

Mechanisms and roles of Supreme Administrative Courts (SACs) for ensuring the enforcement of judicial decisions

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Cross-sectional analysis 2024: Mechanisms and roles of Supreme Administrative Courts (SACs) for ensuring the enforcement of judicial decisions

Overview:

- ▶ Scope and methodology of the 2024 cross-sectional analysis
- ▶ Main findings of the study
- ▶ Concluding remarks
 - ▶ Implications for the rule of law



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FOCUS: How do the responding SACs ensure the effective enforcement of their rulings?

Scope and methodology:

- Two main components: *mechanisms* and *roles* for SACs in ensuring the enforcement of their judicial decisions
- Questionnaire-based comparative study
- Limited to enforcement of SAC decisions
- Responses exclusively from perspective of SAC = insight in specific practices, challenges, responsibilities of participating SACs



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Results:

- 29 respondents
- Study reveals wide spectrum of enforcement techniques, mostly financial, but limited autonomous enforcement powers for SACs



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Monitoring compliance and interaction

Key findings:

- Systematic monitoring of compliance with SAC judgments is rare (only 7 out of 29 legal systems)
- In most jurisdictions, compliance is not routinely verified
- Interaction with administrative bodies regarding enforcement is rare
- Enforcement often depends on further initiative by parties



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Avoiding difficulties in enforcing the decision

Key findings:

- Clear and precise drafting of the (operative part of the) judgment supports enforceability
- All systems have specific provisions or practices for the publication of judgments
- Annulment due to procedural flaws is limited: often dependent upon several conditions and sometimes even corrected during procedure (e.g. administrative loop in NL)
- Maintaining the effects of an act is mostly possible for individual acts (62,07%), far less for regulatory acts (37,93%)



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Avoiding difficulties in enforcing the decision

Key findings:

- Use of self-enforcing judgments in most systems
- Enforcement clauses are included in many SAC decisions: recitals > operative part
- Sometimes enforcement clauses are limited due to separation of powers



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Enforcement mechanisms and sanctions

Key findings:

- 18 out of 29 legal systems have mechanisms in place to help enforce judicial decisions (e.g. penalties, order of *certiorari*, injunction, damages), mostly at the request of the parties and within a certain time limit.
- Most systems provide legal consequences for non-compliance, often financial
- Sometimes enforcement is managed by a separate oversight body (SI, BG, SE and FI)

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External mechanisms

Key findings:

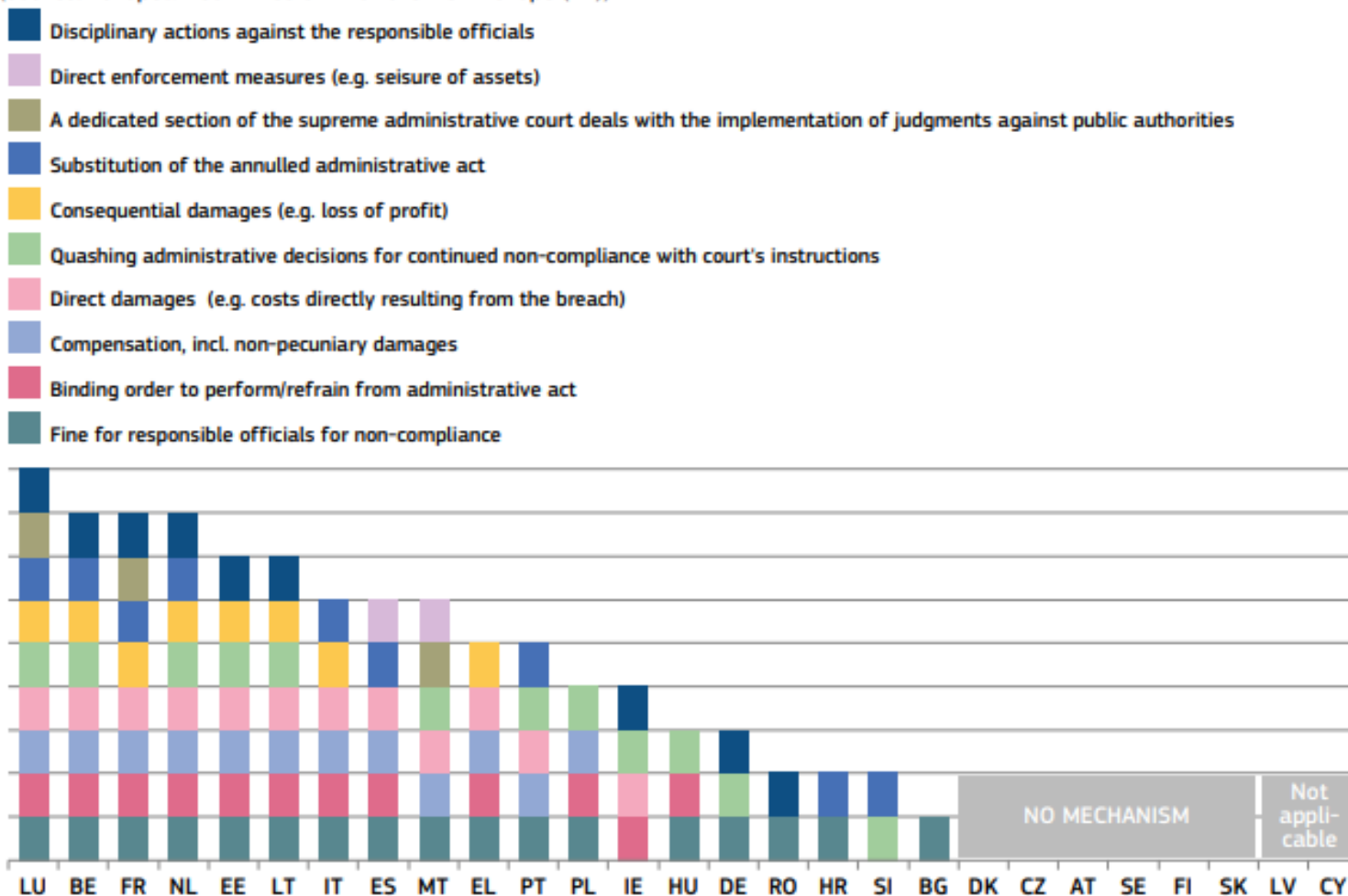
- In 75% of the respondents' legal system, non-enforcement = state liability, conditional
- 21 out of 29 legal systems : personal civil liability of civil servant



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Figure 49 Judicial mechanisms in place to ensure the implementation of administrative court judgments, 2024 (*)

(source: European Commission with the ACA-Europe ⁽¹⁰⁶⁾)



Source: 2025 EU Justice Scoreboard

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Concluding remarks:

- ▶ Enforcement practices remain fragmented across Europe, with very few monitoring mechanisms
- ▶ SACs often lack direct enforcement powers: effectiveness depends heavily on administrative cooperation and on parties to initiate follow-up proceedings
- ▶ SACs rely mainly on indirect and corrective mechanisms
- ▶ Strong drafting, publication, monitoring and sanctions may enhance compliance
- ▶ Continued exchange of best practices is critical



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Concluding remarks - Implications for the rule of law:

- ▶ Effectiveness of administrative justice depends on compliance with judicial decisions
- ▶ Lack of effective enforcement weakens the authority of judicial decisions and undermines legal certainty
- ▶ Limited monitoring mechanisms and largely indirect enforcement may weaken the authority of judicial decisions

