



**Seminar organized by the Supreme Court of Ireland and
ACA-Europe**

**How our courts decide: The decision-making processes
of Supreme Administrative Courts**

Dublin, 25 – 26 March 2019

Answers to questionnaire: Italy



Seminar co-funded by the «Justice » program of the European Union

ACA Seminar
How our Courts Decide: the Decision-making Processes
of Supreme Administrative Courts
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Supreme Court of Ireland

Questionnaire

I. Introduction

1.1 The seminar will focus on the process followed by our national Supreme Administrative Courts in reaching their decisions. Each court will have its own formal rules, whether provided for in substantive law or in the internal rules or formal procedures of the court. Furthermore, each legal system will have its own culture and traditions which will inform the way in which the decision making process progresses.

1.2 The purpose of this questionnaire and the seminar which will follow is to provide a greater understanding of both the similarities and differences which exist between the decision making process in the respective Supreme Administrative Courts. It is hoped that this will provide useful information both for comparative purposes but also to give each Supreme Administrative Court a better understanding of the process which may have led to decisions of the courts of other EU member states.

1.3 The Dublin seminar on the 25th and the 26th March 2019 for which this preparatory questionnaire is being distributed is envisaged as a sister seminar to that which will be organised by our German colleagues in conjunction with the General Assembly of the 12th to the 14th May 2019 in Berlin. While there may be some small and unavoidable overlap between the issues raised it is intended that the Dublin Seminar will focus on the decision making process of the court whereas the Berlin Seminar will focus on access to the Supreme Court and its functions including, for example, the question of whether ‘filters’ are provided for in administrative procedural law.

1.4 Further, while this project is independent of the ACA-Europe transversal analysis project on ‘The Quality of Judgments’, there will be an inevitable link between certain elements of the questionnaire formulated for that project and aspects of this questionnaire.

1.5 Please note that when answering the questions in this questionnaire it is not (with the exception of the statistical questions regarding caseload under Part C) necessary to consider proceedings which lead to the making of provisional orders.

1.6 In addition, in the event that your institution undertakes legislative functions such as providing advice on proposed legislation as well as the function of adjudicating cases in the context of court litigation, it is not necessary to include information pertaining to the legislative functions when responding to the below questions.

II. Questions

A. Background questions in relation to your Supreme Administrative Court/Council of State

1. What is the formal title of your Supreme Administrative Court/Council of State ('institution')? Please provide the name of your institution in your national language and the English translation if possible.

Consiglio di Stato (Council of State)

2. What country/jurisdiction does your institution serve?

Italy

3. Where is your institution based (i.e. its seat)?

Rome

4. Please provide a link to your institution's website (if available), including a link to the English or French version or pages of the website if available.

<https://www.giustizia-amministrativa.it>

B. The Structure of your Supreme Administrative Court/Council of State

5. Please provide an outline of:

(a) The main functions of your institution (e.g. a first and last instance court, court of cassation or court of appeal);

In the framework of Italian administrative justice the Consiglio di Stato is the Court of second and last instance and works as a Court of appeal; as such, it reviews the decisions of the Regional Courts of first instance with regard to issues of both fact and law, thus exercising a fully-fledged appellate jurisdiction (i.e. with reference to all the questions involved in the prior judgement)

(b) The nature of your institution (e.g. a Supreme Administrative Court or a Supreme Court with jurisdiction in other areas of law);

The Consiglio di Stato is a Supreme Administrative Court and it has jurisdiction in all the areas of law subject to the jurisdiction of Administrative Courts under Italian law and

(c) Its place within the overall court structure in your country/jurisdiction.

The Consiglio di Stato is the Court of last instance in administrative judgements; its decisions can be appealed before the Corte di Cassazione, the Italian Supreme Court,

only on the ground of a violation of the boundaries of jurisdiction provided for by the law, i.e. when the claimant complains that the Consiglio di Stato has unlawfully assumed or denied jurisdiction

C. Caseload

6. How many judges¹ serve on your institution?

Administrative judges serving on the Council of State as councillors of State were, until 31.12.2017, 75 and, as Presidents of Section, 19, plus the President of the Council of State and the Deputy President. In total, they were 96.

In the following table you can find the number of all the administrative judges (first and second instance) working in administrative Courts.

President of the Council of State of Italy	Deputy President	Presidents of section	Presidents of T. A.R. - Regional Administrative Court	Councillors of State	Councillors of T. A.R. - Regional Administrative	
1	1	19	24	75	248	
					Total*	368
*Administrative judges until 31.12.2017						

Instead, the total number of administrative judges who are suppose to serve on the administrative justice, should be, according to the organiramme, 517.

7. How many cases² are brought to your institution per year on average?

*The average number of appeals against a first instance judgement and advisory cases, taking into consideration the last three years, is **12.480** per year.*

¹ Please include figures concerning judges only and not the number of Advocates General (which will be dealt with under question 11) or judicial assistants/clerks/researchers (which will be dealt with under question 13.

² In this question 'cases' means the average number of incoming cases per year, whether litigious (in which the judge(s) decides a dispute) or non-litigious (where a case in which there is no dispute is brought before the Supreme Administrative Court) and in all categories of cases if your Supreme Administrative Court does not deal solely with administrative law cases (for example, civil and commercial law, criminal law etc). It refers to both cases decided in writing and by oral hearing. It includes applications submitted to a Supreme Administrative Court before any filtering process is undertaken if such a mechanism exists.

	Council of the State - appeal	
	Jurisdictional	Advisory
2015	10.823	2.355
2016	10.100	2.416
2017	9.343	2.403

We must add to this data, the number of appeals on interim decisions of the first instance court.

*The average number of provisional cases brought to the Council of State per year, taking into consideration the last three years, is **2596**.*

Consiglio di Stato	
Interim cases	appeals
2015	2517
2016	2739
2017	2532

Thus, the total average number of cases brought to the Council of State per year, considering also interim measure cases, is 15076.

8. How many cases does your institution dispose of³ per year on average?

	Council of State	
	Jurisdictional	Advisory
2015	9.604	2.682
2016	9.858	2.188
2017	9.990	2.207

³ Please indicate the average number of cases that come to an end in your Supreme Administrative Court each year either through a judgment or any other decision that ends the procedure, whether it has been considered in writing or by oral hearing.

D. Internal organisation of the Supreme Administrative Court

9. Does your institution have chambers/divisions?

Yes, the Consiglio di Stato has Sezioni (divisions)

10. If yes, provide the following details:

a. How many chambers/divisions?

Seven, five of which exercise jurisdiction. The fifth litigation section (which has taken the place of an advisory chamber) has been created from the 1st of January 2018.

b. How many judges serve in each chamber/division?

There is not an established number of judges per Sezione; actually, each Sezione is composed of a number of judges varying from 10 to 13, plus 2 or 3 Presidents of panel (the eldest of which acts as President of the whole Sezione).

c. The nature of particular areas of specialisation in your Supreme Administrative Court by chamber or otherwise (if any) (e.g. commercial division, environmental division etc.).

There is not a given specialization for each Sezione provided by law.

At the beginning of the year the President of the Consiglio di Stato establishes the matters that every Sezione will deal with during the year, taking into consideration the number of pending cases and the overall workload of each Sezione

d. Do judges move between chambers/divisions? If yes, how is such movement determined?

Yes, they do.

At the beginning of the year the President of the Consiglio di Stato determines the composition of every Sezione and can also move a judge from one Sezione to another, taking in consideration, if possibile, his or her wishes.

e. Is it possible for a judge to be assigned to more than one Chamber at a time?

No, it is not.

f. Are there different levels of chambers, for example, an 'ordinary chamber' and Constitutional Review Chamber?

No, there are not

g. How many judges are usually assigned to consider and decide an average case?

Each case is considered and decided by a panel of five judges, composed by a President of panel and four judges.

h. Does the number of judges assigned to decide cases vary?

No, it does not

If yes:

(i) Based on what rules or factors?

(ii) Who decides how many judges are assigned to consider and decide a particular case?

Not applicable

- i. Is there a procedure for certain cases to be elevated to a grand chamber or plenary session?

According to art. 99 CAP, the section to which the appeal has been assigned may remit an application for examination by the Adunanza Plenaria (plenary meeting) of the Council of State with an order (ordinanza), issued at the request of the parties or ex officio, if it detects that the point of law submitted to it for examination has brought about, or might bring about conflicts with case law.

At the request of the parties or ex officio, the President of the Council of State may refer to the plenary meeting any application to resolve broad issues of particular importance or to settle disagreements within case law of the various sections.

The plenary meeting decides on the entire dispute, unless it decides to state the principle of law and return the judgment to the referring section for the rest.

If the plenary meeting considers the issue to be of particular importance, it may still determine the legal principle even when it declares the application inadmissible, unacceptable or estopped (that is, the proceedings extinguished). In such cases, the pronouncement of the plenary meeting has no effect on the specific contested measure but is binding on future matters.

If another Council of State section considers it does not subscribe to a principle of law enunciated by the plenary meeting, it has to send the determination of the appeal back to the latter with a motivated order, except in case of conflict with European law (see. CGEU, the Puligenica case).

The Adunanza Plenaria is composed of 13 judges, 3 for every Sezione (2 judges and a President of panel) plus the President of the Consiglio di Stato himself.

ii. If yes, how is this decided and how many judges decide?

In this case, the panel is composed of all the judges of the plenary session (13 judges).

j. Are judges assigned certain additional roles (e.g., rapporteur, case manager, other specific responsibilities etc.) relating to a particular case?

Yes

If yes, specify the additional roles and explain how these roles are assigned.

For each case the President of the panel assigns a judge the role of “judge rapporteur”; as such, he or she must refer in detail the case to the other judges composing the panel and, after the decision, write the judgement.

k. How significant is the role of the Chief Judge or President of the court in determining:

(i) The assignment of cases to chambers or panels of judges;

a. The assignment of a case to a Sezione is made by the President of the Consiglio di Stato according to the areas of specialisation of each Sezione that have been previously established at the beginning of the year;

b. The eldest President of panel acting as the President of the Sezione assigns the case to a panel of five judges, composed by a President of panel (he/she or one of the other Presidents of panel working in that Sezione) and four judges;

(ii) The number of judges assigned to consider and decide a particular case;

Not applicable. The number of judges assigned to consider and decide a particular case is given by the law.

(iii) The assignment of certain additional roles to judges (see (f) above);

The President of the panel assigns a judge of the panel the role of “judge rapporteur”

(iv) Any other matters you consider relevant in this context. For example, are there any other special panels, General Assemblies or bodies of judges to which cases are assigned.

See point i) above

11. Does the position of Advocate General exist in your legal system?

No, it does not

If yes, please indicate:

- (i) The number of Advocates General or equivalent members of your institution;
- (ii) The function of the Advocate General in the context of your institution; and
- (ii) The extent to which the Advocate General participates in proceedings before your institution

Not applicable

E. Research and Administrative Assistance

12. What level of research and/or administrative assistance is available to your institution?

The position of assistant judge does not exist in Italy.

Every Sezione has its own administrative office, which provides all the necessary administrative tasks (notifications, communications, organization of the hearings, ect.), whereas the legal research is part of the tasks of the judges, who can use the library of our Institution, available also in digital format.

Nevertheless, recently the "Office for the trial", originally established only in ordinary courts, has also been created in the administrative Courts (see Law decree 31 August 2016, no. 168, converted in law 25 October 2016, no. 197).

It is composed of officials working at the Courts and trainees, who help judges in their daily job, providing legal research assistance with regard to researching case – law, pieces of regulations and academic studies, necessary for the study of files. They also should help the organization of the court work, by finding similar cases which can be solved together with a leading decision, by the elaboration of statistics, by the use of technologies, etc.

13. How many officials provide legal research support to your institution?

See point 12 regarding the Office of the Trial

14. Do officials which provide legal research assistance to your institution also provide administrative assistance?

See point 12 regarding the Office of the Trial.

15. Are research and administrative supports pooled (i.e. shared between judges) or assigned individually to judges or is there both a pool and some researchers assigned to individual judges? Please explain.

See point 12

16. If research and administrative support is assigned individually to judges, is there also a research and documentation or equivalent department which provides additional pooled research support?

Yes, the Ufficio Studi (Department for training, studies and researches) is an office presided by the Deputy President of the Consiglio di Stato and composed of 20 judges from both the Regional Courts of first instance and the Consiglio di Stato, that are selected every four years by virtue of a procedure based on the comparative evaluation of the academic and professional background of the candidates.

The Ufficio Studi is in charge of:

- a. commenting the most important decisions of both national and international Courts, providing a detailed explanation of the matters involved and highlighting requirements or, on the contrary, the substantial continuity with past orientations;*
- b. organizing seminars and conferences;*
- c. taking care of the relations with other Courts, both at a national as well as at an international level.*

17. To what extent, if at all, do assistants/*réfrendaires* provide support to judges in your institution as regards specifically:

- (a) Preparation of pre-hearing documents, such as a memorandum to assist the judge prior to the hearing of a case;
- (b) Undertaking legal research to assist a judge to make a decision in a case;
- (c) Discussing aspects of a case with a judge orally or in writing;
- (d) Consideration and evaluation of the relevant law;
- (e) Undertaking comparative law analysis;
- (f) Drafting sections of judgments;
- (g) Putting forward a suggested or preliminary decision for judge(s) to consider;
- (h) Any other element that you consider is relevant in this context.

The judges of the Consiglio di Stato have no assistants.

However, a recent law has established that graduates from law university can spend a period of time in Courts (including the Consiglio di Stato) as voluntary trainees.

Every trainee is assigned to a judge, who helps him or her understand how a Court works and which are the tasks of a judge.

In that framework, a trainee may also perform, under the guidance of his or her judge, some legal research and assist to the hearings as well as to all the previous and following activities. This happen, in particular, in the framework of the Office of the Trial (see. Point 12)

F. Oral hearings

18. Is there an oral hearing in all cases?

Yes, it is

19. If there is not an oral hearing in all cases:

(a) What percentage of cases typically involves an oral hearing?

(b) On what basis (formal rules or informal determinations) is it determined which cases will have an oral hearing?

(c) Can parties to a case request an oral hearing? If yes, what is the significance or consequence of such a request?

Not applicable

20. Does deliberation take place between the judges before the oral hearing? If so, is this the practice in all cases or in some cases?

No, the deliberation takes place after the hearing.

Prior to the hearing the judges can only share informally their respective views on the case in order to prepare the discussion of the case with the parties.

21. Are time limits imposed on parties making oral submissions before your institution?

No, there are not time limits; nevertheless, the President of the panel supervises the discussion in order to keep it to the point.

22. Are parties permitted to address the Court for an uninterrupted period of time? If so, for how long?

See point 21

23. Is discussion in the oral hearing confined to matters set out in the statements or written submissions of the parties or may it involve broader legal discussion between the lawyers/a party and the Court?

In principle, the oral discussion should aim only at better explaining the arguments already set out by the parties in their previous written defensive statements.

However, during the oral discussion the parties can highlight new facts that might have occurred after the last deadline for written statements (20 days prior to the hearing).

The defendant (usually the Administration) or the intervenient can briefly explain his or her arguments, if no written statement has been produced during the whole course of the judgement.

24. Are parties permitted to file further written submissions following an oral hearing?

No, they are not.

25. Is it possible for a judge to be excluded from proceedings based on a legal opinion expressed during an oral hearing giving rise to the perception of bias?

Yes, it is possible.

There is a special and brief procedure envisaged by law: a panel of 5 judges acquires the necessary information and promptly decides if such expressions undermine the impartiality of the judge involved.

If the panel deems that the impartiality of that judge has been undermined, he or she can no longer be part of the panel in charge of deciding the case.

G. Written submissions of parties

26. What is the usual length and level of detail of written submissions of parties provided to your institution? Please indicate the approximate number of pages (1.5 line spacing) of a 'typical' written submission

- | | |
|-------------|---------------------------------------|
| 0 – 5 pages | <input type="checkbox"/> |
| 5-10 pages | <input type="checkbox"/> |
| 10-20 pages | <input type="checkbox"/> |
| 20-30 pages | <input checked="" type="checkbox"/> X |
| 30-40 pages | <input type="checkbox"/> |
| 40-50 pages | <input type="checkbox"/> |
| 50+ pages | <input type="checkbox"/> |

20. Is there a maximum length for written submissions filed by parties in a case? If yes, please provide details.

Article 3 CAP (Code of Administrative Process) establishes that the judge and the parties must write in a clear and concise manner.

The President of the Council of State has enacted the decree 22 December 2016 containing specific indications on the criteria that must be followed by the lawyers in writing pleadings: in particular, the decree establishes that the pleadings must be written in a clear, understandable manner and within certain dimensional limits in relation to the different procedures.

In the rituals of access, of silence, of the injunction, of electoral decree referred to art. 129 CAP, of compliance and in any other special rite the limit is set in 15 pages with a regulated format; in the ordinary rite, in the abbreviated rite (art. 119 CAP), in the procurement procedure, in the electoral rite referred to art. 130 CAP and in the judgments of compliance with decisions made within the framework of such rites, the limit is set at approximately 35 pages.

An exception to the limits, subject to a specific authorization from the President of the Court, is possible only in some limited cases (for instance, for difficult technical, legal or factual questions).

H. Consideration of the case

21. Can your institution raise points of law of its own motion (i.e. ex officio) or is it limited to the points raised by the parties to the case?

It is possible to raise points of law ex officio: by way of example questions of jurisdiction, of legal standing of parties, on the existence of an concrete and present interest related to the annulment of an administrative decision.

According to art. 73 CAP, if the court feels it will base its judgment on a matter that has emerged ex officio, the court indicates this at the hearing, reporting it in the minutes. If the question emerges after moving on to the decision, the court reserves its decision and by an order allows the parties a period not exceeding thirty days to deposit their briefs on the matter.

22. How is discussion, deliberation and decision-making structured in your institution?

The administrative proceeding involves a public hearing (open to the parties and third parties, see article 87.1 CAP). At the end of the public hearing, in the court's chamber, the panel of judges decides the case. Only judges may partake in the deliberations (articles 75 and 76 CAP).

23. Does your institution deliberate in a number of different languages? If so, please provide some detail. For example, does your institution have more than one official language?

No, our institution has only one official and mandatory language, that is Italian.

24. Are there rules, processes, or conventions about how discussions and votes take place?

If yes, specify the relevant rules etc.

According to art. 76 CAP the judges appointed for the hearing may be present in chambers.

The decision shall be taken in chambers by a vote of only the members of the college.

The president gathers the votes. The decision is taken by a majority.

The first to vote is the rapporteur, then the second component of the college and, finally, the president.

In proceedings before the Council of State the first to vote is the rapporteur, then the less senior in order of role, and so on until the president.

25. How are preferences for particular outcomes communicated between the judges?

The decision making process is governed by art. 76 Cap (see point 24) and judges communicate each other orally during the deliberation phase, which generally takes place once the hearing has been closed.

26. Where there is an oral hearing, to what extent does the oral hearing (as opposed to written submissions) influence the court's discussion, deliberation and decision-making?

At the hearing the parties can discuss briefly. They can highlight new facts that might have occurred after the last deadline for written statements (20 days prior to the hearing) and so may influence the Court discussion, deliberation and decision making. See answer n. 23

27. Are there any other procedural rules or conventions that you believe impact significantly on the way in which cases are considered?

No, there are not.

I. The decision of the institution

28. Is the decision delivered on behalf of the institution or is it open to each individual judge assigned to the particular case to deliver a separate judgment?

The decision is delivered on behalf of the institution. Only a collective judgment is provided, since the court "speaks with one voice" and thus no concurring or dissenting opinions may be reported. On the contrary, a public dissenting opinion by one judge is forbidden by the law, since the deliberation of the panel is absolutely secret. However, if the reporting judge does not agree with the decision taken by the majority, she/he may ask the president not to write the judgment. In this case, another judge of the panel will write the decision.

29. If the decision is delivered on behalf of the institution, does one judge write for the institution? If not, please explain how the judgment of the court is written for your institution. Are there formal rules or informal practice governing this?

The judgment of the court is pronounced on behalf of the Italian people and bears the inscription "Italian Republic" and is drawn up by the judge rapporteur and signed by the commissioner and the president of the panel.

30. How is the court's ruling/reasoning recorded?

The structure of the written judgment is predetermined by law.

31. Is there a distinction in your Supreme institution between the Judgment (i.e. reasons) and the Order (i.e. the operative ruling of the court)?

Generally, such a distinction does not exist.

Only for certain types of litigation, the statement of justification is filed after the publication of the sole ruling.

For example, in proceedings involving disputes relating to the procedures for awarding public works, services and supplies, the parties, according article 120 CAP (Code of Administrative Process) may request the advance publication of the ruling, which takes place within two days of the hearing.

Moreover, in abbreviated proceedings in certain matters (such as measures taken by the independent administrative authorities, measures relating to procedures for the occupation and expropriation for the execution of public works or of public interest, ect.), according to art. 119 CAP, when at least one of the parties, during the hearing, declares an interest in the early publication of the ruling with respect to the judgment, the ruling is published no later than seven days from the decision in the case.

In the rite relating to the elections of municipalities, provinces, regions and the European Parliament, according to article 130 CAP (Code of Administrative Process) the judgment is published no later than the day following the decision in the case. If the complexity of the issues does not allow for the publication of the judgment in the same period as in the preceding sentence, the ruling is published by being deposited with the secretariat. In this case, the judgment shall be published within the next ten days.

32. Are there any other distinctions of this nature in the decisions delivered by your institution?

No.

J. Timeframes for the decision-making process

33. How long, on average, between consideration of a case by your institution and the making of a decision? Please indicate the approximate length of time between the introduction of the case into the system of the Supreme Administrative Court (rather than the time when the case first comes before a judge for consideration) and the final resolution of the case through, for example, the pronouncement of the final decision.

The average time taken between the lodging of an appeal against a first instance decision and the definitive judgment of the Italian Consiglio di Stato would not be very relevant because of the significant differences among different categories of cases.

Some cases, considered of great importance for their impact on the national economy (such as public procurements, disputes about decisions of the Antitrust authority or of other independent authorities, expropriations, ect.) have, according to the law, a faster procedure.

For example, in the field of public procurements, the average time regarding disputes about admissions or exclusions of an enterprise to a public tender is the following:

Consiglio di Stato <i>Admissions or exclusions to public tenders (ex. Art. 120 co. 2 bis c.p.a.)</i>	<i>appeals</i>	<i>days</i>
2016	1	69
2017	82	144

For disputes on public procurements in general, except those of the previous table, the average time is the following:

Consiglio di Stato <i>Public procurements (ex. Art. 120 c.p.a.)</i>	<i>appeals</i>	<i>days</i>
2015	785	349
2016	736	308
2017	857	391

It is also to take into consideration that the Italian Consiglio di Stato is the organ of second and last instance and no filter is provided for lodging an appeal with it.

Anyway, the average time between the lodging of an appeal against a first instance decision and the definitive decision of the Consiglio di Stato, taking into consideration all kinds of disputes, is the following:

Consiglio di Stato <i>All kind of disputes⁴</i>	<i>appeals</i>	<i>days</i>
<i>2015</i>	<i>7936</i>	<i>550</i>
<i>2016</i>	<i>8022</i>	<i>487</i>
<i>2017</i>	<i>8282</i>	<i>689</i>

34. Is there a specific mandatory timeframe for deciding all cases? If yes, please provide details.

Yes, there is a mandatory timeframe for drafting decisions after the deliberation, which takes place at the end of the hearing.

The judgment must be drafted no later than the forty-fifth day from the deliberation and it is immediately made public by being lodged with the secretariat of the court, which delivered it.

In certain proceedings, parties, during the hearing, can ask the early publication of the ruling. In these cases, the ruling is published by being lodged with the secretariat no later than seven or two days from the decision in the case (article 119.par. 5, 120. par. 9, CAP); the full judgment is published thereafter.

For electoral complaints, specific proceedings are established. In this case, article 129, par. 6, CAP lays down that the case should be decided at the conclusion of the hearings with a simplified decision to be published on the same day.

35. Are there specific mandatory timeframes for particular categories of cases? If yes, please provide details of the categories of cases and the relevant timeframes.

A large number of simplified procedures are provided for in the Code of Administrative Process, which are faster than the ordinary procedure.

⁴ These data refer only to the litigation sections of the Consiglio di Stato and do not consider the decisions of "perenzione", which means the decisions taken by presidential decree to declare a claim extinguished for prolonged inactivity of the claimant.

For example, there are simplified and faster procedures for litigations regarding the right to access to public documents, the rite against the “silence of a public body” (when a public body fails to reply to a request of an administrative decision), the enforcement of previous judgements.

Moreover, there are abbreviated proceedings in the field of public procurements, administrative elections, competition law, and so on.

As a general rule, simplification or abbreviation of the proceeding means shorter time limits for the activities of the parties and of the Courts, namely for setting the date of the hearing and for the delivering of the final judgements (no later than 30 days from the deliberation).

Indeed, in case of public procurements, the judgment is in any case defined by a decision in simplified form at a hearing arranged ex officio to be held within forty-five days from the deadline for the constitution of the parties other than the applicant.

In addition to that, according to article 60 CAP (Code of Administrative Process), when deciding on the interim measure (at the first hearing following the twentieth day since the final notification and, likewise, the tenth day from the date in which the application is lodged), the college, having established the completeness of the adversarial proceedings and the investigation and after having informed all the parties, can issue, in chambers, the judgment with a simplified form of decision.

36. If there are no mandatory timeframes for deciding cases, is there a certain amount of time that it is considered appropriate for the decision-making process to take? If yes, please provide details.

37. If there are mandatory timeframes applicable to the decision-making process in your institution, is it ever difficult for the court to abide by these timeframes? If yes, what are the main reasons for this?

Generally, there are not difficulties to abide by the mandatory timeframes for drafting the judgment.

38. If there are no mandatory timeframes for deciding cases, but by convention or practice, there is a certain amount of time that is considered appropriate for the decision-making process to take, is it ever difficult for the court to abide by this timeframe? If yes, what are the main reasons for this?

K. Developments over time

39. Have the processes you have outlined in the preceding answers been subject to any significant changes in the last five years?

Yes. In 2016, new provisions have been added to the CAP: art. 120, par. 2 bis and par. 6 bis. They regulate a new fast administrative proceeding in case of challenging of exclusions and admissions in public tenders. If a party fails to challenge these acts, he or she can not make grounds of appeal related to them, while challenging the award of the contract.

The claim must be filled within thirty days and the judgment is defined in a hearing in chambers to be held within thirty days of the expiry of the deadline for the constitution of the parties other than the applicant.

40. If yes, have these changes had an effect on the way cases are considered and decided?

Yes. The proceeding before administrative courts, in these cases, is very fast and efficient. Nevertheless, doubts about the compliance of these provisions to the Italian Constitution have been raised.

41. Do these changes constitute an improvement in your view? If yes, please provide details.

Yes, from the point of view of the length and the efficiency of the administrative judicial proceeding.

I. Further comments or observations

42. Is there anything about your institution and/or its particular decision-making processes that you believe is not captured in the questions above, or any contextual information that you believe would aid our understanding of the decision-making processes in your court?

No, there is not.

Thank you for completing this questionnaire.