



SEMINAR ORGANISED BY THE FEDERAL ADMINISTRATIVE COURT OF GERMANY

IN CO-OPERATION WITH ACA-EUROPE

LEIPZIG 2 FEBRUARY 2026

**REDEFINING THE TERMS AND LIMITS OF JUDICIAL REVIEW, PARTICULARLY IN RELATION TO DISPUTES OF
A HIGHLY TECHNICAL NATURE**

QUESTIONNAIRE

The prohibition of denial of justice or - as its twin principle - the right of access to justice put courts under an obligation to hear and assess the facts of a case and to rightfully apply the law to the facts established. In some cases this is easier said than done. Especially cases of a highly technical nature may pose extraordinary challenges to the court: challenges in understanding the facts and challenges in understanding scientific or technical answers to problems. This may occur in many fields of law the administrative judge works in, such as environmental law, telecommunications law, planning law, public procurement law etc.

In order to prevent a denial of justice courts will have to deal with such questions even though their answers may lie outside of the field of competence of the administrative judge. The seminar is designed to serve as a point of comparison and a point of best practice in order to facilitate the administrative judge with more knowledge and skills in this part of his and her work. Therefore, the seminar addresses questions of gathering technical and scientific knowhow, involving experts in the procedure, evaluating technical standards and measuring the binding authority of technical documents and publications - be it legal norms or scientific standards. The seminar will also have to address questions regarding margins of appreciation of authorities in technical evaluations.

Part 1: Jurisdiction in fields of law typically producing disputes of a highly technical nature

1. Is your court competent to answer:

- Questions of fact and questions of law
- Only questions of law
- Questions of law and partly questions of fact
- In case your answer was " Questions of law and partly questions of fact", please explain:

2. Is your court competent in the following fields of law: **YES**

- Environmental law
- Health law
- Urban planning and building law and/or spatial planning law
- Telecommunications law
- Public Procurement law

Please provide other fields of law, which bear a technical challenge to your court:

LAND ARBITRATION BOARD, FINANCIAL INTELLIGENCE ANALYSIS UNIT, DATA PROTECTION





3. Give an estimate or - if possible - a number as to how many legal disputes of a highly technical nature your court is faced with on an annual basis

- In percentage of all disputes: **60%**
- In absolute numbers:

4. In what field of law, in which kind of cases do you specifically see technical challenges to the judges of your court?

Please explain:

DEPENDING ON THE PARTICULAR CASE ALL BRANCHES OF LAW MENTIONED IN QUESTION 2 MAY HOLD CHALLENGES OF A TECHNICAL NATURE TO THE JUDGE

Part 2: Facing modern challenges in disputes of a highly technical nature

5. Does your court employ technical staff in order to help the judges better understand technical questions?

- Yes
 - o As research assistants
 - o As additional judges
 - o In another function (e.g. as a separate panel etc.).

Please explain:

- **NO**

6. In case your answer was yes:

a) How many persons of the technical staff are employed at your court?

- In percentage of all staff involved in decision-making:
- In absolute numbers of all staff involved in decision-making:

b) How are these persons involved in the decision-making process? Please explain:

c) How does the transfer of knowledge take place? Please explain (e.g. preparation of reports, discussions in session etc.):

7. How does your court cope with technical questions, which need to be understood to solve the case?

- **Judges have to understand the technical questions/have to acquire the necessary knowledge themselves**
- Judges may rely on external experts
- Judges may rely on internal experts
- Other (please provide a method):

Please explain your answer:

8. If judges may rely on external experts: Are these experts

- Chosen by the court
- Recommended by one of the parties
- Recommended by a public authority
- Other (please provide a method):





Please explain your answer:

9. To answer technical questions: May the court rely on technical expertise as laid down in:

- Regulations
- **Other government documents or documents by public bodies**
- **Documents published by the EU Commission**
- Documents published by experts or groups of experts
- Other (please provide a means of technical expertise):

Please explain your answer:

10. If your answer was yes regarding any of the criteria of question 9: To what extent does this technical expertise have a binding effect.

- The judges are bound by these documents
- **The judges may rely on these documents without being bound**
- The judges are not formally, but factually bound by these documents
- Other (please provide the extent of binding effect):

Please explain your answer:

11. How does the court react if technical questions relevant to the case cannot be answered, not even with expert help?

Please explain:

THE COURT REFERS ON ITS DISCRETIONARY POWER TO RESOLVE THE ISSUE.

12. Do these criteria described in part 2 of the questionnaire also apply to proceedings granting temporary relief?

- Yes, without modification
- **NO.**

Please explain the modifications:

Part 3: Principles determining the assessment of a case's factual basis

13. Which constitutional or other general principle of law determines the obligation of the court to assess the case on a factual basis:

- **The prohibition of the denial of justice**
- **Human rights**
- **Aarhus Convention**
- Other.

Please explain:

14. In your jurisprudence, does the legislature and/or the competent public authority dispose of a margin of appreciation when addressing technical questions?





Please explain:

15. Is there any (legal) procedure established to remedy shortcomings in the assessment of the case's factual basis?

Please explain:

RETRIAL ON A MISTAKE OF FACE WHICH LED TO A SUBSTANTIVE MISCARRIAGE OF JUSTICE

Part 4: Case study

16. Can you name any cases your court has had to answer which are of special relevance to the questions asked in this questionnaire?

Please give a brief description of the case and your court's solution to it:

