

## Seminar organised by the Hellenic Council of State and ACA-Europe

Rhodes, 15-16 May 2026

### New elements in the organisation and functioning of the Public Administration and Administrative Justice

#### Questionnaire

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Responses from the Supreme Administrative Court of Sweden

#### I. New models of organisation and functioning in the Public Administration

The aim and scope of Part I of this questionnaire is:

- (A) To examine collaboration with private individuals (who are not public servants) in the unilateral action taken by the Administration, and more specifically to study the delegation to private individuals of tasks traditionally performed by public servants during the procedure of issuing an administrative act. Participation, in general, of citizens/interested parties in administrative proceedings (e.g. preliminary hearings, participation and all forms of consultation), collaboration with private individuals in the Administration's contractual activity (works, supply and service contracts, concession contracts, public-private partnerships, etc.), privatisation of public-sector bodies and creation of legal entities governed by private law are not covered by this questionnaire.
- (B) To study the integration of private-sector organisational models into the tools and operating methods of the Public Administration.

#### A. Delegation of administrative tasks to private individuals

##### 1. General provisions

Does your legal system recognise the following forms of collaboration between private individuals and the Public Administration?

Tasks assigned to private individuals during the procedure of issuing [adopting] an administrative act

Recruitment of private individuals who are not civil servants within the Administration's structure, e.g. executive managers, senior managers



## 2. Regarding the involvement of private individuals in administrative proceedings

i. If the involvement of private individuals in administrative proceedings (as indicated above) is provided for in your legislation, please mention specific provisions.

- Constitutional provision:
- General provision of a legislative nature .....
- Specific legislation:

*Constitutional: Chapter 12, Section 4, Paragraph 2 of the Instrument of Government*

*Specific legislation: For instance, in the field of distribution of state subsidies, Act (1995:361) on the transfer of administrative tasks to the Swedish Sports Confederation, and Act (1992:318) on the transfer of administrative tasks within the Ministry of Culture's area of activity.*

ii. Does national case-law or legislation define criteria pursuant to which the delegation of administrative tasks to private individuals is authorised?

*The constitutional provision enabling the delegation of administrative tasks to private individuals does not set out any specific criteria for such delegation. Chapter 12, Section 4, Paragraph 2 of the Instrument of Government only states the following: Administrative tasks may be delegated to other legal entities and individuals. If the task involves the exercise of public authority, delegation may only be made with support of the law.*

*However, in accordance with the Supreme Administrative Court's ruling HFD 2019 ref. 43, the transfer of an administrative task to a private entity must not result in the restriction of individuals' fundamental rights.*

*Furthermore, the Constitution does not allow for the delegation of administrative tasks involving the exercise of public authority to private individuals that are non-Swedish citizens (cf. e contrario Chapter 10, Section 8 of the Instrument of Government).*

iii. How are administrative tasks delegated to private individuals? Please provide specific examples.

Directly by law.....

*Decision making powers are conferred to the Swedish Sports Confederation, in accordance with the Act (1995:361) on the transfer of administrative tasks to the Swedish Sports Confederation*  
*For instance, decision making powers are conferred to the Association for Visual Arts Copyright in Sweden regarding the individual allocation of government funds to visual and applied artists, in accordance with the Act (1992:318) on the transfer of administrative tasks within the Ministry of Culture's area of activity*



*In the Act (2003:778) on protection against accidents, a person other than a municipal officer may be given the authority to issue injunctions and prohibitions on behalf of the municipality in connection with fire safety inspections during chimney sweeping.*

By an administrative act .....

*For instance, the Police Authority may issue an appointment to serve as a detention officer or passport inspector for someone who is not employed as such by the Police Authority and is not a police officer, in accordance with Section 23a of the Police Act (1984:387)*

*In the act (2023:421) on Security Guards, contains provisions on the conditions under which and for what purposes security guards may be used. The law also contains provisions on the appointment of security guards and on the interventions of security guards. The Police Authority appoints security guards.*

*Individuals may, after application, be approved as principals of preschools, compulsory schools, adapted compulsory schools, upper secondary schools, adapted upper secondary schools, and leisure-time centers in accordance with Chapter 2, Section 5 of the Education Act (2010:800)*

By contract .....

Other .....

*Companies that inspect and assess the goods and services of others must be reviewed and approved – accredited by a public accreditation body – to be able to fulfill their commitments. For instance, accreditation is needed to perform tasks involving the inspecting road safety of vehicles or the safety of elevators.*

**iv. Which administrative tasks can be entrusted to private individuals [content of the tasks]?**

Please provide specific examples from legislation and case-law.

Preparation of the administrative act:

Issuance [adoption] of the administrative act:

Implementation of the administrative act:

Other .....

*No certain requirements or restrictions are set out in the Constitution in regard of the tasks that may be delegated, other than that non-Swedish citizens may not exercise public authority.*

*The delegation of powers must have the basis in an act of law, if it involves exercise of public authority. In other circumstances, it must have the basis in an ordinance or an administrative decision by the Government. The tasks vary and may involve the preparation of adoption of an administrative act. Other*

*times it may involve the mere implementation of the administrative act. The legal order seems to be rather heavily influenced by EU law, requiring both extensive controls of goods and services, and in many cases, it also encompasses requirements on the transfer of powers to private companies with regard to the exercise of certain controlling tasks.*

**v. What is the extent [range] of administrative tasks that can be entrusted to private individuals?**

Please provide specific examples from legislation and case-law.

- |  |                                     |
|--|-------------------------------------|
| Advisory tasks .....                   | <input type="checkbox"/>            |
| Decision-making tasks .....            | <input checked="" type="checkbox"/> |
| Control and verification tasks:        |                                     |
| Establishment of the facts .....       | <input type="checkbox"/>            |
| Legal qualification of the facts ..... | <input type="checkbox"/>            |
| Other .....                            | <input checked="" type="checkbox"/> |

*For instance, functional inspection of ventilation systems, or elevators, may be carried out by someone certified by public accreditation bodies. Another example is that the control of greenhouse gas emissions from ships in ports shall be exercised by accredited private bodies, in accordance with EU law.*

**vi. Are there any cases where the involvement of private individuals in administrative proceedings is prohibited?**

- |                      |                                     |
|----------------------|-------------------------------------|
| No                   | <input checked="" type="checkbox"/> |
| Yes (please specify) | <input type="checkbox"/>            |

If yes, which legal instrument provides for the corresponding prohibitions?

- |                    |                                     |
|--------------------|-------------------------------------|
| Constitution ..... | <input checked="" type="checkbox"/> |
| Legislation .....  | <input type="checkbox"/>            |
| Other .....        | <input type="checkbox"/>            |

Please indicate any relevant case-law.

*To the best of our knowledge, no case-law exist on this point. The prohibition on the exercise of Swedish public authority by foreigners is laid down in the Constitution, and the Constitution also requires that the basis for the exercise of public authority by private individuals is laid down in an act of law. This has not been an object of dispute in case-law.*

**3. Qualifications and selection procedure for private individuals**

**i. What is the procedure provided for in the legislation for the certification of private individuals?**

Please mention specific examples.

- |                                     |                          |
|-------------------------------------|--------------------------|
| Participation in examinations ..... | <input type="checkbox"/> |
|-------------------------------------|--------------------------|



- Selection based on criteria .....
- Other:

*It varies. General rules on accreditation are laid down in the act on Accreditation and Technical Control (2011:791), which supplements the EU Regulation (EC) 765/2008. The Board for Accreditation and Technical Control decides, upon application, to accredit a private person to perform certain tasks that need to be performed by accredited bodies, for instance mandatory vehicle control. But in specific instances, such as when a person applies for a certificate to perform tasks as police arrest guard, the authority that will perform oversight over that person examines the matter, and the Administrative Procedure Act (2017:900) is applied in the review process.*

**ii.** How are the private individuals who will be entrusted with a specific administrative task selected? Please give examples.

- Random selection from a list/register .....
- Selection from a list/register based on criteria .....
- Absolute discretionary power of the Administration .....
- Selection by the citizen [upon a declaration] .....
- Other .....

*It varies. Usually upon application. The applications are carefully examined by a public body appointed for the task, or, as the case may be, by a supervisory authority in a certain field of law. The examination is carried out in accordance with provisions in a law or an ordinance. That same authority normally also has the power to revoke a decision to afford a certificate, if the circumstances so mandates or requires.*

**iii.** Is there a legal provision and/or other instrument governing the actions of private individuals when performing administrative tasks? Please indicate specific provisions.

- No
- If yes,
- General normative act (e.g. Code of Administrative Procedure)
- Specific normative acts .....
- Codes of Conduct, good practices (soft law) .....
- Other .....

*Private individuals must adhere to the general principle of objectivity, as laid down in the Constitution (Chapter 1, Section 9 of the Instrument of Government.) According to that provision, courts of law, administrative authorities and others performing public administration functions shall pay regard in their work to the equality of all before the law and shall observe objectivity and impartiality. Other than that,*

*there are no general normative acts that will automatically apply. Instead, it may be laid down in different acts of law specific requirements of what a person performing the actual tasks must have regard to. The Administrative Procedure Act is oftentimes made applicable in parts, for instance with regard to the provisions on legality and objectivity, provisions on conflicts of interest, and – when decision-making powers is conferred – with regard to the right to be heard, the requirement to communicate the case file and to make reasoned opinions.*

**iv.** How are the impartiality and integrity of private individuals guaranteed under the law? Please indicate specific provisions.

- |   |                                     |
|---|-------------------------------------|
| Incompatibilities .....                 | <input type="checkbox"/>            |
| Impediments .....                       | <input type="checkbox"/>            |
| Criminal or disciplinary liability..... | <input checked="" type="checkbox"/> |
| Other .....                             | <input checked="" type="checkbox"/> |

*With regard to the constitutional provision laying down the requirements in accordance with the principle of objectivity, Chapter 1, Section 9 of the Instrument of Government, see above (3.iii).*

*The provisions on conflicts of interest in the Administrative Procedure Act, Sections 16–18, are normally made applicable by the provisions governing the procedure when a private individual participates in the handling of a case in a manner that may influence the authority's decision in the matter.*

*When private individuals have the authority to perform administrative tasks that include the exercise of public authority, they may face responsibility under the rules on official misconduct (Chapter 20, Section 1 in the Penal Code). Criminal liability for official misconduct is not limited to decisions and actions that in themselves constitute the exercise of public authority. Rather, it encompasses all actions in the exercise of public authority i.e., also certain actions that in themselves do not constitute the exercise of public authority but which have a "natural and close connection" to the exercise of public authority and are significant for how it will ultimately be carried out. However, there is no case-law defining the actual scope of responsibility with regard to private individuals performing tasks in the public administration. The provision, as such, is not applied particularly often.*

**v.** What are the legal consequences in the event of an error, offence or failure on the part of the private individual?

- |  |                                     |
|--|-------------------------------------|
| Withdrawal of the certification  | <input checked="" type="checkbox"/> |
| Disbarment from the professional association                                 | <input type="checkbox"/>            |
| Imposition of a fine or other penalty  | <input type="checkbox"/>            |
| Personal liability of the private individual (civil, criminal, disciplinary) | <input checked="" type="checkbox"/> |



- Revocation of the administrative act in the issuance of which the private individual collaborated
- Civil liability of the State
- Other

*Naturally, not all errors may result in a withdrawal of a certification, but if the error is serious enough the revocation of a certification might be a legal consequence. Civil liability for the State may also be the result of such an error. Criminal liability is also a potential legal consequence (see above, 3.iv).*

#### 4. Administrative checks [controls]

i. Does the Administration carry out checks on private individuals when they perform administrative tasks?

- Yes
- No

ii. If yes, at what stage are the checks carried out?

- A priori
- A posteriori
- At any time

iii. How are checks activated?

- Following a complaint/administrative appeal
- Ex officio

iv. How extensive are the checks?

- Checks based on sampling
- Mandatory checks for all actions

v. What is the nature of the checks?

- Of legality
- Of the substance, of appropriateness

vi. What is the type of checks?

- On persons
- On actions



vii. Are the conclusions of private individuals binding on the Administration?

Yes

No

*It is not easy to give a simple answer to these questions. To a large extent, the answers depend on the working methods of individual authorities, not least the supervisory authorities. The methods for checks are not primarily set out in legal instruments. Normally, supervisory authorities perform their controls and checks both before and during the performance of a task by a private individual. Depending on the circumstances, checks may occur as a result of a complaint, or as a result of actions taken ex officio, and they may include both legal requirements that have to be fulfilled, for instance in regard of running a private school, and also extend to the appropriateness of the individual in question, for instance the appropriateness of person performing tasks as a security guard. Depending on the nature of the task, checks may be performed based on sampling, or based on risk assessment, or on mandatory requirements to thoroughly scrutinize all applicants in an application procedure.*

## 5. Judicial review

i. Can the actions of private individuals be subject to judicial review? Please indicate specific provisions or the relevant case-law.

No

Yes

If yes, what is the scope of the judicial review?

The review directly targets the action of the private individual (per se) .....

The review indirectly targets the action of the private individual (appeal lodged against the final act of the Administration, whether explicit or implicit, e.g. appeal lodged against the tacit acceptance of the actions of private individuals by the Administration) .....

*Not all administrative acts private entities may be challenged in the courts. Some acts are challengeable, and some are not.*

*The Administrative Procedure Act is not generally applicable to acts taken by private persons exercising administrative tasks. However, oftentimes the Administrative Procedure Act is made applicable in parts through specific provisions in law, if the Parliament finds it appropriate to do so. Furthermore, the Supreme Administrative Court has established that the provisions on judicial review in the Administrative Procedure Act are to be applied when a decision by a private body concerns a person's civil rights as set out in Article 6 of the European Convention on Human Rights (cf. HFD 2019 ref. 43). According to those provisions, a decision by an authority may be appealed to an administrative court, if it can be assumed that the decision will affect someone's situation in a significant way. At the end of the day, any action by a private individual,*

*acting in the course of their performance of public administrative authority, which actions are – in one way or the other – approved by an authority, are generally the object of judicial review in accordance with the rules in the Administrative Procedure Act.*

ii. What types of disputes arise when challenging the actions of private individuals?

administrative disputes

private disputes

iii. Please mention typical cases from national case-law concerning the delegation of administrative tasks to private individuals.

*No typical case type exists in the Supreme Administrative Court's case-law. But the Supreme Administrative Court's ruling HFD 2019 ref. 43 may be mentioned (of relevance to Article 6 ECHR, see above), concerning the distribution of state subsidies.*

## **B. Integration of private-sector methods and organisational models into the functioning of the Administration**

### **1. Recruitment of senior managers outside the hierarchy of the civil service**

i. What are the objectives of recruiting private individuals as senior managers within the Administration?

*The objectives of recruitment vary from agency to agency and depend on the position in question. In accordance with Section 4 of the Public Employment Act (1994:260), employment by agencies shall, with only a few exceptions, be based solely on objective grounds, such as merit and skill. Skill shall be given priority unless there are special reasons for doing otherwise. The provision laid down in Section 4 of that Act is, in essence, basically a reflection of the constitutional principle of objectivity as laid down in Chapter 1, Section 9 of the Instrument of Government.*

ii. In which sectors of the Public Administration is it permissible to recruit senior managers who do not belong to the hierarchy of the civil service, and in which sectors is it prohibited?

*It is difficult to answer this question, because employees immediately become civil servants when they are recruited. As stated above, recruitment is in essence based on the objective to employ the most skilled and the most merited person available. This basically means that, regarding most positions within the public*



*administration, anyone outside of the “hierarchy” is eligible for appointment, but once employed they are part of the administration, and hence by definition civil servants. They will not act in an “external” capacity.*

**iii.** What criteria does the Administration use to select external senior managers?

*Recruitment procedures within Swedish public authorities are generally open and transparent application procedures in which the position or positions are advertised publicly (except with regard to the position as Chancellor of Justice, Prosecutor General, National Police Commissioner, or Supreme Commander of the Armed Forces). As stated above (i), employment by agencies shall, in accordance with Section 4 of the Public Employment Act, with only a few exceptions, be based solely on objective grounds, such as merit and skill. Skill shall be given priority unless there are special reasons for doing otherwise.*

*There are some exceptions to the rule on openness and transparency. When it comes to appointments of heads of agencies, the position is regularly advertised publicly, but information about those who have applied for the position will be held secret.*

**iv.** What is the nature of the duties of external senior managers?

- |                 |                          |
|-----------------|--------------------------|
| Decision-making | <input type="checkbox"/> |
| Advisory        | <input type="checkbox"/> |
| Other           | <input type="checkbox"/> |

*Not applicable.*

**v.** Does error on the part of a senior manager give rise to:

- |   |                                     |
|---|-------------------------------------|
| Civil liability of the State                                      | <input checked="" type="checkbox"/> |
| Personal liability of the manager (civil, criminal, disciplinary) | <input checked="" type="checkbox"/> |

## 2. Organisational models

**i.** Does your country use New Public Management, Public Value Management, Digital Era Governance, or New Public Governance policies in the organisation of its Public Administration, for example, to digitise procedures, achieve objectives, ensure accountability, evaluate efficiency, promote the rational use and distribution of resources, control expenditure and ensure compliance with budget restrictions, codify legislation, promote career progression, train staff, etc.? Please provide specific examples.



*The Swedish Government does not explicitly use any of the above mentioned terms to describe the organization of the state's public administration. The present official goal of government administration policy was established already in 2010. The overarching goal – which can be perceived more of a vision rather than a concrete goal – is to have an innovative and collaborative government administration that is in compliance with the rule of law and efficient, has well-developed quality, service, and accessibility, and thereby contributes to Sweden's development and effective EU work. The Government Bill "Public Administration for Democracy, Participation, and Growth" (Govt. Bill 2009/10:175), in which this objective was proposed to the Parliament for approval, highlights, among other things, a focus on electronic administration with computerized procedures and the importance of continued development of a results-oriented culture within the state administration (Govt. Bill. 2009/10:175 pp. 27-30). The Government shall annually include in the Budget Bill a report on how the policies pursued contribute to achieving the parliament-mandated goal.*

**ii.** Is there a specific provision for the organisation of the Administration based on the above-mentioned models (Constitution, legal provision, etc.)?

*No, not explicitly. It could be noted, though, that the Government seem to want to have fewer but bigger state agencies, and thereby having means to for instance gather administrative functions to fewer entities and having a possibility to achieve a more flexible structure of the administration. It is not an explicit goal, although it may be perceived as imbedded implicitly in in the policy of achieving a more effective administration. The merger of local and regional authorities into single central authorities has been ongoing since the 1990s. One of the most recent examples of this development is the merger in 2015 of several regional police authorities into one single central Police Agency.*

**iii.** In which public services and agencies is this type of organisation used?

- The Administration stricto sensu
- Public enterprises
- Other public entities

**iv.** Are the policies for achieving the objectives designed:

- At national level
- At regional level
- By subject-matter
- By taking into account specific public entities
- Other

**v.** Have specific objectives been set out for the action of the Administration? Please provide examples.



*The general official goal of government administration policy is, as stated above, to achieve an innovative and collaborative government administration that is in compliance with the rule of law and efficient, has well-developed quality, service, and accessibility, and thereby contributes to Sweden's development and effective EU work.*

*Specific administrative goals could be set out in decisions by the Government. Such decisions may be directed against specific authorities, for instance with regard to the digitization of case handling and the use of automated decision-making procedures.*

If yes, is their accomplishment:

- Optional
- Mandatory

Does failure to meet these objectives lead to:

- Personal consequences for the senior managers
- Legal consequences for the assessed organisation
- Financial consequences for the assessed organisation

*If specific goals are set out, they are technically mandatory. The authority shall make efforts to achieve the goals, and the achievements are usually followed up annually by the Government. However, public officials will not be personally responsible for meeting the goals.*

Are incentives of any kind provided for civil servants (e.g. remuneration) or public entities to ensure that these objectives are achieved?

vi. Are there any indicators for evaluating the action of the Administration in relation to the following factors:

- Compliance with the regulatory framework
- Effectiveness
- Efficiency
- Economy
- Achievement of strategic objectives
- Other

*There are several indicators used for evaluating the effectiveness and efficiency of the administration, as well as for evaluating the compliance with economic administrative framework and specifically set goals. The evaluation is performed by the Government annually in the follow-up of the agencies' performance in its presentation to the Parliament in the Budget Bill. Recently a government agency was tasked to evaluate the*



*indicators and the routines for evaluation of the administration. The agency subsequently presented its proposal for new indicators, focusing on three themes: 1) the public's assessment of the work of authorities, 2) the operational costs of the authorities, and 3) the authorities' assessment of internal management and control. Additionally, the proposal points to two international indicators as comparison figures, namely 4) OECD's measure Trust in Government, and 5) Transparency International's measure Corruption Perceptions Index (CPI). To our knowledge, so far, no decision has been taken by the Government in regard of the proposal.*

## II. Alternative methods for resolving administrative disputes

### 1. General provisions

i. Does your legislation provide for alternative dispute resolution (ADR) in cases involving public law/administrative law?

Arbitration

Mediation

Other:

*The legislation does not allow for any alternative dispute resolution in administrative disputes.*

ii. Are there categories of administrative disputes that are excluded from ADR by law or according to case-law?

*\* Please elaborate on your answer, citing any relevant legislation and/or case-law*

*Not applicable.*

### 2. Settlement and Mediation

*\* Please elaborate on your answers, citing any relevant legislation and/or case-law.*

i. In administrative disputes, is it permissible for the Administration and private individuals/legal entities to sign a settlement agreement or other similar document (without prior mediation)?

Yes

No

ia. If yes,



Is this option expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

*Not applicable.*

Does this option only apply to the settlement of administrative disputes that are already under way, or can it also be used to prevent administrative disputes from arising in the first place?

*Not applicable.*

Do the law or case-law distinguish between application for annulment (judicial review limited to the legality) and appeal on the merits (full judicial review of both legality and substance)?

*Not applicable.*

Is there a special procedure for initiating and conducting this alternative dispute resolution method, or are all matters left to the discretion of the parties involved?

*Not applicable.*

After signing a settlement agreement (or other similar document), is ratification by a court required?

Yes

No

If yes, by which court?

*Not applicable.*

If no, can the legality of the settlement agreement (or other similar document) be examined by the judge on an incidental basis? Under what circumstances could the settlement be considered null and void and without legal effect?

*Not applicable.*

After being signed and/or validated, as applicable, does the settlement agreement have the force of res judicata? Can the enforcement of this document be pursued?



*Not applicable.*

Which court has jurisdiction over disputes concerning such enforcement?

*Not applicable.*

**ib.** If the signing of a settlement agreement or other similar document between the Administration and private individuals/legal entities is not permitted in your country, this prohibition results from:

- a legislative provision
- a general principle of law

*The legal order does not recognize settlement agreements or other ADR methods as possible means or instruments to solve disputes in the field of administrative law. In accordance with the principle of rule of law, the absence of rules allowing for such dispute resolution is indicative of a prohibition to act. There are simply no legal grounds for administrative authorities to lawfully take such actions.*

**ii.** Does your country provide for a mediation procedure between the Administration and private individuals/legal entities for administrative disputes?

*\* The term 'mediation' is used here to refer to a procedure conducted by an independent and impartial third party, and not to administrative appeal procedures addressed to the Administration or to a body that is hierarchically dependent on the Administration.*

Yes   
No

**ii.a.** If yes,

Is it expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

*Not applicable.*

Is it mandatory or optional?

*Not applicable.*



If it is optional, does it require:

- The mutual agreement of the parties
- Only the intention of the Administration
- Only the intention of the private individual/legal entity

Specifically with regard to the State as a party to the dispute, is mediation initiated:

- After approval by a special committee
- By the administrative authority involved in the dispute
- Other

*Not applicable.*

At what stage can a case be referred for mediation?

- Necessarily before the introduction of legal proceedings
- At any stage of the litigation proceedings

Is there a specific piece of legislation governing the mediation process?

- Yes
- No

If yes, please specify:

*Not applicable.*

Which principles of trial apply to the mediation process (hearing of the parties, adversarial principle, equality of arms, publicity, representation by a lawyer?)

*Not applicable.*

How is the impartiality of the mediator ensured?

*Not applicable.*

Is there any interim relief (stay of execution, etc.) during the mediation process? If yes, who is competent to hear the case?

*Not applicable.*

At the end of the mediation process,



If an agreement is concluded:

A document is drawn up

Other possibility (please specify)

*Not applicable.*

If an agreement is not concluded:

Is a time limit set for bringing the matter before the competent court?

Are the litigation proceedings already under way (if applicable) continued?

*Not applicable.*

In the event that a document is drawn up following mediation, do the rules concerning the settlement procedure (see above) apply, or are there differences? If yes, please specify.

*Not applicable.*

**ii.b.** If no mediation process is provided for, is this exclusion provided for in:

- a legislative provision
- a general principle of law

*The legal order does not recognize mediation and other ADR methods as possible means or instruments to solve disputes in the field of administrative law. See answer above, 2.ib.*

### 3. Arbitration

\* Please elaborate on your answers, citing any relevant legislation and/or case-law.

**i.** In administrative disputes, is arbitration between the Administration and private individuals/legal entities permitted in your country?

Yes

No

**ia.** If yes,

Is this option expressly provided for in a legislative text (Constitution, law) or does it derive from a general principle of law?

*Not applicable.*



Does it concern both application for annulment (judicial review limited to the legality) and appeal on the merits (full judicial review of both legality and substance)? Are there any exceptions provided for by law or established by case-law?

*Not applicable.*

Is it mandatory or optional?

*Not applicable.*

**ib.** If arbitration is not permitted, is this prohibition due to

- a legislative provision
- a general principle of law

*See answer above, 2.ib.*

**ic.** If arbitration is optional, does it require:

- The mutual agreement of the parties
- The sole intention of the Administration
- The sole intention of the private individual/legal entity

On the part of the State, is arbitration initiated:

- After approval by a special committee
- By the administrative authority involved in the dispute
- Other

*Not applicable.*

**ii.** For disputes arising from contracts between private individuals/legal entities and the State, do the common provisions relating to commercial arbitration (domestic or international) apply, or is there a special regime?

If there is a special regime, please briefly mention the elements that differentiate it from the commercial arbitration regime.

*Yes, the common provisions relating to commercial arbitration apply.*



iii. Is arbitration provided for in contracts falling within the scope of Directives 2014/24/EU and 2014/25/EU?

If yes, have any issues been raised regarding the application of the rules governing the performance of these contracts? How have the courts addressed such issues in the relevant case-law?

*There is no case-law on this issue.*

iv. How are the independence and impartiality of the arbitrator ensured?

*Section 8 of the Arbitration Act (1999:116) stipulates that an arbitrator must be impartial and independent. An arbitrator shall, at the request of a party, be removed from their assignment if there are circumstances that could undermine confidence in the arbitrator's impartiality or independence. Such a circumstance shall always be deemed to exist, 1. if the arbitrator or anyone closely related to the arbitrator is a party to the dispute or can otherwise expect to gain or lose significantly from the outcome of the dispute, 2. if the arbitrator or someone close to the arbitrator is a member of the board of a company or other association that is a party or otherwise represents a party or someone else who can expect considerable benefit or detriment from the outcome of the dispute, 3. if the arbitrator, as an expert or otherwise, has taken a position in the dispute or assisted a party in preparing or conducting its case in the dispute, or 4. if the arbitrator has received or reserved compensation in contravention of Section 39, Second paragraph, of the same Act.*

v. Is there any interim relief when an administrative dispute has been submitted to arbitration? If yes, which body is competent to hear the case?

*Not applicable.*

vi. In arbitration concerning administrative disputes:

	yes / no
Is there an obligation to make publicly available the basic information and documents relating to the proceedings?	<input type="checkbox"/> <input type="checkbox"/>
Is the participation of third parties permitted?	<input type="checkbox"/> <input type="checkbox"/>
Is legal representation mandatory?	<input type="checkbox"/> <input type="checkbox"/>
If yes, is legal aid available?	<input type="checkbox"/> <input type="checkbox"/>
Is the hearing public?	<input type="checkbox"/> <input type="checkbox"/>
Is the arbitral tribunal obliged to give reasons for its award?	<input type="checkbox"/> <input type="checkbox"/>
Is the arbitral award made publicly available?	<input type="checkbox"/> <input type="checkbox"/>

vii. During the proceedings, the applicable system is:

the adversarial system



the inquisitorial system

**viii.** What powers does the arbitral tribunal have?

Reviews the legality of administrative acts of a non-pecuniary nature

Reviews the legality of an administrative act of a pecuniary nature (fine, etc.)

Annuls/amends an administrative act of a non-pecuniary nature

Annuls/amends an administrative act of a pecuniary nature

Addresses only recommendations to the Administration

Restricts itself to awarding compensation for damages

Does the arbitral award have effect:

Erga omnes (with regard to all)

Inter partes (between the parties)

*The questions are left unanswered, as the arbitral tribunal is not handling administrative cases.*

Is it considered 'case-law' for other cases?

If the answer to the last question is yes, please explain.

*Not applicable.*

Can the validity of the arbitral award be challenged in court?

Yes

No

If yes, is the validity of the arbitral award reviewed directly or incidentally?

*Not applicable.*

Is it possible to waive the right to judicial review?

*Not applicable.*

Which courts have jurisdiction?

*Not applicable.*



What is the scope of the judge's review according to case-law?

*Not applicable.*

In arbitration, is the concept of public policy different, according to case-law, in cases where the State (or a legal person governed by public law) is a party to the arbitration? If yes, what are the differences compared with the concept of public policy in arbitral proceedings between private individuals?

*Not applicable.*

In arbitration, in addition to the rules of European competition and consumer protection law (see C-126/97, *Eco Swiss China Time Ltd v Benetton International NV* and C-168/05 *Mostaza Claro v Centro Móvil Milenium SL*, respectively), has case-law recognised other rules of EU law as rules of international public policy? If yes, please mention the relevant cases.

*Not applicable.*

Which body has jurisdiction to hear disputes arising during the enforcement of an arbitral award? Has case-law dealt with special cases where enforcement has been contested on the grounds of the administrative nature of the dispute?

*Not applicable.*