



Bundesverwaltungsgericht



**Seminar organized by the Federal Administrative Court of
Germany and ACA-Europe**

**Functions of and Access to Supreme Administrative
Courts**

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Answers to questionnaire: Spain



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ACA-Europe Seminar on Functions of and Access to Supreme Administrative Courts

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Oberverwaltungsgericht Berlin-Brandenburg
(Higher Administrative Court Berlin-Brandenburg)

Questionnaire

Introduction

One of the most important tasks of ACA- Europe is to foster mutual understanding of the jurisprudence of the member states. The recognition and evaluation of the jurisprudence of the Supreme Administrative Courts of other member states is a key prerequisite for the development of a European legal community. For this purpose it is not sufficient to be able to read the decisions of the other member courts. In order to really understand their jurisprudence it is also eminent to understand under what conditions and traditions our colleagues perform their duties.

The conditions Supreme Administrative Courts work under are among others strongly determined by the specific functions a Supreme Administrative Court has in its national legal order. The specific functions on their part might have strong influence on how the access to the Supreme Administrative Court is designed and what scope of assessment of a case is applied. This leads to a number of questions: Which “filters”, for example, does administrative procedural law incorporate into the procedure, if it does at all? Does the procedure require a special admission or can every case be brought to the Supreme Administrative Court by the parties? Are only legal questions or also facts to be discussed?

Dealing with these questions the seminar to be held in Berlin from 12th to 14th May 2019 hopes to contribute to a deeper mutual understanding of the decisions of the member states’ Supreme Administrative Courts. It shares this objective with the closely linked seminar taking place in Dublin on 25th and 26th March 2019, which will lay an emphasis on the internal mode of decision making, asking how our courts decide. Both seminars will deal with different aspects of the ways of our judicial conduct, deliberation and reasoning which are all important to understand the jurisprudence of the different member states.

These aspects cannot be studied efficiently from manuals, so ACA-Europe seminars are the right place to assess these important features of the judge’s daily work.

I. Functions of the Supreme Administrative Court (SAC)

1. a) How many **instances** are known in your (administrative) jurisdiction?

From the perspective of the Spanish constitution, there is no formal right to a second hearing in the administrative jurisdiction. That is why the procedural system established in the Law 29/1998, on Administrative Jurisdiction, includes some issues which are resolved in single instance (for example, the judgments pronounced by single-judge courts with respect to claims of an amount less than 30 000 euros). With this exception, the judgments of the Provincial Courts can be appealed before the Administrative Chambers of the Autonomous Regions' High Courts of Justice, and the judgments of the Administrative Central Courts can be appealed before the Administrative Chamber of the High National Court (*Audiencia Nacional*). In turn, the judgments pronounced in single instance by single-judge courts (although with important constraints) and the judgments pronounced by collegiate courts can be appealed in cassation before the Supreme Court (which, by its nature and legal regime cannot be defined, properly speaking, as a second instance).

b) Does your SAC also serve as a first instance court?

Yes, it is in charge of the appeals against the acts and provisions of the Government of the nation and against the acts and provisions of the constitutional bodies of the State, when they can be appealed before the administrative jurisdiction (for example, decisions on personnel matters of the Spanish Parliament).

c) If so, under what circumstances does your court serve as a first instance court?

- depending on the subject-matter?

No, as already said, it depends on the body responsible of the challenged act.

- depending on the importance of the case?

The importance of the case is never a criterion which defines competence.

- depending on a choice by the plaintiff (alone) or the parties (by agreement)?

The jurisdiction rules are compulsory and are not subject to the discretion of the parties.

- depending on other criteria?

The jurisdiction is objectively determined by the body responsible of the challenged act.

Please explain.

d) What is the percentage of first instance cases compared to the overall case load? Please give statistical data about the quantity of cases (not about the quality or the relative working load resp.)!

In 2017, the Third or Administrative Chamber of the Supreme Court pronounced 2 246 judgments. There are no statistics indicating how many of these

judgments resolve direct claims, but it can be affirmed that the number of claims submitted in single instance is quite high and, above all, they usually address issues of a high technical or legal complexity.

2.

a) Looking at the **case load** of a single judge of your SAC, can you identify larger groups of cases which make up the overall case load (quantitative approach)? I.e. Provisional proceedings, proceedings of admitting an appeal, first instance proceedings, other. What is the percentage of these groups of cases in the overall case load?

The Third or Administrative Chamber of the Supreme Court always sits as a collegiate court. The possibility of a single judge resolving a case is not envisaged, neither with regards to the judgment nor regarding the conduct of the proceedings.

b) If you can identify larger groups of cases (question a), is it possible to weigh these cases as to their complexity and thus to the amount of time required in treating them (qualitative approach)?

As we have already said, the Chamber always sits as a collegiate court.

3. a) In appeals cases, does your SAC:

- review decisions of the lower courts with a view to the facts and to the law?

The Third Chamber of the Supreme Court never acts as an appeal court, but as a cassation court. The appeals in cassation can only raise law issues, the facts are not revised.

- review decisions of the lower courts with a view to the law only?

This has been previously answered.

- solely answer a(n abstract) legal question?

When it acts as a cassation body, it only examines and resolves law issues, although never in an abstract way (that is, not in a way detached from a particular case). On the contrary, the law issues are examined in relation to the specific case and when they have to be determined in order to resolve the claim.

4. What are the **purposes** of the jurisdictional work of the SAC as a court of appeals?
The Supreme Court does not act as an appeal court.

- the standardisation/unification of the law?

This is a typical function of the Supreme Court as a cassation court.

- the deliverance of single case justice?

The function of the Supreme Court as a cassation court (not as an appeal court) is primarily aimed at the resolution of cases about which there is an objective interest in resolving a cassation appeal in order to develop case law. From this point of view, the particular interest of the claimants is behind the objective interest in providing certainty and security to the legal order. Never-

theless, this function of developing case law is done in the framework of appeals that, once admitted because there is this objective interest, have to be resolved on a case by case basis and in a reasoned and consistent manner and, thus, providing the effective legal protection the applicants claim.

- (further) development of the law?

The case law, interpreting and applying the legal order while bearing in mind the social reality of the time in which it is applied, contributes to this development.

- care for adherence to procedural rules of lower courts?

The appeal in cassation (not the second instance appeal) has a legal procedure of admittance linked to the existence of an objective interest in resolving it in order to develop case law. Appeals in cassation which denounce violation of procedural rules are only admitted to the extent that they raise issues which stir up such an interest.

5. a) What are the purposes of the jurisdictional work of the SAC as a court of first instance?

When it sits as a first instance court, the purposes of the Third Chamber of the Supreme Court are the same purposes as any other administrative judicial body acting as such has, that is, to resolve the case in a reasoned and consistent manner, examining all the facts and law issues duly raised by the parties to the case.

b) What is the rationale of assigning certain proceedings to the SAC as a court of first instance?

As already said, the jurisdiction of the Third Chamber of the Supreme Court, when it sits as a single instance court, is determined by the body responsible of the challenged act (Government of the nation and constitutional bodies of the State).

6. a) Is there a separate constitutional court in your country?

Yes.

b) Does the SAC in your country serve as a constitutional court?

No.

c) In how far does your SAC consider constitutional law, especially fundamental rights?

The Supreme Court, in its tasks of applying and interpreting the law, takes into account all the legal system, including the Spanish Constitution of 1978 when it is needed to resolve a case. In this sense, the court interprets and applies all the Constitutional provisions about fundamental rights and public freedoms which are relevant to the case.

d) If there is a separate constitutional court, is there a special/extraordinary remedy against (final) decisions of the SAC to the constitutional court claiming violations of constitutional law?

The judgments of the Supreme Court can be appealed for enforcement of rights (*recurso de amparo*) before the Constitutional Court when it is deemed that they have been pronounced in violation of a fundamental right eligible for this special appeal.

e) If there is a separate constitutional court and your court considers constitutional law, too, how would your court handle a case, if your court deems a relevant law as unconstitutional?

When the Supreme Court considers that a legal instrument with the status of a law can be unconstitutional, it must, before pronouncing judgment, elevate a constitutionality issue before the Constitutional Court for it to decide on the constitutionality of the law. If the provisions in dispute do not have the status of a law, but they are only regulations, the Supreme Court can declare them null and void.

f) If there is a separate constitutional court in your country, can plaintiffs challenge administrative acts also before the constitutional court (i.e. without bringing the case before the SAC first)? If so, how are actions before the constitutional court related to the proceedings before the SAC?

Individuals cannot challenge administrative acts before the Constitutional Court. Administrative acts are appealed before the administrative jurisdiction, and, once final judgment has been pronounced, it is possible to submit an appeal for enforcement of rights (*recurso de amparo*) before the Constitutional Court if it is deemed that the proceedings have violated fundamental rights eligible for this special appeal.

II. Access to the SAC

1. a) Does a party have to be **represented by a legal professional** before the SAC?

In order to submit a case to the Supreme Court, the parties must appear represented by a solicitor (*procurador*) and defended by a barrister (*abogado*).

b) If so, does the representative have to be an attorney at law/solicitor/barrister?

This has been previously answered.

c) Are there attorneys/solicitors/barristers specially authorized to act before the SAC?

In the current legal system, any solicitor or barrister can appear and exercise his/her duties before the Supreme Court. There is no special register of solicitors and lawyers authorized to practice before the Supreme Court.

d) Are other legal professionals admitted as representatives? I.e. legal scholars, representatives of NGOs...?

Not in the administrative jurisdiction.

e) Are there specific (different) rules for representatives of administrative authorities?

The lawyers of the territorial public Administrations (civil servants of the Corps of State Lawyers and the corps of the respective Autonomous Regions, as well as the lawyers of the town councils) can assume at the same time the representation and the defence of the Administrations they work for.

2. a) What are the **formal requirements** for an appeal to the SAC (e.g. precise application, reasoning,...)?

In order to lodge an appeal in cassation before the Administrative Chamber of the Supreme Court the parties have to submit first a so-called application to prepare the appeal (*escrito de preparación*) before the judicial body which pronounced the judgment they intend to challenge. The said document has to fulfil the requirements established in Article 89 of the Law 29/1998, on Administrative Jurisdiction. Among them, it is important to accurately identify the rules whose violation is going to be denounced, to give arguments for that violation, to explain the importance of that violation in relation to the final decision reached by the court and to expose the reasons why it is deemed that the appeal in cassation stirs up enough interest to resolve it in order to develop case law.

Once the appeal in cassation has been admitted by the Supreme Court, the application instituting proceedings must fulfil the requirements established in the Agreement of the Governance Chamber of the Supreme Court (which decides on the internal rules of the Court) on the formal requirements of this type of applications. The Agreement can be consulted on this link:

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKewjX8qzar6bfAhUtzoUKHVEdAZAQFjAAegQiChAC&url=http%3A%2F%2Fwww.poderjudicial.es%2Fstfls%2FSALA%2520DE%2520PRENSA%2FDOCUMENTOS%2520DE%2520INTERES%2Facuendo%2520Sala%2520Gobierno%2520sobre%2520escritos%2520procesales.pdf&usg=AOvVaw0WPNZyhIIF6D4ZEpgcF5Ln>

b) Is your SAC bound by (and limited to) review the case according to specific objections (on procedural law and/or on substantive law) of the appellant?

When it sits as a single instance court, the Third Chamber of the Supreme Court, as the rest of courts of the administrative jurisdiction, can raise issues at its own initiative or ex officio that it deems pertinent in order to resolve the case when these issues have not been raised by the parties, although the court must hear what the parties have to say about them before pronouncing judgment (Articles 33 and 65 of the Law 29/1998, on Administrative Jurisdiction).

When it sits as a cassation court, the Third Chamber of the Supreme Court resolves the appeals in cassation according to the arguments given by the parties in their respective written submissions. The possibility of raising issues not mentioned by the parties ex officio is not considered.

c) If this is the case, how does your SAC deal with its duty to refer to the ECJ for a preliminary ruling under art. 267 TFEU?

When the Third Chamber of the Supreme Court deems that, in order to resolve a case, it must refer to the ECJ for a preliminary ruling, the Court does it once the proceedings have finished and before pronouncing judgment. Previously, it must issue a procedural court order (*providencia*) informing the parties of the possibility to refer to the ECJ for a preliminary ruling and, once this has been done, if the Court considers that it is needed, it can refer to the ECJ by means a reasoned court order or writ (*auto*).

The reference to the ECJ for a preliminary ruling can be requested by the parties or ex officio by the Supreme Court.

3. Concerning the function of the SAC in your country as a **court of appeals** (i.e. not as a court of first instance):

a) Does every party of the proceedings at the lower instance have the right to seize the decision of the SAC against all kinds of decisions of the court of lower instance?

Bearing in mind what has been recurrently said, that the Supreme Court is not an appeal court but a cassation court, any of the parties to a case can refer to the Court by means of an appeal in cassation, provided that this kind of appeal is relevant according to Law 29/1998, on Administrative Jurisdiction.

b) Can certain types of decisions of lower courts (e.g. provisional decisions, certain fields of law,...) not be brought before the SAC?

The decisions of lower courts pronounced in single instance can only be appealed in cassation when they have established a doctrine which can be considered seriously damaging to general interest, and provided that it is liable to have an extended effect (Art. 86.1, paragraph 2, of the Law 29/1998, on Administrative Jurisdiction).

4. As far as in general the parties of the proceedings of the lower instance can seize the decision of the SAC (as a court of appeals):

a) Is this right restricted by a legally established **filter** (quantitative, e.g. depending on a certain value in litigation, or qualitative, e.g. in certain fields of law, depending on a preliminary assessment)?

Generally, there are no constraints to cassation by reason of amount or issue. On the contrary, admissibility of appeals is linked to the so-called “objective interest in resolving a cassation appeal on the issue in order to develop case-law” (Art. 88 of the Law 29/1998).

b) If there is a preliminary assessment, please give details:

- Which court decides (lower court or SAC)?

The decision on the admissibility of appeals in cassation is adopted by the Third Chamber of the Supreme Court, in particular its First Section. Nevertheless, the first step is the so-called application to prepare the appeal, submitted before the instance court, in which the parties announce their intention to appeal in cassation, reasoning why they challenge the decision and asking to elevate the case to the Supreme Court. The instance court is competent to examine the said application to prepare the appeal and can reject it only from a formal point of view (not on the merits) if it is deemed that the document does not fulfil the requirements established in Article 89 of the Law on Administrative Jurisdiction. Against the decision of the instance court, the parties can submit a complaint (*recurso de queja*) before de Supreme Court, which will decide in the end if the appeal in cassation is well prepared or not.

- If the lower court admits a case to the SAC, does this decision have binding effect on the SAC?

No. The Supreme Court can, at its own discretion, decide on the admissibility of the appeals in cassation, either from the point of the view of procedural law or from the point of view of substantive law, and it can reject appeals in cassation even in the case the instance court has deemed they are well prepared and relevant. The criterion of the instance court is never binding for the Supreme Court.

- If the SAC decides, is there a specific procedure of admittance before the SAC? Please give details!

The appeals in cassation deemed to be well submitted by the instance court are elevated to the Supreme Court, and the parties are summoned to appear before it (the defendant, when s/he appears before the Supreme Court, can expose the reasons why s/he considers that the appeal is not admissible).

If the parties to the case appear before the Court, the First Section of the Third Chamber will examine the challenged decision and the application to prepare the case made by the claimant (as well as, if it has been submitted, the opposition to the admission by the defendant). After the examination of the documents, it is decided if the appeal is admissible and well founded or not (the decision on the admissibility of the appeal is adopted directly by the Chamber without any specific previous audience to hear the parties on the possible causes of non-admission).

If it is decided that the appeal is not admissible, a procedural court order or a writ of non-admission will be issued, depending on the case (Article 90.3 of the Law 29/1998 on Administrative Jurisdiction).

If it is decided that the appeal is admissible, a reasoned court order or writ of admission will be issued (in which the matter about which there is an objective interest to resolve a cassation appeal as well as the rules that will be interpreted in the judgment will be determined) and the proceedings will be referred to the Section in charge of the prosecution of the case, before which the parties will submit their respective application instituting proceedings and statement of opposition.

- If the lower court decides (in a negative way), can the SAC still admit a case?

Against the decision of the instance court which determines that the cassation appeal is not well prepared the parties can submit a complaint (*recurso de queja*) before the Supreme Court (this complaint only examines if the specific reason why the appeal was rejected is correct or not). If the arguments of the complaint are upheld, the proceedings will be elevated to the Supreme Court, which will resolve in the end, at its own discretion, if the appeal in cassation is admissible or not.

- If the lower court decides, does it decide on the admission of an appeal ex officio or only on application?

It must do it ex officio.

c) Are there special rules or filters for certain fields of law (e.g. asylum law,...)?

No, the admissibility rules of the appeals in cassation are essentially the same for all the fields of law.

d) If your jurisdiction knows a procedure of admittance, what are the general requirements under which a case can be admitted to the SAC?

As already said, in order to be admitted, an appeal in cassation must fulfil the formal admissibility requirements and must raise an issue which stirs up enough interest to resolve a cassation appeal in order to develop case law.

e) If there are more than two instances in your country, is it possible to appeal against decisions of the court of first instance to the SAC directly? Under what requirements?

When a judicial decision is eligible for appeal, it cannot be directly appealed in cassation. The decision will have to be appealed in second instance first and, then, it will be possible to challenge the appeal judgment before the Supreme Court.

f) Are there specific requirements in certain fields of law?

No.

g) If your jurisdiction knows a procedure of admittance, what is the percentage of cases admitted?

With respect to appeals in cassation, the percentage of admitted cases is around 20-30% of the appeals submitted.

5. If there is no legally established filter (Q. II.4.), has your SAC established a jurisprudence on the (in-)admissibility of appeals or of specific objections (see also Q. II.2.b)) which has the effect of a factual filter, e.g. by rejecting them as abusive, or by dismissing petty cases?

The filter of the appeals in cassation has been already explained: on one hand, the fulfilment of the formal requirements, on the other hand, the existence of a contentious issue which stirs up enough interest to resolve a cassation appeal. If one of them is lacking, the appeal will not be admitted.

6. Considering the functions of your SAC as a court of appeals (Q. I. 3.), how are these functions related to restrictions of the access to the SAC as discussed in Q. II.4.), as far as applicable?

This question can be considered already answered. There is no constitutional right to a second hearing in the administrative jurisdiction. That is why the legislator can impose constraints to the access to appeal in cassation, as it happens in the legal system established by the Law 29/1998.

7. a) Are there any constitutional provisions in your country with respect to having an appeal's instance?

No.

b) If so, does the constitution in your country provide for a full review of a first instance decision or for access to a procedure of admittance to the next instance?

8. Is there a political or academic discussion concerning any kind of reform with regard to the access to the SAC (e.g. introducing filters, restricting the filter, loosening the filter)?

The possibility to extend the right to a double hearing to the whole administrative jurisdiction has been suggested, with the aim to generalise the second instance appeal prior to cassation.

III. Implementation / Procedural Aspects

1. As far as your SAC serves as a court of first instance: What is the **possible content of decisions** of your SAC:

- cassation of the administrative act?

The Supreme Court, when it sits as a single instance court, resolves the cases as any other jurisdictional court and can, thus, override the acts and regulations challenged.

- obligation of the administrative authority to issue an administrative act?

The instance court judgment could order to issue a new act, for example, directing to undo the actions in the administrative file in order to rectify the procedural defect identified, and to pronounce a new decision that respects completely the legal system (this can happen, for example, when an act is overridden because of lack of reasoning and it is ordered to pronounce a new decision duly motivated). A Spanish administrative court cannot (the Supreme Court either) establish the way in which the regulations declared null and void have to be drafted, in the same way as they cannot determine the discretionary content of the annulled acts (Art. 71.2 of the Law 29/1998).

- obligation of the administrative authority to issue a new discretionary decision?

As already indicated, the court can order the administrative authority to issue a new decision but it cannot determine its discretionary content.

- obligation of the administrative authority to act in a certain way (other than by administrative act: payment, omission...)?

The Administrative Court can, in addition to overriding the act, take all measures necessary to fully restore the legal situation of the claimant (arts. 31 and 71 of the Law 29/1998 on Administrative Jurisdiction).

- issue an administrative act itself?

The judgment, inasmuch as it is needed to fully restore the individualised legal situation of the claimant, is not limited to the annulment of the challenged act, but it can declare and determine the right of the claimant with all the accuracy and extension deemed necessary, accompanied by all the pronouncements relevant to the purpose, with the only constraint, already indicated, that the court cannot determine the discretionary content of the annulled acts.

- issue a discretionary decision out of its own authority?

This question can be considered previously answered.

- remit to the constitutional court?

The constitutionality issue can be submitted before the Constitutional Court only when, in order to resolve the case, it will be necessary to apply a provision with the status of a law whose constitutionality is doubted.

- other?

2. As far as your SAC serves as a court of appeal:

a) What is the possible **content of decisions** of your SAC:

According to Article 93.1 of the Law 29/1998 on Administrative Jurisdiction, the judgment will fix the interpretation of those national or European Union regulations about which, in the writ of admission, it was considered that the Supreme Court had to give an opinion. And, according to that interpretation and to the rest of the provisions which are applicable, it will resolve the issues and demands of the claimant, annulling totally or partially the challenged decision or act, or confirming it. Moreover, the Court will be able, if it justifies the need to do so, to order the undoing of instance proceedings to a precise moment (with the aim of rectifying the procedural defect identified) for them to be completed in full respect of the law.

- cassation of the decision of the lower court and remitting the case back to the lower court?

Although the Supreme Court, generally, when it overrides an instance judgment, resolves the case directly, it can order as well the referral of the case to the instance court, to the extent that the circumstances of the case so require (for example, because a procedural infraction has been identified that will be decisive for the annulment of the instance proceedings).

- cassation of the administrative act?

The judgement in cassation will always decide on the instance judgment, although, once the instance judgment is overridden, and in order to resolve the case, the Supreme Court can declare the challenged provision or act null and void and take all the appropriate measures to fully restore the individualised legal situation of the claimant.

- obligation of the administrative authority to issue an administrative act?

This question has been previously answered.

- obligation of the administrative authority to issue a new discretionary decision?

As already indicated, the Court can oblige the administrative authority to issue a new decision, and the regulated elements of the decision can be established, but the purely discretionary content cannot be determined by the Court.

- obligation of the administrative authority to act in a certain way (other than by administrative act: payment, omission...)?

This question has been previously answered.

- issue an administrative act itself?

As already said, the administrative court does not issue administrative acts in a formal sense; but, when overriding an act, it can determine in the judgment the content that the annulled act should have had.

- issue a discretionary decision out of its own authority?

This question has been previously answered. The discretionary content of the decision cannot be determined by the court.

- remit to the constitutional court?

Question previously answered.

- issue a legal opinion/authoritative interpretation of the law without connection to a single case?

The Supreme Court cannot give abstract opinions, it always decides in relation to specific cases and about the issues raised in those cases.

- other?

b) To what extent can or must your SAC rely on the facts as they were investigated and determined by the lower court?

When the Court decides on an appeal in cassation, Article 87 *bis* of the Law 29/1998 on the Administrative Jurisdiction is applicable. This Article establishes that the appeal in cassation before the Administrative Chamber of the Supreme Court will be limited to law issues and it will not include facts.

3. a) When your SAC serves as a first instance court, does it apply the same rules of court procedure as the common first instance courts?

Yes.

b) If not, what are the differences?

4. As far as there is a specific procedure of admittance of appeals before the SAC, are there different rules of procedure for these procedures of admittance than for admitted appeals' procedures?

The question is not clear. All appeals in cassation have the same regime and procedure of admission and treatment.

5. Are there (compulsory, facultative) public hearings in procedures of admittance and or the admitted appeals' procedure?

In the admission phase there is no public hearing, unless, on an exceptional basis, the Supreme Court decides to hear the parties about the possibility of raising issues (which can stir up enough interest to resolve a cassation appeal in order to develop case law) that the parties would have not raised themselves (Art. 90.1 of the Law 29/1998 on Administrative Jurisdiction).

Once the appeal in cassation is admitted, and after the parties have submitted their respective application instituting proceedings and statement of opposition, the Chamber can decide to hold a hearing if it is deemed necessary for the proper examination of the case. The parties can request the holding of a hearing but this request is not binding for the Court.

6. Do the decisions of the SAC have an effect on other cases than the one decided?

The judgments in cassation have an effect on the specific case at stake, although, naturally, the doctrine established will inform the adjudication of cases of the same or similar object.

a) Are lower instance courts bound by law to follow decisions of the SAC in other (similar) cases?

Lower instance courts can deviate from the doctrine established by the Supreme Court in its case law, provided that they give reasons for that deviation, if they consider the doctrine is not appropriate. In this case, the claimant will have always the possibility to appeal in cassation before the Supreme Court, because this is the only scenario in which the appeal in cassation has to be necessarily admitted (provided that it is formally admissible and well founded) because, *ope legis*, it stirs up enough interest to develop case law.

b) If so, under which conditions can they deviate from a decision of the SAC?

When they deem that the doctrine of the Supreme Court is not appropriate and they give reasons for that deviation.

c) Is the SAC bound by law to follow its own previous decisions?

No, the Administrative Supreme Court can rectify its own case law, although it must give reasons for the change of opinion.

d) If so, under which conditions can it deviate from its previous decision?

The Administrative Supreme Court can rectify its previous case law depending only on the new examination of the contentious issue, without any previous conditioning.

7. Are the judges of your SAC bound by the decisions of other sections within your SAC?

No, although if Sections of the same Administrative Chamber follow different criteria, a Chamber's plenary session can be convened in order to unify those criteria.