorney’s fee specified in the first instance proceedings, but in such cases the value in dispute will be the amount contested in the appeal or petition for review.

In determining attorneys’ fees the court may, in justified cases, reduce the fee amount if it is disproportionate to the work actually performed. If a case is very complex, the court may increase the amount of the statutory attorney fee. If the court specifies the attorney fee in an amount different from the amount prescribed by the law, the court must give reasons.

The same rules apply when the costs of legal representation provided by registered in-house counsels are determined.

IV. Representation

- a. Does a party have to be represented by a legal professional? Answer yes/no.

Instance	I.	II.	III.
Representation of petitioner	NO	YES	YES
Representation of opposing party	NO	YES	YES

- b. Does your legal order provide free legal aid for participants (e. g. representation appointed at the request of a participant)?

In the framework of the legal aid assistance the state ensures legal representation via legal aid lawyers in administrative litigations and other administrative court proceedings as well as in administrative noncontentious proceedings for plaintiffs, respondents, intervening third parties, interested parties, petitioners and petitionees. The costs of such representation are either advanced or paid by the state.

- c. What are the forms and conditions of free legal aid? Please explain for all instances.

A party may request for a legal aid lawyer before the closing of the hearing preceding the decision terminating the proceedings (or before the closing of the noncontentious proceedings).

Legal aid can be provided to needy persons. Needy persons are persons unable to effectively protect their interests and to effectively exercise their procedural rights in a lawsuit in person on account of their unfamiliarity with the law or the complexity of the case, or who need a lawyer in lawsuits entailing mandatory legal representation. A legal aid lawyer is also ensured in a case involving a support claim with a foreign obligor or obligee and hence involving cross-border proceedings. Neediness is determined on the basis of the requesting person's revenues and assets but, for example, a person in receipt of social care benefits specified in a separate law is to be regarded as needy without any examination of his revenues and assets.

- d. Is there any connection between exemption from the duty to pay the judicial fee and the right to free legal aid?

The fee of the legal aid lawyer is advanced by the state according to rules specified in a separate law. If a legal aid lawyer is ensured by the state on account of the party's neediness and the adverse party is not ordered by the court to pay the fee of the legal aid lawyer, the fee shall be borne by the state.

If the adverse party is ordered by the court to pay the fee of the legal aid lawyer, the adverse party must pay the state-advanced fee of the legal aid lawyer to the state.

V. Exclusions and immunities

(Note: If you answer yes to any question in this section, please provide details.)

- a. Are there any mandatory steps after the public authority delivers its final decision and prior to filing a petition to an administrative court (e. g. mediation)?

In respect of that stage of the procedure the law specifies only the rules applicable to the forwarding of statements of claims. No other procedure is prescribed; mediation is possible during the court proceedings.

- b. Are there any final administrative acts of a public authority which are not reviewable at all?

No review is possible

- against a decision having become final at first instance, save where appeal is excluded by the law,
- if the party did not exercise his right of appeal and the second instance court upheld the first instance decision upon the other party's appeal,
- against provisions of final decisions pertaining to payment of interest, court costs, performance deadlines or payment by instalments,

- against Curia decisions,
 - where excluded by the law in particularly justified cases (sectoral laws exclude the possibility of review in cases related, among others, to elections, referenda, right of assembly, right of asylum)
- c.** Is there any particular public authority whose administrative acts are not subject to judicial review (e. g. acts of a head of state)?

Unless otherwise specified by a law, judicial review is not possible

- in relation to Government activities, in particular, in relation to national defence, alien administration and foreign affairs,
- separately against an alleged unlawfulness of an ancillary administrative acts serving to realise an administrative act,
- between parties being in a relationship of control or governance with each other.

- d.** Are there any final acts of a public authority which are reviewable by a (state or other) authority other than the administrative court?

No, there are not.

- e.** Are there any cases which are reviewed by the administrative courts other than review of administrative acts of a public authority (e. g. review of elections, dissolution of a political party)?

a) In election proceedings judicial review against the decisions of the election bodies can be sought as follows:

Appeals against the decisions of the National Election Office on requests regarding the central electoral register shall be submitted to the President of the National Election Office. If the President of the National Election Office does not grant the appeal, it shall be adjudged by the Budapest High Court.

Natural persons, legal persons and bodies not having legal personality may, if they are affected by the case, file an appeal against the first instance decision of the election commission. The request for judicial review shall be adjudicated by the regional court of appeal having jurisdiction at the seat of the election commission having passed the second instance decision.

Requests for judicial review of decisions of the election commission regarding the approval of the content of ballot papers shall also be adjudged by regional courts of appeal.

A request for judicial review filed against a decision of the National Election Commission in cases related to election or referendum shall be adjudicated by the Curia.

b) Moreover, the Curia has competence to conduct

- proceedings for the examination of local government decrees conflicting with other laws,
- proceedings instituted on account of a local government's failure to meet its law-making obligation, and
- proceedings for determining the procedural means of redressing a constitutional complaint.

High courts have competence to conduct proceedings aimed at assigning an administrative body and proceedings related to the exercise of the right of assembly.

(The dissolution of a political party falls in the competence of ordinary courts, not in the competence of administrative courts.)

VI. Selection by lower and higher jurisdictions

a. Do the administrative courts have power to select cases? Answer yes/no.

Instance	I.	II.	III.
Power to select cases	NO	NO	NO

b. If you answered *yes*, under what conditions can they select cases? Are there any objective criteria stated in the legislation/case law of the court or is the selection a matter of full discretion?

In first instance proceedings and in second instance proceedings conducted by the Budapest High Court, courts have no discretion to freely select cases.

The review of a final decision by the Curia of Hungary is preceded by an examination of the case's admissibility. Admissibility criteria are specified in the law but in determining the existence of those criteria the Curia has a certain degree of discretion. The Curia shall admit a petition for review complying with the formal requirements if the examination of a violation of law that affects the merits of the case is necessary:

- in order to ensure the uniformity of or to develop jurisprudence;
- due to the special gravity and social significance of the issues of law at hand;
- in order to initiate preliminary ruling proceedings before the Court of Justice of the European Union; or
- on account of a judgment provision derogating from the Curia's published jurisprudence.

c. Is the power to select cases restricted to certain fields of law? Please give details.

No such rule exists.

- d. Does the court have power to select cases that fall under administrative criminal law? If it does, are the conditions for selection the same as in others fields of law? Please give details.

Regulatory offences, which fall in the scope of administrative criminal law, are not determined by administrative courts. [Ordinary courts proceeding in regulatory offence cases do not have power to select cases (either)].

- e. Please specify who selects the cases to be heard and how. Is there a special judicial panel or case selection procedure for that purpose? Is that procedure only a matter for the higher jurisdiction that will ultimately hear the case, or do the lower courts also somehow participate in that selection?

If none of the parties has requested a hearing and the court does not consider it necessary either, the court shall determine the case on the merits without holding a hearing.

A hearing may be requested by the plaintiff in the statement of claim or by the respondent in his defence. If a party requests for a hearing, the court must hold a hearing.

If the defendant acknowledges the claim as fully well-grounded before the first hearing, or the administrative act is tainted by a significant formal deficiency for which it must be regarded as non-existing, the court may also determine the case without holding a hearing.

Decision by the court is taken without holding a hearing in simplified proceedings and in proceedings seeking to establish a right or interest or obligation.

The case may not be determined without holding a hearing if evidence, not including documentary evidence, needs to be taken. If the necessity of evidence-taking arises in the course of determining a case without a hearing, the court shall schedule a hearing for the determination of the case.

- f. If the court decides to select/not to select a case, is it obliged to notify a petitioner? If it is, does it deliver a formal decision (e. g. rejects the petition) or does it notify a petitioner by an “informal” letter?

The court shall hold a preparatory panel session within fifteen days from the receipt of the statement of claim. The court shall make arrangements within thirty days from the receipt of the statement of claim for scheduling a date for the hearing. A hearing will be scheduled if the statement of claim is suitable for a hearing or can be made suitable for a hearing upon the court’s measure. The first hearing shall be scheduled so as to ensure that the hearing is held within sixty days from the receipt of the statement of claim by the court. The court shall summon the parties to the hearing.

If the lawsuit is determined without holding a hearing, the court shall, when communicating the respondent’s defence, set a time limit of at least fifteen days for the parties’ submissions.

- g. Is the court obliged to give reasons when it decides not to select a case?

Yes.

- h. If a lower court decides not to select its own case, is the decision reviewable by a higher court? Please give details.

A higher court shall only review such a lower court decision if the decision violates the law. (For example, if the parties request the court to hold a hearing and the court fails to comply with the request.)

- i. Does a lower court have power to select cases of a higher court? If it does, is its selection reviewable by a higher court? Please give details.

Lower courts do not have such competence. The cases that are not reviewable are specified by the law.

- j. Does a judge determine the order of the cases to decide?

Yes, by taking deadlines and time limits into account.

VII. Other measures

- a. Does your legal order have other measures which simplify or restrict access to the courts? Please explain.

No regulation simplifying or restricting access to court exists.

Derogation from the general rules is possible only in one case, namely where a so-called jumping appeal is filed: If the decision was adopted at first instance by the administrative-labour court, in a joint petition attached to the appeal against the decision the parties may present a motion seeking that the appeal alleging a violation of a substantive law be determined directly by the Curia. The Curia shall admit the jumping appeal if it is based on a violation of a substantive law having fundamental importance for ensuring the uniformity of jurisprudence. If the Curia admits the jumping appeal, it shall determine it on the merits. If the Curia does not accept the jumping appeal, it shall forward it to the second instance court for determination.

Jumping appeals serve to accelerate the proceedings by directly allowing the highest judicial forum to determine issues related to the interpretation of law. This legal institution comprises remedy and uniformity ensuring functions.

VIII. Statistics

- a. Please give exact numbers of case load and number of cases decided for the years 2016, 2017 and 2018 in each of the instances of the administrative judiciary (including all specialized jurisdictions, e. g. financial or social security).

Instance	I.	II.	III.
Case load 2016	19590	2156	2030

Cases decided 2016	19539	2090	2009
Case load 2017	16908	2020	1889
Cases decided 2017	17268	1995	1813
Case load 2018	16013+1107*	2390	2167
Cases decided 2018	16542+865*	2314	1949

Due to changes in competence, as of 1 January 2018 certain administrative cases fall in the first instance competence of the Budapest High Court. Such cases are indicated by asterisk.