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“MECHANISMS AND ROLES OF SUPREME ADMINISTRATIVE COURTS FOR ENSURING THE
ENFORCEMENT OF JUDICIAL DECISIONS”.



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I. INTRODUCTION

1. In its action plan for 2022-2025, ACA-Europe has determined its annual operational activity to be the organisation of a cross-sectional analysis activity by its members, comprising of a collection of data, analysis and conclusions in the domain of access to administrative justice. The purpose of the cross-sectional survey is for the collection, analysis, exchange and provision of information, good practices and recommendations.

2. In the past few years, the Association has familiarised itself with the concept of this analysis. The summary reports of these surveys can be consulted on the website of the Association (www.aca-europe.eu).

3. For 2024, the Board of ACA-Europe has chosen the following topic:

“Mechanisms and roles of Supreme Administrative Courts in ensuring the enforcement of judicial decisions, with a focus on decisions relating to EU law, human rights, and fundamental rights”

4. This theme encompasses two key dimensions: the *mechanisms* and *roles* of Supreme Administrative Courts (SACs) in ensuring the enforcement of judicial decisions, with particular attention to cases implicating fundamental rights and obligations under EU and human rights law. The scope is limited to SACs, whose position at the apex of national administrative justice systems gives them a pivotal role in shaping and securing compliance with legal norms. As such, this year’s analysis, based on a questionnaire distributed among ACA-members, is titled *“Mechanisms and roles of Supreme Administrative Courts for ensuring the enforcement of judicial decisions”*.

5. The enforcement of judicial decisions is a cornerstone of the rule of law. Without effective mechanisms to secure compliance, the authority and impact of court rulings—particularly those addressing fundamental rights and obligations under EU law—are significantly undermined. It is therefore no surprise that the Association of the Councils of State and Supreme Administrative Jurisdictions of the European Union (ACA-Europe) has long recognised the importance of this issue.

As highlighted by the current President of the Belgian Council of State in the general report of the ACA seminar held in Brussels in March, 2012, on *“Increasing the efficiency of the Supreme Administrative Courts’ powers,”* the topic has been a matter of sustained interest within ACA-Europe.¹

¹ Available on the Association’s website, on page 28, available [here](#).



This report presents a detailed comparative analysis of enforcement mechanisms used by SACs across 29 European jurisdictions to ensure compliance with judicial decisions issued against administrative authorities. It explores the legal, procedural, and institutional tools available to SACs to secure the implementation of their judgments and assesses their effectiveness in practice.

6. The analysis was conducted through a comprehensive survey of national practices, which revealed a wide spectrum of enforcement modalities—from the impact of a well-written and unambiguous dictum, to direct judicial substitution, and the imposition of penalties and more indirect methods such as interpretative guidance, self-enforcing judgments, and involvement of external oversight bodies.

7. This report is structured around several key thematic areas. First, it examines the role of Supreme Administrative Courts (SACs) in ensuring the enforcement of their decisions. This includes the impact of a well-crafted and unambiguous dictum on the enforceability of judgments — for example, by enhancing the clarity of judicial reasoning or through the inclusion of enforcement clauses — as well as techniques SACs can use to avoid the need for annulment, such as embedding specific guidance directly into the judgment. The report also considers follow-up procedures after annulment decisions, including the courts’ capacity to award compensation or issue injunctions and the remedies available to affected parties. Furthermore, the report also analyses the interaction between courts and administrative authorities during enforcement, and the challenges SACs face in securing the effective implementation of their rulings. Secondly, the report looks beyond the SAC itself, addressing enforcement mechanisms outside the court. Finally, the report also discusses mechanisms for monitoring compliance outside the court’s own jurisdiction.

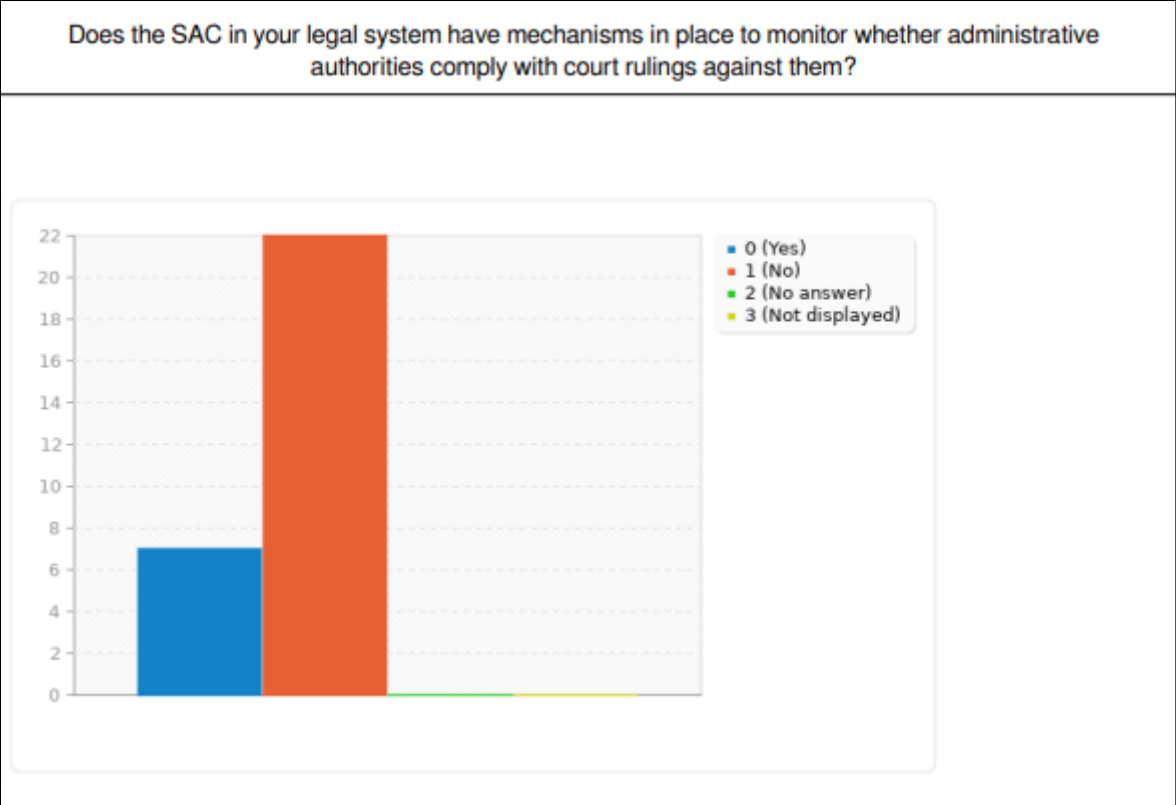
8. The working group, tasked with drafting the questionnaire, analysis of the data collected and writing the report, consisted of Ms. Anne Bartnicki, Mr. Joris Casneuf, Mr. Jacek Chlebny, Mr. Geert Debersaques, Mr. Carsten Günther, Ms. Lenka Krupičková, Mr. Tuomas Kuokkanen, Ms. Anke Meskens, Mr. Eugenio Tagliasacchi and Mr. Seamus Woulfe.

9. The questionnaire was distributed among ACA members on 19 December 2024, with a participation deadline set for 31 January 2025. We are pleased to report that no less than 29 members responded to the questionnaire.

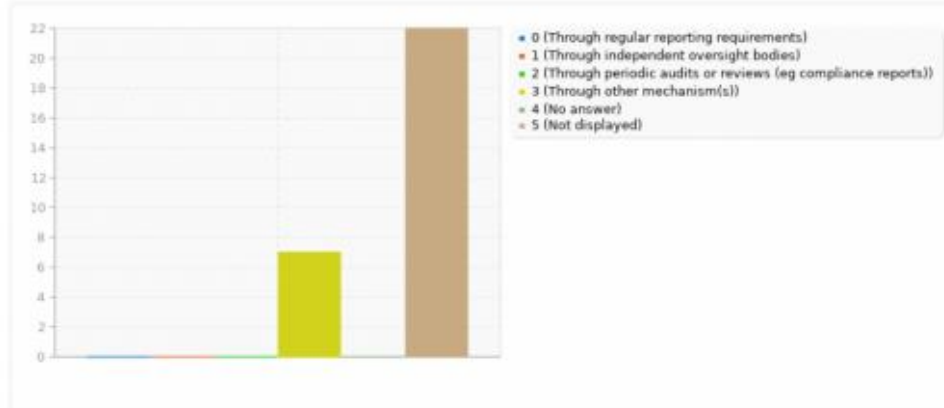


II. GENERAL PART: THE ROLE OF THE SUPREME ADMINISTRATIVE COURT IN ENSURING THE ENFORCEMENT OF JUDICIAL DECISIONS

2.1. Monitoring compliance with court rulings by administrative authorities



Which mechanisms does the SAC have in place to monitor whether administrative authorities comply with its decisions?



10. Only seven legal systems reported having mechanisms in place to monitor whether administrative authorities comply with court rulings issued against them. None of these systems rely on regular reporting, independent oversight bodies, or periodic compliance audits, but alternative mechanisms are in place, varying in nature and effectiveness.

In Serbia, the enforcement of final decisions on administrative disputes consists of the actions taken by the plaintiff *i.e.* the defendant authority and the interested party. Their behavior in enforcing the judgment depends on the outcome of the completed administrative dispute. The Administrative Court may intervene when a defendant authority fails to comply with a judgment, potentially issuing a judgment to resolve the administrative matter.

Spain's Superior Administrative Court (SAC) can initiate enforcement proceedings upon request, impose periodic fines for non-compliance, investigate potential criminal liability, review acts or omissions of administrative authorities that suggest non-compliance with its rulings and even hold public officials accountable for contempt of court, which can lead to legal consequences. Failure to comply with the SAC's decisions by administrative authorities can lead to state liability for damages and criminal liability.

Portugal allows interested parties to request enforcement through the Supreme Administrative Court, in line with Article 176(1) of the Code of Administrative Procedure CPTA.

In Bulgaria, a study by the Supreme Administrative Court, , within the framework of a project under the Operational Programme "Good Governance", co-financed by the European Union

through the European Social Fund, identified reasons for non-compliance and proposed reforms.

France's Council of State handles execution requests, supported by a dedicated internal body (SEPCO). This involves a two-phase administrative and judicial process, with the possibility of injunctions or penalties. SEPCO can initiate proceedings independently and oversees compliance with Council of State decisions, ensuring enforcement through structured internal procedures.

Article 94, par. 4 of Greece's Constitution mandates administrative compliance with court rulings, operationalized by Law no. 3068/2002. A three-member council within each court assesses compliance, may impose financial penalties, and provides advisory support to the administration. Non-compliance cases are reported annually to key government bodies.

In Estonia, there is no monitoring or reporting system of the execution of court decisions by the administrative authorities. However, if failure to execute a court decision (order or judgment) or a compromise approved by the court is brought to the court's attention, the court may impose a fine of up to 32000 euros on the participant in proceedings whose fault this is (§ 248 section 1 of the Code of Administrative Court Procedure (CACP)). In imposing the fine, the court takes into consideration the time that has elapsed since the judgment became final, as well as any other circumstances, which possess significance in relation to the imposition of the fine and the setting of the amount of the fine. If a period of time reasonable for execution of the court decision has elapsed since the imposition of the previous fine, yet the decision has still not been executed, the court may impose the fine again (§ 248 section 2 of CACP). A fine for a failure to comply with the judgement of the Supreme Court and circuit court is imposed by the administrative court (§ 248 section 3 of CACP). A party may appeal the first instance court order by which a fine for failure to execute a court decision or a compromise approved by the court is imposed or denied to the circuit court of appeal and to the Supreme Court (§ 248 section 4 of CACP). The Supreme Court has jurisdiction to impose a fine itself in the appeal proceedings, if necessary.

Latvia notes that decisions issued by authorities are reviewed on the merits by courts of first and appellate instances. The cassation instance court does not examine merits of the case, rather it examines conformity of a judgment appealed with provisions of substantive and procedural law and decides on the basis of relevant case materials. After the examination of the case, the Court may decide to set aside the judgment in full or in part and refer the case for it to be re-examined in an appellate court or a court of first instance. If the Court rules to uphold the judgment and to reject the complaint, the judgment of the lower instance court



against which the appeal is brought comes into force. Therefore, the Department does not rule on any enforceable actions that the parties to the proceedings shall take.²

11. In contrast, Ireland and the United Kingdom (UK) do not have formal mechanisms to track compliance with administrative court rulings.

Ireland operates within a common law jurisdiction, and there are no specialized administrative courts. Judicial review of public law decisions is available through the High Court, and the administrative authority affected by a decision is responsible for complying with the court's ruling. However, there are no formalized mechanisms for ongoing monitoring of compliance, relying on the affected authorities to comply voluntarily.³

Likewise, the UK Supreme Court (UKSC) does not have a system to monitor or enforce its judgments. If there is non-compliance with a UKSC decision, the successful party can apply to the High Court for enforcement or initiate contempt proceedings. However, like in Ireland, there is no independent system in place to monitor compliance by administrative authorities after a ruling.^{4,5}

2.2. Interaction during enforcement of orders

12. The survey results reveal that in only 10 cases^{6,7}, the Supreme Administrative Court (SAC) engages in some form of interaction with administrative bodies regarding the enforcement of judgments. This interaction is direct in only two systems—Spain and Greece (6.9%)—where the SAC directly oversees enforcement.

13. Among the eight legal systems where the Supreme Administrative Court (SAC) engages in indirect interaction with administrative bodies during the enforcement of judgments, none reported doing so through coordination with specific enforcement agencies. Instead, all 8 systems (27.6% of respondents) indicated that such interaction occurs through other, unspecified indirect methods.

² Additional clarification provided by Latvia; available [here](#).

³ Additional clarification provided by Ireland; available [here](#).

⁴ Additional clarification provided by United Kingdom; available [here](#).

⁵ This questionnaire was completed by the United Kingdom Supreme Court (UKSC), on the understanding that the scope of the inquiry concerned the superior court. As the UKSC does not function exclusively as an administrative court, it is appropriate to clarify that the responses reflect the perspective of the UKSC, and not, for example, that of the administrative division of the High Court.

⁶ Hungary responded 'no', but stated in the additional comments that there is indirect interaction. Therefore, Hungary has been included in the percentage calculation but is not reflected in the statistics.

⁷ Additional clarification provided by Hungary; available [here](#).



In Serbia, for example, supervision of public authorities is indirect but well-structured, combining governmental, parliamentary, and judicial mechanisms. The Government monitors the work of state administration authorities, while the National Assembly supervises the Government and its members. Courts also play a vital role by reviewing the legality of individual administrative acts through administrative disputes. Articles 70 and 71 of the Law on Administrative Disputes empower courts to annul decisions not in line with their legal opinion and, in some cases, to resolve the matter themselves or even issue binding rulings in place of administrative bodies.

In Italy, interaction is possible before the compliance phase begins, based on Article 112(5) of the Code of Administrative Trial (CPA) which allows appeals to clarify how a judgment should be enforced. Portugal permits administrative bodies to claim a legitimate reason for non-enforcement when the decision is issued by the SAC at first instance, as per Articles 163 and 175 of the CPTA. In Bulgaria, the court may set deadlines for compliance under Article 174 of the Administrative Procedure Code, and in cases of inaction, authorities may face penalties under Article 302. France allows administrative bodies to request clarification on how to execute decisions under Article R. 931-1 of the Code of Administrative Justice. These requests can even be referred to the Council of State to ensure proper administration of justice. Moreover, the Council of State's annual public report includes a section on enforcement, acting as an additional accountability mechanism.

In Lithuania, while administrative authorities retain discretion, final court judgments—binding under Article 16(1) of the Law on Administrative Proceedings—often guide future administrative acts, especially when courts specify legal principles to be followed. A certified copy of the court's final decision is sent for execution, and failure to comply may prompt further judicial review.

In Belgium, the Council of State can review the legality of new decisions adopted after an annulment. If the administration fails to act when required, the court can annul the implied rejection resulting from administrative silence, based on Article 14, §3 of the coordinated laws on the Council of State.

In Hungary, indirect interaction occurs through the Curia, which acts as a forum for extraordinary remedies. The Curia ensures the uniform application of law by providing definite guidance to the administrative body on how to remedy any identified infringements. If the administrative decision subject to judicial review is quashed, the Curia orders the administrative body to initiate new proceedings, offering detailed instructions on how to address the established issue.



14. Overall, in eight legal systems (27.6%) (Serbia, Italy, Portugal, Bulgaria, France, Lithuania, Belgium, and Hungary), the SAC is involved indirectly, while in the majority there is no interaction between the SAC and administrative bodies during enforcement.^{8,9} No interaction occurs in Malta, Romania (HCCJ), Poland, Slovenia, The Netherlands, Ireland, Sweden, the Czech Republic, Croatia, Luxembourg (CA), Slovakia, Türkiye, Finland, Estonia, Denmark and Cyprus (55.2%). Notably, Spain and Greece reported interaction through direct oversight.

2.3. Legal consequences of non-compliance

15. The vast majority of surveyed institutions (86.2%)—confirmed that legal consequences or sanctions are in place when an administrative authority fails to comply with a judicial decision. These include judicial bodies from Romania (HCCJ), Austria, Serbia, Poland, Italy, Spain, Portugal, Slovenia, the Netherlands, Bulgaria, Ireland, France, Lithuania, Belgium, Sweden, the Czech Republic, Croatia, Slovakia, Hungary, Türkiye, Finland, Estonia, Greece, the United Kingdom, and Germany. In contrast, only three systems (10.3%)—Luxembourg (CA), Denmark, and Malta—reported the absence of any legal consequences in such cases. Cyprus (3.4%) did not provide an answer to this question.

Ireland elaborated on how these matters are handled in its legal system. When the Supreme Court delivers a decision following an appeal from the High Court or Court of Appeal involving an administrative authority, the Court either grants or refuses the appeal. Such judicial decisions commonly arise from judicial review proceedings. These are initiated in the High Court to challenge the decision-making process of administrative bodies and which can subsequently be appealed to the Court of Appeal and Supreme Court. It is important to note that the Court does not engage in a substantive review of the decision itself; rather, it reviews the decision-making process. A limited review of the substance of the decision is permitted only in specific circumstances. The Court can order the quashing of the original decision, the prevention of a specific course of action in the decision-making process, *etc.*; the granting of these remedies are discretionary in nature.

Reliefs sought by the applicant can be one or more of the following:

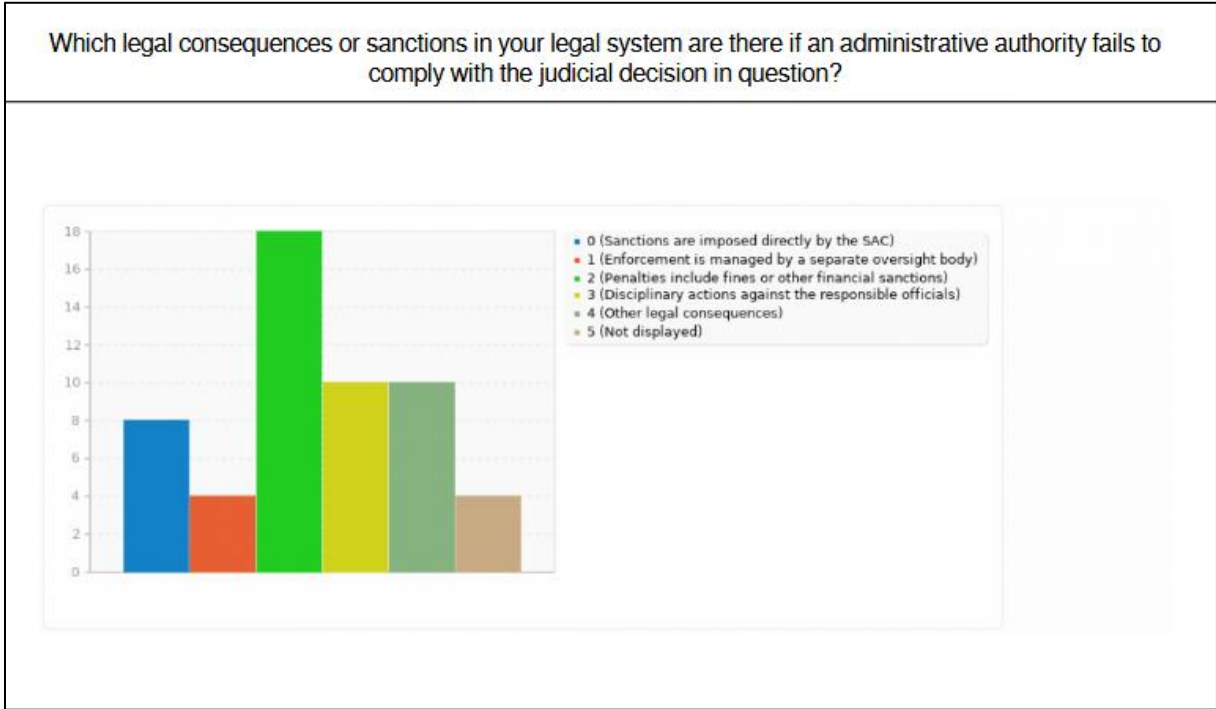
- Certiorari – the quashing of a decision;
- Mandamus - compelling the performance of a duty or action;
- Prohibition – preventing an action being taken;
- Declaration – a judge’s declaration on the rights of the parties;
- Injunction – preventing an action being taken or to compel the taking of an action;
- Damages – the Court can award damages if it believes it is suitable to do so.

⁸ Hungary responded 'no', but stated in the additional comments that there is indirect interaction. Therefore, Hungary has been included in the percentage calculation but is not reflected in the statistics.

⁹ Additional clarification provided by Hungary; available [here](#).



After the judicial review process, an administrative body may be entitled to arrive at the same decision as in the original instance, provided they follow the correct procedure and adhere to any reliefs that have been declared.¹⁰



16. The survey examined which legal consequences or sanctions exist in national legal systems when an administrative authority fails to comply with a judicial decision. The responses reveal that the most common mechanism is the imposition of financial penalties, such as fines or other monetary sanctions. Romania (HCCJ), Serbia, Poland, Italy, Portugal, The Netherlands, Bulgaria, France, Lithuania, Belgium, the Czech Republic, Croatia, Slovakia, Hungary, Türkiye, Finland, Estonia and Greece (62.07%) indicated this option. Besides financial penalties, disciplinary actions against the responsible officials and other legal consequences were each mentioned by Austria, Italy, Portugal, Slovenia, Lithuania, Sweden, Türkiye, Finland, Estonia and Greece (34.48%) highlighting a significant use of personal accountability and broader legal frameworks in enforcement.

In Italy, Spain, Portugal, The Netherlands, Bulgaria, France, Belgium and Greece (27.59%) sanctions are imposed directly by the Supreme Administrative Court (SAC), while in four cases (13.79%), namely Slovenia, Bulgaria, Sweden and Finland, enforcement is managed by a separate oversight body.

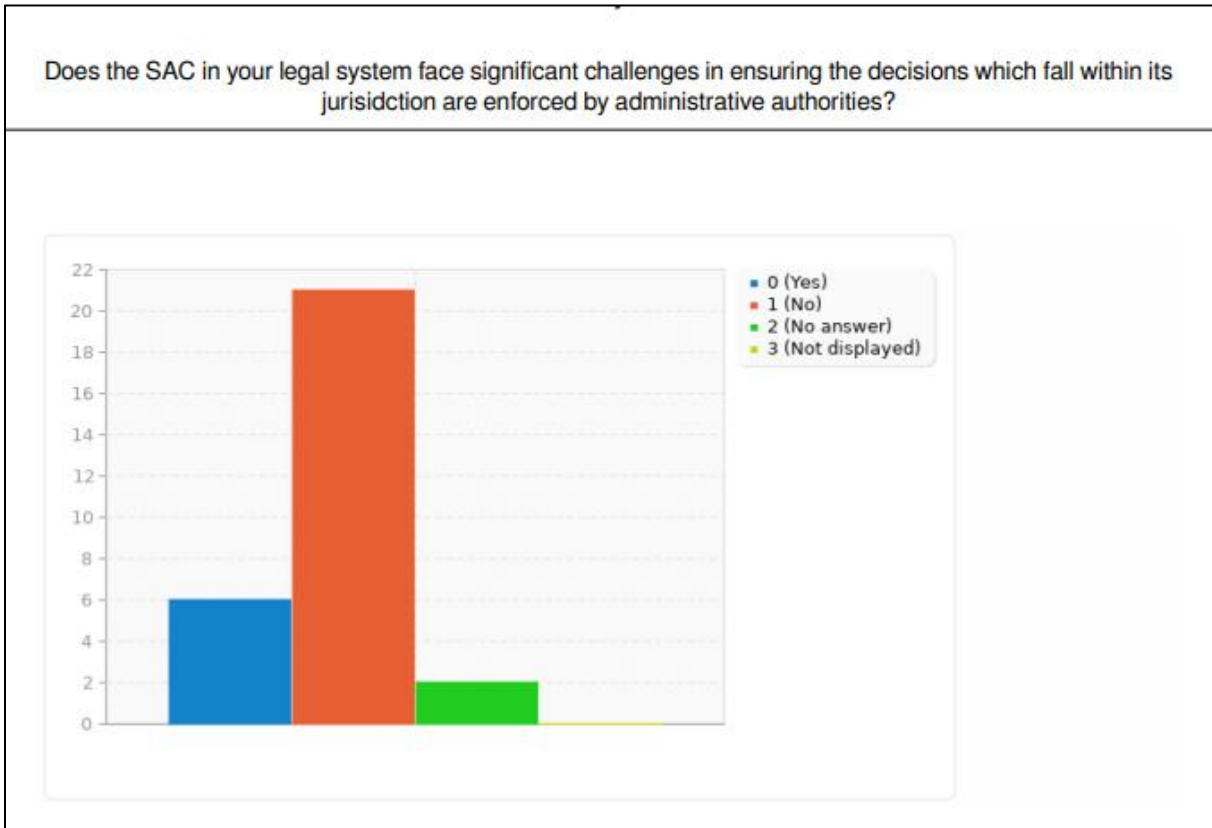
¹⁰ Additional clarification provided by Ireland; available [here](#).

17. The survey results suggest that while financial sanctions are the most widely used tool, many legal systems also rely on complementary measures such as disciplinary proceedings and legal action to ensure compliance with judicial decisions.

Romania (HCCJ), Austria, Poland, Portugal, Ireland, the Czech Republic, Estonia, Greece, United Kingdom and Germany (34.48%) indicate other legal consequences.

For instance, Ireland explains that in general, statutory powers of enforcement are most often exercised in cases of private law, such as enforcement of orders for damages or judgment for possession of property. In theory, any party who does not comply with a court decision can be found to be in contempt of court. Affected persons can bring further proceedings against the administrative body in the event of non-compliance.

2.4. Challenges in ensuring the SACs decisions are enforced by administrative authorities



18. The survey also examined whether Supreme Administrative Courts (SACs) face significant challenges in ensuring their decisions are enforced by administrative authorities. A clear majority (75.86%)¹¹ reported no significant challenges, including the Netherlands, which

¹¹ Initially, six jurisdictions (20,69%)—Serbia, Spain, the Netherlands, Bulgaria, Greece, and Cyprus—initially appeared to report challenges. However, the Netherlands clarified that although their response to A9 was marked “Yes,” it should have been “No.” Adjusting for this, only five countries face challenges. As a consequence, the Netherlands has been included in the percentage calculation (75,86% vs 72,41% initially) but is not reflected in the statistics.

clarified that while enforcement mechanisms are in place, the SAC itself is not involved in the execution of its decisions.

19. Five jurisdictions (17.24%) - Serbia, Spain, Bulgaria, Greece, and Cyprus— reported that their SACs do face significant challenges in ensuring that administrative authorities comply with judicial decisions. Austria and Türkiye (6.90%) did not provide an answer to this question.

Serbia explained that its Administrative Court does not supervise administrative bodies hierarchically and only monitors compliance when procedures are initiated by the parties.

Spain noted several obstacles to enforcement, such as limited resources, administrative resistance, delays, inter-agency coordination issues, and increasingly frequent constitutional challenges by the Constitutional Court.

Bulgaria noted inconsistencies in the application of Articles 287–290 of the Administrative Procedure Code (APC). Under Article 287, non-compliance by individuals or entities may result in weekly financial penalties. In *Bratanova v. Bulgaria* before the ECtHR, despite a fine imposed on the mayor of a district in Bankya by the SAC, the requested documents were never issued, highlighting limits in enforcement. The ECtHR found that domestic remedies stemming from the Law on Liability of the State and Municipalities for Damages (LPLM) were ineffective under Article 6 §1 ECHR.

Greece reported that in 2024, 29 petitions for non-compliance were filed before the Council of State and 23 reports confirming non-compliance were issued. A further 30 decisions either rejected older petitions or imposed fines ranging from €15,000 to €70,000. While most decisions are respected, these figures show instances of non-compliance.

According to Cyprus, although Article 146.5(A) of its Constitution grants the Supreme Constitutional Court jurisdiction to monitor enforcement and impose sanctions, the enabling legislation has yet to be adopted. As a result, even though the SCC has jurisdiction, it cannot exercise it.

France, although responding "No" to the question regarding significant challenges in enforcing decisions, provided additional clarification to support its answer. According to the French Council of State, the current legal framework generally ensures effective execution of judicial decisions. In 2023, out of a total of 4709 enforcement requests submitted across all administrative courts, only 81 were addressed specifically to the Council of State. Of these, just 11 required the initiation of judicial enforcement proceedings, while the vast majority were resolved during the administrative phase. When compared to the 9574 total cases handled by the Council of State that year, this suggests that over 80% of decisions are



successfully executed without the need for judicial intervention, confirming the overall effectiveness of the French system in securing compliance with administrative court rulings.¹²

Ireland, while not identifying major challenges, did highlight specific problematic areas. In *B v Child and Family Agency* [2025] IESC 2, the Supreme Court criticized the State for taking eight months to comply with a High Court order to place a vulnerable child in appropriate care. The Court warned that such delays undermine respect for the rule of law and democratic principles. Moreover, in its judgment the Court observed that “[t]here remains the deeply troubling fact that a High Court order designed for the benefit of a disturbed and vulnerable young man was not complied with by State authorities for the best part of eight months. This State rightly prides itself on its respect for the rule of law and, as we have had occasion to remark in recent cases such as *Re Article 26 and the Judicial Appointments Commission Bill 2022* [2023] IESC 34, the commitment to democracy reflected in constitutional provisions such as Article 5, Article 6, Article 15 and Article 16 is a key part of the State’s identity as a free society. In that regard it must be said clearly that the persistent non-compliance with High Court orders of this kind such as we have seen in this case undermines that constitutional commitment to democracy and respect for the rule of law.”

The Netherlands, though officially reporting “no” to this question, elaborated that while the Administrative Jurisdiction Division (AJD) of the Council of State does not actively monitor whether its rulings are followed, enforcement mechanisms do exist under the General Administrative Law Act (GALA). These include the possibility of *astreinte* (penalty payments) if an administrative authority fails to comply, as per Article 8:72(6) GALA and Article 4:17 GALA. Additionally, parties can request the court to attach penalties per day of non-compliance (Article 8:55d GALA). If an administrative authority fails to act on an annulled decision, the AJD can require a new decision within a fixed period. Failure to do so results in daily fines for up to 42 days. Courts may also order compensation for damages, though claims over €25000 must go through civil courts. Judgments involving court costs or damages are enforceable titles under Article 8:76 GALA, but execution requires a formal engrossment (“In the name of the King”) and bailiff involvement. Enforcement measures—such as property or bank account seizures—are possible, and related disputes can be brought before a civil court under Article 438 of the Code of Civil Procedure. Non-execution can also lead to liability claims under Article 6:162 of the Dutch Civil Code. While the AJD itself does not ensure execution, the legal framework allows affected parties to enforce compliance. However, there is a lack of empirical studies on the real-world effects of administrative law procedures, despite significant literature on improving internal processes.¹³

Hungary, indicating that no significant obstacles exist in the enforcement of decisions, explained that the Curia does not participate directly in the enforcement of its decisions. The

¹² Additional clarification provided by France; available [here](#).

¹³ Available here: [Research Memorandum \(RM\) Nr 1, jaargang 19, 2023](#)



court of first instance communicates the decisions to the parties, including to the authority that is obliged to take action as the defendant. In the event that an administrative act subject to judicial review is quashed and the administrative body is obliged to conduct new proceedings, the Curia shall monitor the enforcement of its decision only indirectly if the party challenges the decision of the court-ordered "new" proceedings by filing a new claim, and if this new case is brought before the Curia again on the basis of a petition for cassation. In this type of procedural situation, the court – and during the cassation process, the Curia – shall examine whether the authority complied with the guidance of the court (that is, the Curia).¹⁴

III. EDITING AND PUBLISHING THE COURTS' DECISIONS

3.1. Introduction

20. This section relates to the importance of clear and precise judgements in facilitating enforcement. The aim of this part is to explore how the responding SACS are dealing with different aspects of editing and publishing of their decisions.

3.2. Drafting the courts' decisions

21. Out of 28 responding courts, 25 confirm that there are specific provisions, guidelines, formats or best practices regarding the drafting of the operative part of the court ruling. In contrast, three answer that no specific provisions, guidelines, formats or best practices exist. The majority of the responding courts (15 replies, 53.57%) report that in their court there are specific provisions regarding the drafting of the operative part of the court ruling. In addition, a reference was made to guidelines (four replies), formats (four replies) and best practices (one reply).

3.3. Publishing the courts' decisions

22. All responding 28 courts confirmed that there are specific provisions and/or practices concerning publishing their courts' decisions. More specifically, 23 courts have provisions and 18 courts have practices concerning publishing their decisions. Some courts have, thus, both provisions and practices.

3.4. Provisions concerning publishing the courts' decisions

23. Out of 28 responding courts, 23 provide information on specific provisions concerning publishing their courts' decisions. In their answers, they explain the *rationale* behind

¹⁴ Additional clarification provided by Hungary; available [here](#).



publishing court decisions. For example, in Romania the publication of the decisions is governed by several legal provisions and is influenced by specific practices aimed at ensuring transparency and access to justice. In the same vein, Spain explains that publishing its decisions is rooted in principles of transparency, legal certainty, and public access to judicial information.

24. Most of the responding courts state that decisions are published online. In Estonia, all the judgements and orders of the Supreme Court are published on the webpage and in the State Gazette. Some responding courts explain that such decisions which are important with respect to the application of law in other similar cases, representing the jurisprudence of the Higher Courts or otherwise of great legal importance, are published (e.g. Austria, the Netherlands, Finland, Serbia).

25. Many responding courts state that there are specific deadlines within which decisions shall be published and how decisions shall be anonymized. Furthermore, there may be provisions concerning structure of decisions, legal summaries and digital databases.

3.5. Practices concerning the publishing courts' decisions

26. Out of 28 responding courts, 18 provide information on specific practices concerning publishing their courts' decisions.

Best practices in Malta involve ensuring that the judgment's operative part is clearly framed, with unambiguous language used to outline the decision's requirements. These best practices are designed to avoid confusion or misinterpretation by the administrative authorities. Furthermore, practices include the publication of decisions, which serves both transparency and accountability, ensuring that both the public and the relevant authorities are aware of the court's ruling. According to the internal guidelines in Finland, decisions must be clearly written and unequivocally executable.

27. Most of the responding courts state that there are best practices concerning publication of decisions on the courts' website. In addition, best practices relate to anonymizing decisions and drafting summaries of the court's decisions.

IV. CAN ANNULMENT OF A DECISION BE AVOIDED?

4.1. Introduction



28. The following chapter relates to the possibilities how to avoid or neutralise annulment, even when an illegal act (regulation) has occurred. This chapter aims to explore what techniques and mechanisms the responding SACS have and how they use them.

4.2. The possibility to avoid an annulment of a decision in case of procedural flaws

29. The vast majority of institutions (24 institutions; 82.76%) stated that a decision under review, where a procedural flaw was identified, may be annulled only if further conditions are fulfilled. Croatia, Luxembourg and Malta (10.34%) replied that there are no further conditions for the annulment of a decision under review in that a procedural flaw was identified. However, although Croatia originally gave this response, it has since amended its position following recent legislative changes, bringing the share of responding institutions that require further conditions for annulment in case of procedural flaws to 86.21%, , while 6.90% (Luxembourg and Malta) of institutions report no further conditions for annulment.¹⁵ Cyprus and Germany did not respond to this question.

30. Out of the 25 institutions¹⁶ who stated that an annulment of a decision is subject to the fulfilment of further conditions, more than two thirds (18 institutions) clarified that such decision may be annulled if the procedural flaw could have affected the decision's outcome. Croatia now also falls into this category. More than half of the institutions annul such decisions also on the condition that a procedural flaw really influenced the decision's outcome (13 institutions). This includes Croatia under the new legal framework. Approximately the same number of institutions annul the decision in case that the procedural flaw deprived the parties of a legal guarantee (15 institutions). Croatia is now one of them. Less than a half of the institutions (11 institutions) stated that they annul such decision if the procedural flaw affected the authority of the decision-maker. With the Law on Administrative Disputes, Croatia now also qualifies under this condition. Belgium, the Czech Republic, Lithuania,

¹⁵ The replies for Croatia for questions C2-C3 of the questionnaire were updated retroactively following communication that legislative changes (notably the new Law on Administrative Disputes) were not entirely reflected in the initial submission of the survey for the 2024 cross-sectional analysis. In the 2024 Rule of law Report, Croatia (p.30), [available here](#), the Commission reported on this legislative change: “*New Law on Administrative Disputes includes measures to encourage the swift implementation of administrative courts’ judgments. On 14 March 2024, Parliament adopted a new Law on Administrative Disputes, which is part of the Recovery and Resilience Plan^[...]. The new law aims to encourage a more proactive approach to conducting administrative court trials, to improve procedural discipline of both parties and to shorten the length of proceedings. To this end, the law introduces a pilot-judgment procedure to be applicable when in five or more first-instance administrative court cases the subject of the claim is of the same legal and factual nature^[...]. Furthermore, the law stipulates a new enforcement procedure when state authorities refuse to implement a final judgment of the administrative court or implement it in a wrong way. In this special procedure, the administrative court would be able to fine the head of the administrative body with up to 30% of annual gross salary (approximately EUR 5 000, enforceable via the Public Payments Agency FINA) until the judgment is implemented or as a fine for wrong implementation^[...].”.*

¹⁶ The replies for Croatia for questions C2-C3 of the questionnaire were updated retroactively following communication that legislative changes (notably the new Law on Administrative Disputes) were not entirely reflected in the initial submission of the questionnaire for the 2024 cross-sectional analysis.



Romania, Türkiye and the United Kingdom apply any of the 4 conditions for annulment of such a decision.

31. Fifteen Member States declared that they also apply other conditions in order to annul such decision. The reasons for annulment varied greatly. The Member States usually cited their national legislative provisions to answer this question. Romania explained that an annulment of an unlawful administrative act applies only in the case of acts that have caused harm on the subjective right or legitimate interest asserted by the plaintiff. According to the Austrian Constitution an appeal may be declared as admissible, if the decision depends on a legal question of fundamental importance, in particular because the ruling departs from relevant prior decisions of the Supreme Administrative Court, such case law does not exist or the legal question to be solved has not been answered in uniform manner by the previous case law of the Supreme Administrative Court. A similar mechanism is applied in Sweden and in Finland. In Sweden, leave to appeal may be granted in extra-ordinary cases of legal or factual mistakes, but that is very rare in practice. In Finland, one of the possible grounds to grant a leave to appeal is that there is special cause for referring the matter to the SAC due to a manifest error that has occurred in the matter.

In Italy and Portugal, there is justification to maintain the challenged administrative act, even if it is vitiated by an infringement of law or form, when it is clear that its substantive content could not have been any different (or less harmful) from the one that was actually adopted. Similarly in Lithuania and Hungary, the procedural infringement must have an essential impact on the merits of the case to annul the contested administrative decision.

Following the legislative changes in Croatia, it has also listed additional grounds under Article 126(3) of the Law on Administrative Disputes, such as participation of a judge who should have been exempted or was not a judge, a wrong decision on the existence of conditions for the dispute, deciding on a non-disputed decision, a decision without a hearing (in violation of Article 98), denial of participation of a party, refusal of the party's right to use their language (Article 11), lack of proper representation and unlawful exclusion of the public from a hearing.¹⁷

32. Less than a half of the Member states (13 institutions; 44.83 %) have a legal tool allowing the administration in the proceedings before court to correct a procedural flaw identified by court in the decision under review, preventing outright annulment. Twelve Member states declared that they have no such legal tool. Ireland clarified that their court enjoys a wide discretion as to how it addresses procedural flaws. There is no specific 'tool'; rather, a variety of remedies available to best address the specific situation. Almost all Member states (12 institutions) that have some legal tool (or mechanism) allowing the

¹⁷ Additional clarification provided by Croatia following the change in legislative framework (notably the new Law on Administrative Disputes).



administration in the proceedings before court to correct a procedural flaw (including Ireland) may use this legal tool also in proceedings before the supreme court.

The only exception is Hungary where a decision may be revoked or amended once until the lawsuit is closed with a final judgment; therefore, this possibility no longer exists during cassation proceedings before the Curia as a forum for extraordinary remedy.

The institutions mostly describe the nature of such legal tool as a 'corrective' decision which replaces the contested decision during the proceedings before the court. In the Netherlands the court points out the errors in the contested decision and gives the administration the opportunity or order to remedy these errors. Instructions can also be given on how to remedy the errors. In the final judgment the court decides whether the administration has succeeded in remedying the errors. This is called the 'administrative loop'.

On the contrary, in Finland, the administrative authority acts on its own initiative.

In Portugal, after the replacement of the ratified act in the legal order, the contested action brought against that act has lost its purpose, with the result that the case is dismissed on the grounds of the impossibility of bringing proceedings.

In Hungary, the legal tool has the nature of '*satisfaction of the petitioner*'. The administrative authority may revoke or amend a decision in accordance with the statements in the claim. If the petitioner accepts the amended or revoked decision, the court shall terminate the proceedings.

While this tool may at first appear ambiguous, it in fact reflects the unique nature of the underlying legal rule. In particular, Section 115(2) of Act CL of 2016 on the General Administrative Procedure is an exceptional provision. Generally, an administrative authority may amend a decision challenged in court based on the statement of claim. However, this section allows the authority to amend or revoke its decision even during the court proceedings, as long as the change does not conflict with the law. In this context, the notion of "*satisfaction of the petitioner*" refers to a situation where both administrative authorities modify the decision in line with the petitioner's claim, and the court may terminate the proceedings if the petitioner formally declares that the amendment satisfies their request.

Slovenia applies similar mechanism.

In Estonia, the administrative authority may supplement convincing reasons in court proceedings, but it has to prove that the same reasons were used when issuing the administrative act. However, the reasoning of the administrative act cannot transfer entirely to the court proceedings.



In Greece, if the court is led to annul the administrative act due to a defect that can be covered retrospectively and if it considers, in view of the nature of the defect and its effect on the content of the challenged act, that the annulment of the act is not necessary to restore legality and to ensure the right to judicial protection, as well as in the event of the applicant failing to take due legal action, the court may, in consideration of the legal interests of the parties, issue a preliminary ruling, which shall be notified to all parties, and request the competent service either to take specific action to eliminate the defect or to fulfil the due legal action, setting an exclusive reasonable deadline for this.

4.3. The possibility to maintain the effects of an act (regulation) to be annulled / is annulled

4.3.1. Individual acts

33. Almost two thirds of the Member States (18 institutions; 62.07%) gave a positive answer to the question of whether their court has a power to temporarily remain in force an *individual act* that is to be or is annulled. However, based on a more detailed explanation, two situations need to be distinguished.

One group of institutions (Austria, the Czech Republic, Denmark, Estonia, Finland, Slovakia, Slovenia, Türkiye) clarified that their power lies in the possibility to suspend the effects of the contested decision until the end of the proceedings before the court. In Türkiye it is a rule in case of actions arising from disputes regarding tax and similar financial liabilities. In Austria the appellant may - on the basis of directly applicable Union law - further request other provisional measures, with the effect that the appellant is provisionally granted a legal position, the granting of which was refused by the challenged decision on the basis of a national legal provision (possibly in conflict with European Union law). In the Czech Republic, Slovakia, Slovenia and Finland, the SAC may suspend the effects of the contested lower court's decision in a pending case where the lower court has annulled an individual act of the administrative authority.

The other group of institutions stated that they may stand temporarily the legal consequences of the act annulled by the court. Italy has a general rule that declares the continued effectiveness of the contested act pending the adoption of a new replacement measure whereas the court may derogate from that general rule.

On the contrary, in Estonia and Finland it is the court who may order continued compliance with the annulled decision until a new decision is made in the matter. In France and the Netherlands, the court may determine that all or part of the legal consequences of the annulled act shall be allowed to stand. France however pointed out that maintaining the



effects of an act contrary to EU law is only permissible under exceptional conditions set out in the judgment C-41/11 of 28 February 2012, *Inter-Environnement Wallonie and Terre Wallonne*. In the United Kingdom, a quashing order includes a provision for the quashing not to take effect until a date specified in the order. According to Greek law, the effects of the annulment may refer to a point in time after the time of entry of the administrative act into force and in any case prior to the time of publication of the annulling decision.

According to Belgian and Lithuanian law, the execution of a court decision may be postponed only in exceptional circumstances. Similarly in Hungary, the court is allowed to quash an administrative act by indicating the precise date of its abrogation (even *pro futuro*) but only if it is justified by the protection of the public interest, legal security, or a particularly important interest of the persons affected by the judgment.

A “special regime” adopted by Serbia is one where the court shall render a judgement in order to decide the administrative matter (when it finds that the challenged administrative act should be annulled), if the nature of the matter so allows and if the facts of the case give a reliable foundation for doing that. This judgement shall completely replace the annulled act (dispute of full jurisdiction). Such a procedure is however excluded when the subject of the administrative dispute is an administrative act passed based on a discretionary assessment. Exceptionally, in certain matters, a dispute of full jurisdiction may be expressly excluded by a special law.

Out of the 18 institutions who declared power to temporarily remain in force an individual act that is to be or is annulled only 6 (Austria, Belgium, the Czech Republic, Serbia, Slovakia and Slovenia) further stated that this power may be imposed only upon a formal request of a party involved. On the contrary, almost twice as many institutions (10) stated that this measure can be imposed without a formal request of a party involved. Only Austria, Serbia and Slovenia gave a positive answer to the question of whether this special power is restricted only to the individual acts in specific areas. However, their replies did not refer to specific areas, but rather to the general legal framework governing the competences of their respective courts.

4.3.2. *Regulatory acts*

34. Compared to individual acts, significantly fewer institutions have the power to temporarily maintain in force a *regulation* that is to be or is annulled. Out of the 29 institutions surveyed only 11 (37.93 %) gave a positive answer to this question. It means that seven institutions declared this power in relation to individual acts but not in relation to regulations. Interestingly Luxembourg does not have this power in relation to individual acts but does have it in relation to regulations.



The Netherlands clarified that administrative courts do not exercise judicial review in relation to regulations, but they do have the power to indirectly review when assessing the lawfulness of an individualised decision (*'exceptieve toetsing'*).

The Czech Republic exercises judicial review concerning regulations in relation to service regulations and measures of a general nature. Within this review, the SAC may annul the service regulation or measure of a general nature on a date to be determined in its judgment.

A similar rule applies in Hungary, where the Curia has power to review local government decrees. If the Curia annuls the decree, it may set a date of its abrogation differently as long as it is justified by the legal security or the protection of the fundamental rights of entities that fall under the scope of the pertinent local government decree. In Belgium, the power to maintain effects of annulled regulation may only be ordered for exceptional reasons justifying a violation of the principle of legality, by a specially reasoned decision on this point and after an adversarial hearing.

In Lithuania, when an administrative court declares a normative (regulatory) administrative act (or part thereof) unlawful, such an act ceases to be applicable from the date of the official publication of the final decision of the administrative court in the Register of Legal Acts. Taking into account the specific circumstances of the case and the potential negative legal consequences, the official publication in the Register of Legal Acts may be postponed.

According to judicial practice in Luxembourg, the Administrative Court, particularly in matters of urban planning and regulatory acts, regularly limits itself to issuing only partial annulments, covering only the buildings subject to its control in the context of the specific dispute before it, considering that it is better to save the disputed provision rather than to destroy it for all the persons affected by the plan in question.

France, Greece, Türkiye and United Kingdom apply in relation to the regulation the same rules that are applied in relation to the power to temporarily maintain in force an individual act that is to be or is annulled.

35. Out of the 11 institutions who declared power to temporarily remain in force a regulation that is to be or is annulled, only two (Belgium and Serbia) further stated that this power may be imposed only upon a formal request of a party involved.

On the contrary, eight institutions stated that this measure can be imposed without a formal request of a party involved. Only the Czech Republic, Hungary and Serbia gave positive answer to the question of whether this special power is restricted only to the regulations in specific areas.



In Serbia it concerns the compliance of the general acts of a local self-government unit with its statute.

In the Czech Republic this power is restricted only to the two areas mentioned above, i. e. the proceedings on the annulment of service regulations and on the annulment of measures of a general nature.

In Hungary the rule applies only to municipal (local government) decrees. However, regulations of general scope applicable in individual cases may also be the subjects of an administrative dispute together with the individual decisions. In this case, the Curia may resort to *pro futuro* revocation cited above (in practice, this is more conceivable in relation to long-term or complex administrative legal relations).

4.4. Fine for abusive appeals

36. Out of the 29 institutions surveyed, less than a half of them (12 institutions; 41.38%) can impose a fine on party that file clearly unjustified (abusive) appeals. Regarding the remaining majority of institutions that don't have such a power, Ireland explained that the Supreme Court would not grant leave to appeal in such a case.

V. ENFORCEMENT THROUGH THE DECISION ITSELF

5.1. Concept and understanding of 'self-enforcing' decisions¹⁸

37. Twenty-four institutions (France, Malta, Romania, Austria, Serbia, Poland, Italy, Spain, Portugal, the Netherlands, Bulgaria, Ireland, Lithuania, Belgium, the Czech Republic, Croatia, Luxembourg, Slovakia, Finland, Estonia, Greece, the United Kingdom, Germany and Cyprus) considered that some of their court decisions could be regarded as self-enforcing, only two replied in the negative (Hungary, Denmark) and two did not reply (Sweden, Türkiye).

38. Among the institutions that replied in the affirmative, five institutions equated the self-enforcing nature with the enforceable nature of their court decisions, in other words with the fact that they constitute an 'enforceable title', are 'automatically enforceable', and are binding in nature. In short, they produce a compulsory effect without any other procedural formality. These five institutions responded by citing the text conferring this status on their court

¹⁸ For the purposes of this analysis, a "self-executing" judgment refers to a decision that produces legal effects directly upon becoming final, without requiring a separate enforcement procedure.

decisions *ab initio* or at a certain stage of the proceedings (France¹⁹, Belgium²⁰, Romania²¹, Serbia²², Cyprus²³).

In the same vein, Bulgaria referred to its Code of Administrative Procedure, which establishes a framework for the voluntary enforcement of enforceable decisions within a certain period of time, specifying that the enforcement procedure is suspended in the event that the obligation laid down in the decision in question is fulfilled voluntarily within that period. For these institutions, the self-enforcing nature does not imply the absence of necessary action by the administration or the implementation of enforcement mechanisms by the courts.

Conversely, most of the other institutions regarded the term ‘self-enforcing’ as synonymous with requiring no action from the administration and/or no enforcement mechanism on the part of the courts, with the result that their responses can only be analysed in relation to those of the following two questions.

Austria, however, has said that while only judgments that are not subject to any enforcement mechanism can be self-enforcing, the reverse is not always true (*e.g.* decisions concerning the discontinuation of administrative criminal proceedings that are not enforceable but are self-enforcing²⁴ but are self-enforcing).

The Czech Republic stated that its legal system does not distinguish between the ‘self-enforcement’ of a decision and its ‘enforceability’, meaning that it is only possible to use an enforcement mechanism if the decision is enforceable, the decision imposes an obligation on a party to the proceedings, and the party requests the enforcement.

To be more specific, in Czech administrative court proceedings, most decisions on the merits are enforced as soon as they have become enforceable. Only if the decision imposes an obligation on a party of the proceedings, the other party is entitled to initiate enforcement proceedings before civil courts. Therefore, in most cases the use of enforcement mechanisms is not necessary. Typically, these are decisions dismissing the action, annulling the contested decision (and sending the case back for further consideration), declaring the decision null and void, waiving the imposition of a fine, declaring the intervention unlawful, declaring the election void, determining the administrative authority competent to decide the case, *etc.*

¹⁹ Article L.11 of the Code of Administrative Justice: ‘judgments are enforceable’

²⁰ Article 37(1) of the General Rules of Procedure (Decree of the Regent of 23 August 1948 determining the procedure before the Administrative Disputes Division of the Council of State): judgments are automatically enforceable

²¹ In accordance with the provisions of Article 22 of Law No 554/2004 on administrative disputes, final judicial decisions handed down in accordance with the provisions of this law are enforceable

²² Articles 7 and 68 of the Law on administrative disputes: The judgment may be enforced once it becomes final

²³ Article 146 of the Constitution: judgments of the Supreme Constitutional Court are binding on all courts and all bodies or authorities of the Republic and are applied by the body, authority or person concerned

²⁴ In the sense for Austria of not subject to an enforcement mechanism.



After listing the different types of decisions it could make in the case of an ordinary appeal, the Finnish Supreme Administrative Court stated that in all the cases listed in Article 81(1) of the Law on administrative disputes, these judgments take effect immediately without any other enforcement measures.

39. For six countries, ‘self-enforcing’ seems to refer only to decisions that do not require any action by the administration to take effect, without excluding the use of enforcement mechanisms by the courts (Malta, Belgium, Romania, Italy, Estonia, Portugal, Greece).

Several examples are given of cases or categories of judgments regarded as self-enforcing: decisions to annul acts, even outside of *ex officio* proceedings (Germany, the Netherlands, Estonia, Greece, Spain), monetary judgments (Malta), those that produce effects of a purely legal nature, such as the annulment of acts *ex officio* (Italy and Croatia), judgments terminating administrative proceedings (Poland), the writ of certiorari (Ireland), judgments declaring a normative administrative act (or part thereof) illegal (Lithuania²⁵), judgments recognising rights as well as certain judgments ordering the administration to pay a sum of money when the decision of the court specifies the exact obligation that the administration must fulfil (Spain), judgments rejecting an appeal, declaring a decision null and void, waiving the imposition of a fine, declaring an intervention illegal, declaring an election null and void or even determining the administrative authority competent to rule on the case (the Czech Republic), and finally so-called ‘constitutive’ decisions in that they have the power to create, modify or extinguish a legal relationship (Portugal²⁶).

For Luxembourg, self-enforcing judgments refer to reform judgments allowing it to substitute its decision for that of the administration.

Without defining the term ‘self-enforcing’, the Slovakian Supreme Administrative Court listed the cases in which it was competent to make direct decisions in electoral matters (*e.g.* registering a candidate on a list).

The United Kingdom, for its part, responded on the basis of the distinction between declaratory orders, which are in the majority and the administration most often enforces the decisions handed down without difficulty, and coercive orders, which are in the minority and can be handed down when a legally enforceable obligation (to act or to refrain from acting) has been established.

²⁵ But Lithuania provides other examples of self-enforcing judgments in answer to the question “Are there judgments in your system that are not subject to any enforcement mechanism, please explain?”.

²⁶ E.g.: order for the protection of rights, freedoms and guarantees; decisions handed down in the context of enforcement proceedings for an inapplicable administrative act - possibility of a judgment producing the effects of a permit that has been illegally refused or omitted -



5.2. Existence and role of enforcement mechanisms

40. Sixteen institutions (France, Austria, Serbia, Poland, Spain, the Netherlands, Bulgaria, Ireland, Lithuania, the Czech Republic, Croatia, Luxembourg, Slovakia, Finland, Germany and Cyprus) considered that some of their court decisions were not subject to any enforcement mechanism, only nine replied in the negative (Malta, Romania, Belgium, Italy, Estonia, Portugal, Hungary, Greece, Denmark) and three did not respond (Sweden, Türkiye, the United Kingdom).

41. As stated in the analysis of the responses to the question regarding self-executing judgments, some of the responses hereafter overlap depending on the definition given by each institution to the terms of the questions.

For institutions that have assimilated self-enforcing and enforceable character, examples are given of judgments that do not require any action on the part of the administration in order to take effect. Serbia cited the specific case of Article 42(2) of the Law on administrative disputes²⁷, Cyprus cited that of specific separate procedures in the case of a judgment concerning the inaction of the administration, and cited Bulgaria that of the case where a natural or legal person has lodged a request for protection against unlawful enforcement preventing the enforcement of the final judgment within the time limits.

Aside from these specific cases, the most frequently cited examples of judgments that do not require the administration to take any action or the court to use an enforcement mechanism include declaratory judgments (Austria, Germany, Spain, Ireland, Lithuania, Hungary²⁸), judgments of annulment (France, Austria, the Netherlands, Lithuania, Luxembourg) or even rejection decisions (Austria, Poland, Spain, Croatia). As stated in response to the question regarding self-executing judgments, three countries referred, in whole or in part, to their answer to that question (the Netherlands, the Czech Republic, Slovakia). The Netherlands also referred to answer regarding the challenges in ensuring SAC decisions are enforced²⁹, in which they state in particular that the only general possibility provided for by the Dutch General Administrative Law Act (GALA) to ensure the enforcement of its judgments is the penalty payment imposed in the decision itself. They also detail the formalities required for a party to request that a judgment be enforced by a bailiff.

²⁷ 'If the action is accepted and the application seeks to determine the illegality of the act devoid of legal effects, or if the application consists solely of determining whether the defendant has repeated his previous act already annulled before the court, the court shall limit itself to the requested determination.'

²⁸ Although Hungary answered in the negative on the question "Are there judgments in your system that are not subject to any enforcement mechanism" (question D4 in the questionnaire), it reserved the case of declaratory judgments, specifying that they only concern a very small number of cases

²⁹ See above, chapter II, " 2.4. Challenges in ensuring the SACs decisions are enforced by administrative authorities".



The Czech Republic stated that most decisions in administrative justice proceedings are enforced as soon as they are enforceable and the use of any further enforcement mechanism is not necessary. Only if the decision imposes an obligation on a party of the proceedings, the other party is entitled to initiate enforcement proceedings before civil courts.

For Finland, the enforcement mechanisms provided by law only concern judgments that provide for enforceable obligations (for example, payment obligations, injunctions).

42. For the decisions of only 16 out of 28 institutions, enforceability is indicated by the appending of an enforcement clause to the decision itself (France, Malta, Romania, Spain, Italy, Portugal, Austria, Serbia, the Netherlands, Bulgaria, Belgium, the Czech Republic, Türkiye, Greece and Croatia³⁰).

5.3. Form and details of enforcement clauses

43. All the institutions that answered in the affirmative on the question “does the enforceability of your court’s decisions take the form of an enforcement clause in the decision itself?”³¹, with the exception of Malta, specified what they meant by an enforcement clause. The diversity of the responses reflects the diversity of the scope given to the expression.

Some institutions interpreted the expression restrictively as referring to a mandatory sentence provided for by law to be included in any decision in order to give the competent authority the order and power to proceed with its enforcement. These institutions gave the precise wording of their respective enforcement clauses (France³², Belgium³³, Italy³⁴, the Czech Republic³⁵ and Greece)

For two countries (Romania and Türkiye), although the enforceability of court decisions is established by law and does not depend on the inclusion of a provision relating to enforceability in the text of the decision, it is nevertheless customary to include the expressions ‘Enforceable’ or ‘Automatically enforceable’ in the operative part of decisions in Romania for the sake of clarity, and for Finland to add at the end of the decision a sentence of

³⁰ The replies for Croatia for questions D6-D9 of the questionnaire were updated retroactively following communication that legislative changes (notably the new Law on Administrative Disputes) were not entirely reflected in the initial submission of the questionnaire for the 2024 cross-sectional analysis.

³¹ Question D4 in the questionnaire.

³² ‘The Republic commands and orders the [relevant minister] as far as he or she is concerned or all commissioners of justice as required with regard to common law remedies against private parties to ensure the enforcement of this decision’

³³ ‘The Ministers and administrative authorities, as far as they are concerned, are required to ensure the enforcement of this judgment. Court bailiffs to whom this has been referred must participate in this with regard to common law remedies.’

³⁴ Under Article 88(1)(f) of the Code of Administrative Procedure, the administrative judgment must contain ‘the order that the decision be enforced by the administrative authority’.

³⁵ The clause stating that a decision is enforceable takes the form of a stamp placed on the decision, worded as follows: ‘This decision is enforceable as of the date of ...’



more historical than legal value ‘Tätä kaikki asianomaiset noudattakoot’ (roughly ‘may all concerned observe the foregoing’).

Two countries (Spain, the Netherlands) specified the forms required for court decisions to constitute an enforceable title. In Spain, the enforceable title is a formal legal document issued to guarantee the enforcement of a court decision. Its wording must comply with the provisions of the Ley de la Jurisdicción Contencioso-Administrativa (LCA), in particular Articles 103 to 108, with a mandatory structure and wording, and must clearly define the actions necessary for the enforcement of the judgment. Similarly, for the Netherlands, Articles 8:55c, 8:55d(2), 8:72(6) and 8:76 of the GALA provide for a certain number of mandatory statements. In order to enforce a decision, the party must ask the DJA to draw up the ‘original’ of the decision. The heading of the ‘original’ of the judgment must be preceded by the words ‘In the name of the King’.

Portugal referred to Article 703(1)(a) of the Code of Civil Procedure, ex vi, Article 1 of the Code of Administrative Procedure, conferring the character of enforceability on judgments of the administrative courts.

Bulgaria stated, on the one hand, that judgments are subject to enforcement in accordance with the provisions of the Code of Administrative Procedure and, on the other hand, that the enforceable title must be granted according to the obligation to be enforced based on the decision of the court.

Austria and Serbia, which did not refer to the concepts of enforceable title and enforcement clause, provided examples of the wording of provisions for cancellation or orders to pay or to do.

44. Seventeen institutions provide the parties with details on how their decisions should be enforced.

For 14 of them, these details are given in the recitals of the decision itself (France, Serbia, Poland, Spain, Portugal, the Netherlands, Lithuania, Belgium, Luxembourg, Hungary, Finland, Estonia, Greece and Croatia), and seven of them include these details in the operative part (France, Spain, Portugal, the Netherlands, Luxembourg, Finland, Estonia).³⁶ Four also provide these details in the operative part but not in the recitals (Malta, Austria, Italy, Bulgaria), making a total of 11 countries that include details on the methods of enforcement in the operative part. Spain and France can also do this at the request of the parties in a document

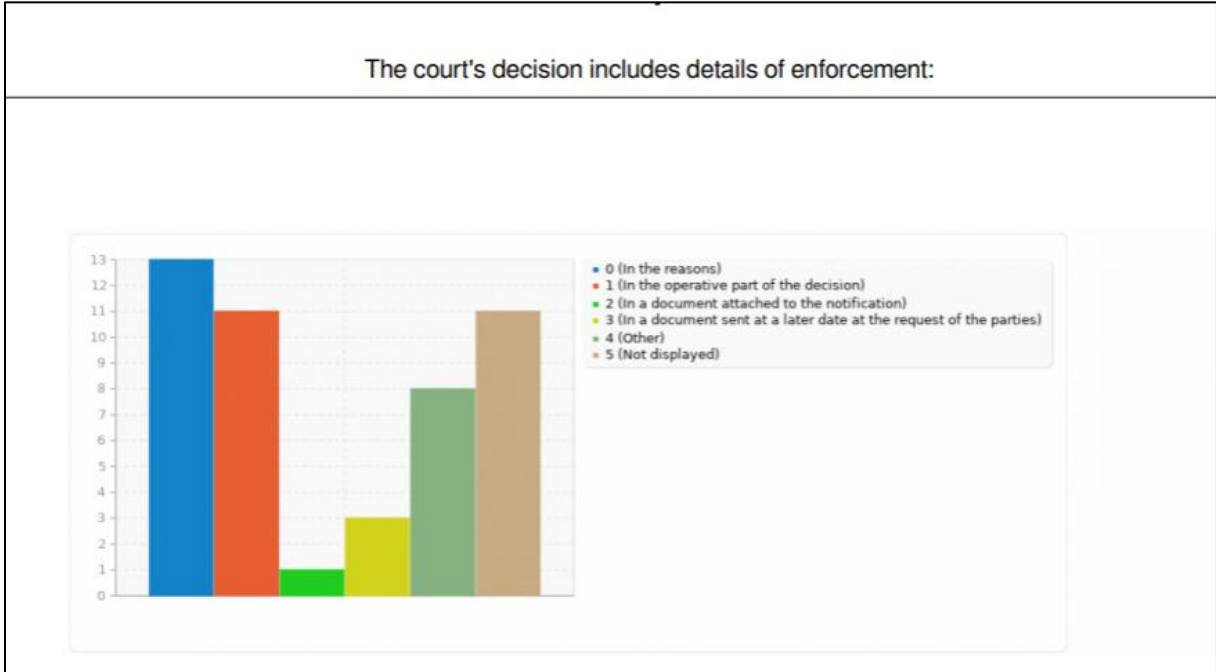
³⁶ The replies for Croatia for questions Q6-Q9 of the questionnaire were updated retroactively following communication that legislative changes (notably the new Law on Administrative Disputes) were not entirely reflected in the initial submission of the questionnaire for the 2024 cross-sectional analysis.



to be submitted. Only Spain also does this in a document attached to the notification, France in a subsequent document within the framework of Article R.931-1 of the Code of Administrative Justice, as further specified below under the following paragraph number (§45).

Eight institutions also provide this information in a different way.

Eight institutions do not provide such details (Ireland, Sweden, the Czech Republic, Türkiye, Slovakia, Denmark, Germany and Romania) and two did not respond (the United Kingdom and Cyprus).³⁷



45. Nine countries provided various details.

Portugal and Lithuania made it clear that the details provided on the methods of enforcement were limited by respect for the principle of the separation of powers, as the court cannot act in the place of the administrative body.

The French Council of State specified in which case it could be regarded as providing clarification by means of a subsequent document, this hypothesis referring solely to the implementation of Article R.931-1 of the Code of Administrative Justice, which allows for the possibility of requesting clarification from the Council of State on the methods of enforcing

³⁷ The replies for Croatia for questions Q6-Q9 of the questionnaire were updated retroactively following communication that legislative changes (notably the new Law on Administrative Disputes) were not entirely reflected in the initial submission of the questionnaire for the 2024 cross-sectional analysis.

some of its decisions, and the issuing of an opinion following such a request for clarification could also be regarded as a ‘document subsequent to the request of the parties’.

Italy specified that the binding declarations appearing in the operative part must be given concrete application thanks to the cooperation of the parties.

Hungary stated that it is required to provide precise guidance in the event of the cancellation of acts on the relevant points to remedy the infringement under Article 86(4) of the Law on administrative disputes, such details in both the recitals and the operative part being of an imperative nature for the administration under Article 97(4) of the Law on administrative disputes.

The Netherlands provided some examples of enforcement details, particularly with regard to the amount of the penalty payment and its settlement. Similarly, Finland cited the example of a binding instruction that can be given in the case of a review of a residence permit application (e.g. the applicant must be treated as a minor).

Greece provided clarification on the scope of the force of *res judicata*, specifically in the event of the annulment of an act, that the content and scope of the administration's compliance obligations are determined by the subject of the annulment pronounced, namely by the nature and type of the annulled act or the legal elements that constitute the omission, as well as by the judgment(s) on the issues examined and on which the Court ruled in the grounds for its decision, thus creating the authority of *res judicata* with regard to them for the case in question.

Following the legislative changes in Croatia introduced by the new Law on Administrative Disputes, Article 119 of this law now specifies that, where a case is referred back for re-enforcement, the operative part of the court's decision may also include an obligation for the competent authority to comply with the legal findings and observations expressed by the court in the reasoning of the decision.³⁸

5.4. Involvement of external actors in enforcement

46. Regarding the presence of bodies or mechanisms, other than the deciding court itself, responsible for ensuring the enforcement of the adopted decision — as well as the possible appointment of a *commissioner ad acta* for this purpose — the vast majority of the examined

³⁸ The replies for Croatia for questions Q6-Q9 of the questionnaire were updated retroactively following communication that legislative changes (notably the new Law on Administrative Disputes) were not entirely reflected in the initial submission of the questionnaire for the 2024 cross-sectional analysis.



States report that they do not provide for such a possibility. Only three legal systems responded affirmatively to this question (Austria, Italy, and Luxembourg).

47. More specifically, only Italy and Luxembourg report the existence of a commissioner figure, referred to as *commissario ad acta* (Article 114 of the Italian Code of Administrative Procedure) and *commissaire extraordinaire*, respectively. The latter is appointed by the judges of Luxembourg in cases where a final decision remains unenforced and upon request by the interested party. Austria, on the other hand, reports that when the administrative judge rules on the merits of a case, they must also designate the Court or authority responsible for enforcing the adopted decision.

5.5. Judicial techniques to strengthen enforcement

48. With regard to the presence of additional instruments within the surveyed States — such as texts, new judicial techniques, adaptations of reasoning or rulings — aimed at ensuring the enforcement of judgments, a larger number of States responded affirmatively, including Portugal, France, Lithuania, Belgium, Estonia, and Greece.

49. In some States (Portugal and Estonia), these measures consist of the possibility for the administrative judge to impose penalties on the non-compliant administrative authority. Other legal systems, such as Greece and especially France, highlight the central role of judicial interpretation in ensuring the enforcement of administrative decisions.

In France, this result is achieved through a well-established approach that requires the ruling to explicitly state the reasons for annulment, which become binding on the administration, as well as through the key mechanism of "injunctions" directed at public authorities.

As for Greece, its case law is well-established in affirming that the annulment of an administrative act must be followed by positive actions from the public administration to remove both the direct and indirect consequences of the annulled act.

Finally, Lithuania and Belgium report internal enforcement mechanisms embedded within the ruling itself. Lithuania employs a "clarification" mechanism, allowing the court, upon request by the interested party, to further elucidate the operational scope of its decision without altering its substance. Belgium, on the other hand, provides that, upon request, the court may indicate the measures to be adopted to remedy the illegality that led to the annulment of the act.

VI. MECHANISMS AVAILABLE TO COURTS TO HELP ENFORCE JUDICIAL DECISIONS



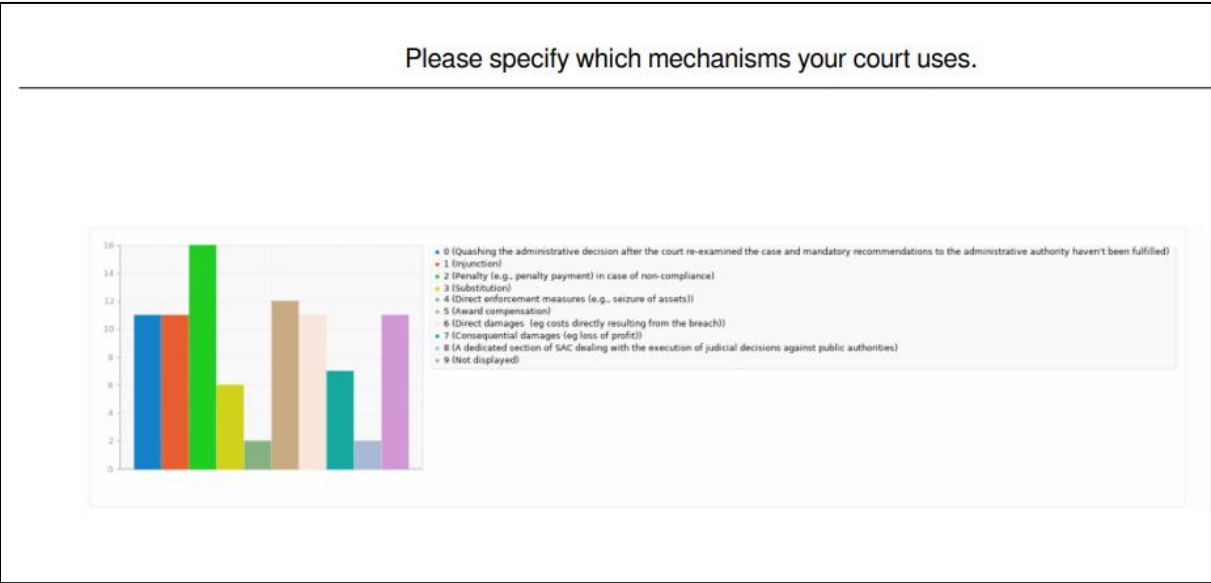
6.1. Enforceability and responsibility for enforcement of administrative court judgments

50. In 27 out of 29 countries (93.1%), an administrative court judgment is enforceable once it is final. Only Sweden indicated that the final judgment is not enforceable.

51. The vast majority of countries, 19 out of 29 (67.86%), provided the answer “no” to the question “is the administrative court that has issued a judicial decision is responsible for the enforcement of that administrative court judgment?”. However, nine of the responding countries (Bulgaria, Croatia, France, Greece, Ireland, Malta, Portugal, Spain and Slovenia) indicated that the responsibility for the enforcement of the judgment lies with the court that issued the decision.

52. In those jurisdictions where the responsibility for the enforcement lies within the court, responsibility for enforcement arises only at the request of a party to the proceedings, except for France, Ireland and Bulgaria.³⁹

6.2. Existence and common types of mechanisms to help enforce judicial decisions



53. Eighteen countries confirmed existence of techniques or mechanisms that help enforce judicial decisions within their courts (Belgium, Bulgaria, Estonia, France, Germany, Greece, Hungary, Ireland, Italy, Lithuania, Luxembourg, Malta, The Netherlands, Poland,

³⁹ The Czech Republic clarified that, within its legal framework, the responsibility for enforcement arises solely upon the request of a party to the proceedings. Since it responded in the negative to the question: “Is the administrative court that issued the judicial decision responsible for enforcing that judgment?”, the Czech Republic has been excluded from the present statistical response.

Portugal, Romania, Serbia, Spain). Ten jurisdictions responded with “no” (Austria, Croatia, Czech Republic, Denmark, Finland, Slovakia, Slovenia, Sweden, Türkiye, United Kingdom).

54. The most common mechanism used among the 18 countries that confirmed using such mechanisms is a penalty (16 jurisdictions) and other mechanisms include an award of compensation (12 countries), as well as an order of *certiorari*, which quashes the administrative decision and an injunction and a direction to pay damages to the injured party (11 jurisdictions).

55. The “penalty” technique is applied by 16 jurisdictions (Belgium, Bulgaria, France, Germany, Greece, Estonia, Hungary, Italy, Lithuania, Malta, Poland, Portugal, Romania, Serbia, Spain, The Netherlands). In Romania, it is the only mechanism used.

56. An award for compensation is used by 12 jurisdictions (Belgium, Estonia, France, Greece, Italy, Lithuania, Luxembourg, Poland, Portugal, Spain, The Netherlands, Malta). In Luxembourg, this is the only mechanism used to enforce judgments (at the request of the parties).

57. An injunction can be ordered in 11 jurisdictions (Belgium, Estonia, France, Greece, Hungary, Ireland, Italy, Lithuania, The Netherlands, Poland, Portugal).

58. The legal regime of awarding direct damages (*e.g.* costs directly resulting from the breach) by the administrative court exists in 11 countries (Belgium, Greece, Estonia, France, Ireland, Lithuania, The Netherlands, Portugal, Spain, Italy, Malta), whereas the legal mechanism of consequential damages (*e.g.* loss of profit) can be used in 7 jurisdictions (Belgium, Greece, Estonia, France, The Netherlands, Italy, Lithuania).

59. Poland uses four mechanisms: 1) Quashing the administrative decision after the court re-examines the case and the mandatory injunction ordered against the administrative authority hasn’t been complied with; 2) An injunction; 3) A penalty; and 4) An award of compensation.

60. In Hungary, only three mechanisms are provided for in administrative cases: 1) Quashing the administrative decision after the court re-examines the case and the mandatory injunction ordered to the administrative authority hasn’t been complied with; 2) An injunction; and 3) A penalty. It is only at first instance that an injunction or a fine will be imposed.

61. In two countries (Malta, Spain) the mechanism of direct enforcement measures (*e.g.* seizure of assets) can be used by the administrative court (initiated at the request of the parties in the case of Spain and of the court’s own motion in the case of Malta).



62. France and Malta indicated that special supporting mechanisms in the form of dedicated sections of the Supreme Administrative Court are in operation which deal with the execution of judicial decisions against public authorities.

63. Hungary has explained that although the Curia (Supreme Court) cannot award compensation for damages directly to the plaintiff, if damage is caused by the administrative authority's non-performance, there is a mechanism available under the rules of the Code of Civil Procedure, whereby the party may seek compensation for the damage caused within the scope of the authority's jurisdiction in relation to both direct damages and consequential damages.

Litigation for compensation for damage caused within the scope of administrative jurisdiction is conducted in accordance with the rules of civil procedure; its substantive background was enshrined in Section 6:548 of Act V of 2013 on the Civil Code. A legal person exercising public authority is liable for damage caused within the scope of administrative jurisdiction. If the holder of public authority is not a legal person, the administrative body having legal personality shall be liable for damage under which the proceeding administrative body operates. It is not automatic and may be initiated by the plaintiff or interested party who participated in administrative proceedings, if the court proceeding in the administrative proceedings established the infringement with a final decision and if the administrative judicial process is ensured. Judicial practice examines imputation according to special standards on a case-by-case basis. It is also worth noting that the codification of the civil and administrative procedural codes in Hungary was preceded by an extensive legal-theoretical debate on which judicial forum should have jurisdiction over claims for damages arising from the exercise of public authority.

64. In 11 countries it is possible to award direct damages. In seven countries, the legal mechanism also covers consequential damages.

For instance, in Lithuania, in cases where unlawful actions of a public administration body (including non-compliance with a court decision) have caused damage to a claimant, compensatory claims may be brought before the administrative courts. Recoverable damages include direct and consequential losses, as well as non-pecuniary damage.

For instance, in Lithuania, in cases where unlawful actions of a public administration body (including non-compliance with a court decision) have caused damage to a claimant, compensatory claims may be brought before the administrative courts. Recoverable damages include direct and consequential losses, as well as non-pecuniary damage.

In the Netherlands, the law provides: 1) compensatory actions for compensation of damages suffered as a result of an unlawful decision or an unlawful action in preparation of an unlawful decision; as well as 2) actions for compensation for damage suffered as a result of not making a decision in time. The notion of damages covers direct damages and consequential damages.



In Greece, when it comes to direct damages, according to settled case-law of the Council of State, non-compliance or improper compliance of a public authority with a judicial decision affords an injured party the right to bring an action for damages before the competent administrative court under the respective provisions of the Civil Code. In the case of consequential damages, the legal regime is also determined by the settled-case-law of the Council of State based on the Constitution and its provision demanding that the public administration comply with court orders and decisions. In the event of annulment of an act *e.g.* the imposition of a fine which has already been paid by the person liable together with any surcharges, the total amount paid must be returned to the payer, plus the statutory interest provided for at that time. This is because it is the only way that things are restored to the situation that would have been, had the act that was annulled not been issued in the first place. In consequence, the refund of this amount (fines, surcharges and legal interest) may be sought by filing an action for damages under provisions of the Introductory Law to the Civil Code, in the event of non-compliance or improper compliance by the administration with whom the obligation rests, which directly results from the annulment decision.

6.3. Initiation of mechanisms to help enforce judicial decisions

6.3.1. Initiation of quashing of an administrative decision after the court re-examined the case and mandatory recommendations to the administrative authority haven't been fulfilled

65. In eight countries, as regards the quashing of an administrative decision after the court re-examined the case, and a finding being made that mandatory recommendations to the administrative authority haven't been fulfilled, this mechanism is initiated at the request of the parties (Belgium, Estonia, Hungary, Lithuania, Ireland, Poland, Portugal, Serbia). Only in 2 jurisdictions it is instituted of the court's own motion (Germany, The Netherlands).

6.3.2. Initiation of an injunction

66. An injunction can be ordered by the court on its own motion (France, Greece, The Netherlands, Ireland) or at the request of the parties (Belgium, Estonia, France, Hungary, Ireland, Italy, Poland, Spain). In France and Ireland, the injunction can be ordered both of the court's own motion and on request of the parties.

6.3.3. Imposition of a penalty in case of non-compliance

67. Imposition of a penalty is initiated mainly at the request of the parties in 12 countries (Belgium, Bulgaria, France, Germany, Greece, Estonia, Hungary, Italy, Lithuania, Poland,



Romania, Spain). In four countries imposition of this measure is provided on the court's own motion (France, The Netherlands, Portugal, Serbia). France explained that this measure can be imposed both on the court's own motion and on request of the parties.

68. The mechanism of direct enforcement measures (*e.g.* seizure of assets) is used by only two countries (Malta, Spain) and is initiated of the court's own motion (Malta) or at the request of the parties (Spain).

6.3.4. Initiation of substitution

69. Specific mechanisms of substitution is used by six countries (Belgium, France, Italy, Portugal, Spain, The Netherlands) and is initiated either on the court's own motion (The Netherlands), or at the request of the parties to the proceedings (Belgium, France, Italy, Portugal, Spain).

6.3.5. Initiation of compensation mechanisms

70. The compensation which is awarded in 10 countries is awarded only at the request of the parties (Belgium, Estonia, France, Greece, Italy, Lithuania, Luxembourg, Portugal, Spain, The Netherlands). Only in two countries is it awarded on the court's own motion (Malta, Poland).

6.3.6. Initiation of the proceedings for awarding damages

a. Imposition of direct damages

71. The legal regime of awarding direct damages, used by 10 of the countries surveyed, is initiated only at the request of the parties (Belgium, Estonia, France, Greece, Lithuania, Ireland, Italy, Portugal, Spain, The Netherlands). Malta, however, administers the relief on the court's own motion.

b. Imposition of indirect or consequential damages

72. In seven countries (Belgium, Greece, Estonia, France, The Netherlands, Italy, Lithuania), who administer "consequential damages", the initiative to bring a motion seeking same belongs to the parties.

6.3.7. Initiation of an "institutional mechanism"



73. The “institutional” mechanism in the form of a dedicated section of the Supreme Administrative Court dealing with the execution of judicial decisions against public authorities acts at the request of the parties (France) or of the court’s own motion (Malta).

In the vast majority of the countries where such techniques or mechanisms exist within the court, they are applicable to all types of administrative cases, with some important exceptions.

Most often the inapplicability of a respective measure to all types of administrative cases concerned: quashing the administrative decision after the court re-examined the case and mandatory recommendations to the administrative authority haven’t been complied with (Germany); injunction (Greece, Hungary); penalty (Germany, Hungary); direct damages (France); consequential damages (France); substitution (Belgium, France, Portugal); award compensation (France).

6.4. Non-applicability of specific techniques or mechanisms to help enforce judicial decisions

74. Only six countries stated that there are some types of administrative cases for which the specific techniques or mechanisms mentioned earlier are not applicable:

Portugal has indicated that substitution only applies to requests to order the execution of a legally required administrative act with binding content.

In France, these techniques are not limited to certain types of cases, but some are only used in cases of abuse of power, while others are only used in court proceedings.

In Belgium, the replacement technique only applies if the new decision to be taken "results from a related competence of the opposing party".

In Hungary, in cases of a default lawsuit, only a call for performance and a fine may come under discussion conceptually, not annulment.

In Greece, in cases of a court decision awarding a certain amount of money, a request for a declaration of delay, omission or refusal to execute or inadequate execution of the court decision by the competent three-member council is made only if an attempt at forced execution by the person to whom the money has been awarded has proved unsuccessful, or it is obvious that it would be unsuccessful.

In Germany, quashing the administrative decision takes place only in the case of actions directed against an administrative act or regulation. Declaratory actions or actions aimed at



an administrative act do not entail revocation. Penalties are only possible in the case of actions against administrative acts.

6.5. Court's ability to discontinue the administrative proceedings concluded by its proceedings and time limits for enforcement

6.5.1. Discontinuation of proceedings

75. In 11 countries the court can discontinue the administrative proceedings concluded by its decision. In contrast, this is not possible in 12 countries.

6.5.2. Time limits for enforcement

76. There is a time limit for a court for the enforcement of an administrative court judgment in 13 countries, whereas in 11 countries no time limit exists.

In case of those jurisdictions where there is a time limit set, 9 countries indicated a timeframe of up to 6 months. One country, France, allows a timeframe of less than one year, and 3 countries (Malta, Italy and Finland) indicated a timeframe of more than five years. In the Netherlands the time limit is 0-6 months and 5 years.

77. Only 13 countries responded regarding the consequences of a failure to comply with a time limit.

Malta indicated that an application should be submitted to the relevant court. Romania pointed out that a final judgment shall be voluntarily enforced within the period specified therein, or in the absence of such a period, within 30 days from the date of the final judgment. If the debtor does not perform his/her obligation voluntarily, it shall be enforced by means of compulsory execution. In Serbia, if, after an administrative act has been declared invalid, the competent authority does not issue a new administrative act immediately, then within no more than 30 days, nor within another seven days from the date of the party's application, the party may apply to the Court for such an act or enforcement by means of a separate application.

Italy stated that the right to enforce the judgment is time-barred when a party has failed to comply with the time limit set.

In Portugal, in cases of payment of a certain amount, the consequences are as follows: If the administration does not execute the judgment within a maximum period of 30 days from the date on which the judgment became final, the party concerned has a period of one year in



which to apply to the competent court for enforcement and, to this end, he/she may apply for a specific measure. In other cases, if the administration does not enforce the judgment on its own within 90 days, the interested party may apply for the enforcement of the obligation to enforce the judgment before the court of first instance that issued the judgment.

The Croatian court has the power to impose a fine on the head of the administrative body.

In the Netherlands, the overall time limit is 20 years. For damages, the time limit is 5 years. Penalties expire six months after the date on which they are imposed. The judgment will not be enforceable if these time limits are not observed (and the party has not taken steps to interrupt the time limit).

In Bulgaria, failure to meet this deadline results in the suspension of enforcement proceedings.

In France, in the case of a request made before an administrative court and an administrative court of appeal, and in the case of a request made before SEPCO, it can only be made three months after the notification of the court decision, the enforcement of which is pending, unless the administrative authority has expressly refused enforcement. However, 1) If the court decision prescribes an emergency measure, the application may be filed immediately; or 2) If the court decision sets a deadline for the administration to take enforcement measures, the application may not be filed before the expiry of this deadline. As a rule, the administrative phase is limited to 6 months, but it can be extended for a further four months. If the administrative phase fails, the judicial phase begins.

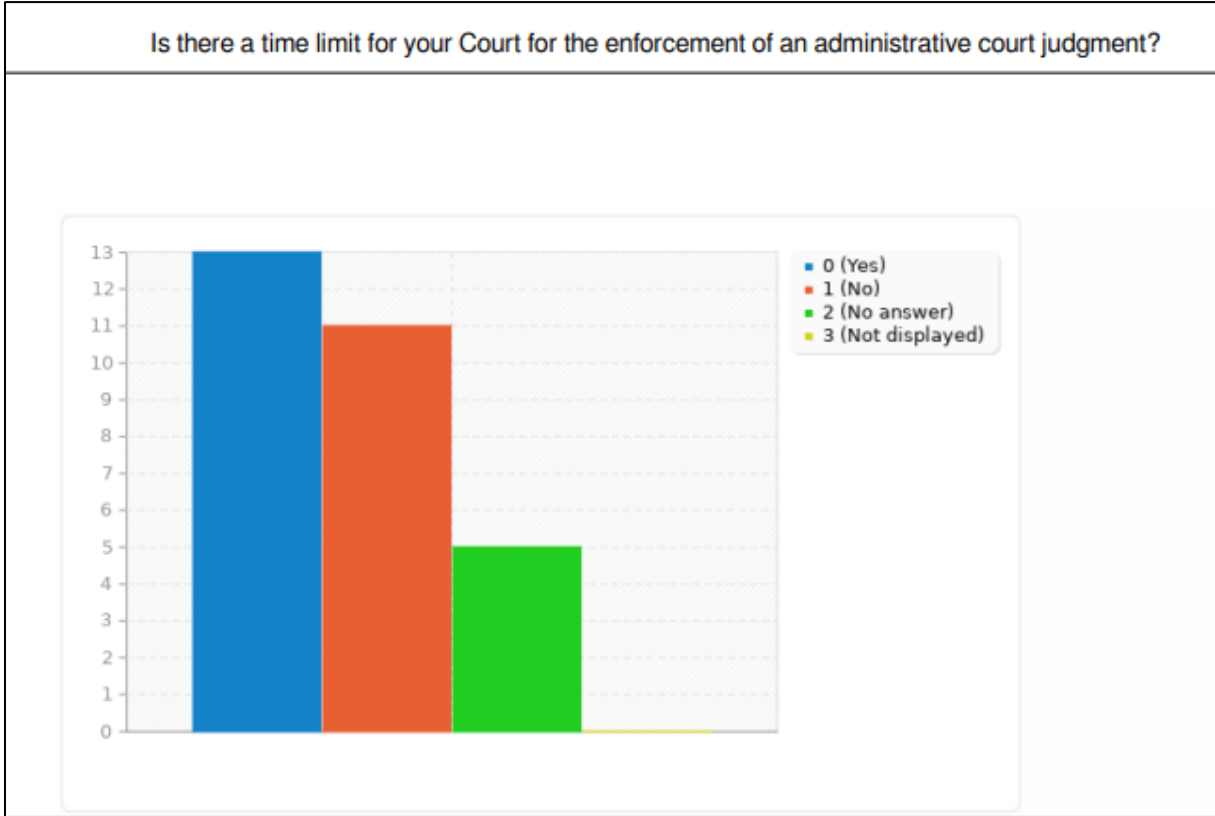
In Lithuania, once a decision of an administrative court upholding a complaint has become final (except in cases where the decisions are subject to urgent enforcement), it must be enforced within 15 calendar days, unless the court sets a different deadline. If the public administration body does not comply within the set deadline, the same administrative court at the request of the complainant, issues an enforcement title, which is enforced by a bailiff in accordance with the rules of civil procedure. In the case of recovery of monetary amounts to the state budget, cases of recovery of damages caused by unlawful actions of public administration bodies, or in cases of recovery of amounts in connection with employment or pensions, the administrative court issues an enforcement title without the applicant's request. In addition, if the administrative court imposes measures to secure the claim (which are enforceable as a matter of urgency), a fine may be imposed for failure to comply with such measures.

In Türkiye, the administration must establish a procedure or take action without delay, in accordance with the requirements of judgments and decisions on suspension of execution of

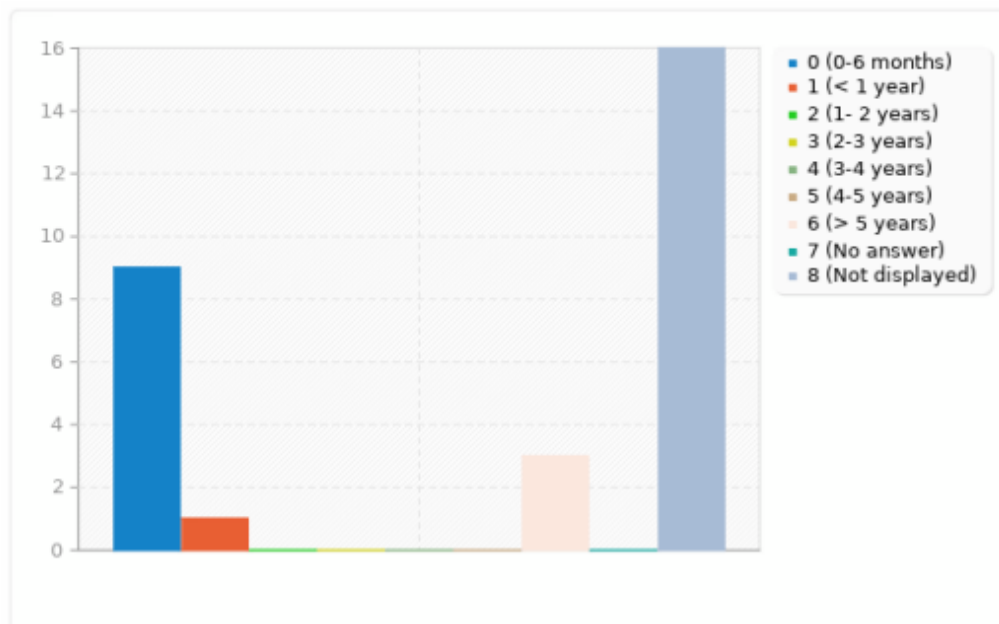


the Council of State, regional administrative courts and administrative and tax courts. This period may not exceed thirty days from the notification of the decision to the administration under any circumstances. In cases where no procedure has been established or no action has been taken in accordance with decisions of the Council of State, regional administrative courts and administrative and tax courts, a lawsuit for monetary and non-monetary damages may be filed with the Council of State and the relevant administrative court against the administration. A criminal complaint may be filed against a public official who has failed to comply with a court decision on “abuse of power”. A complaint may also be filed with the Ombudsman.

In Finland, a 15-year limitation period applies to enforcement by enforcement authorities of pecuniary obligations specified in administrative rulings. As a rule, after the expiry of the limitation period, the debt is time-barred and the obligation to perform the obligation expires. For other types of administrative or SAC judgments, no time limits for enforcement apply.



Please indicate which time limit.



6.6. Remedies against the administrative authorities if that authority does not act in accordance with the court's judgment

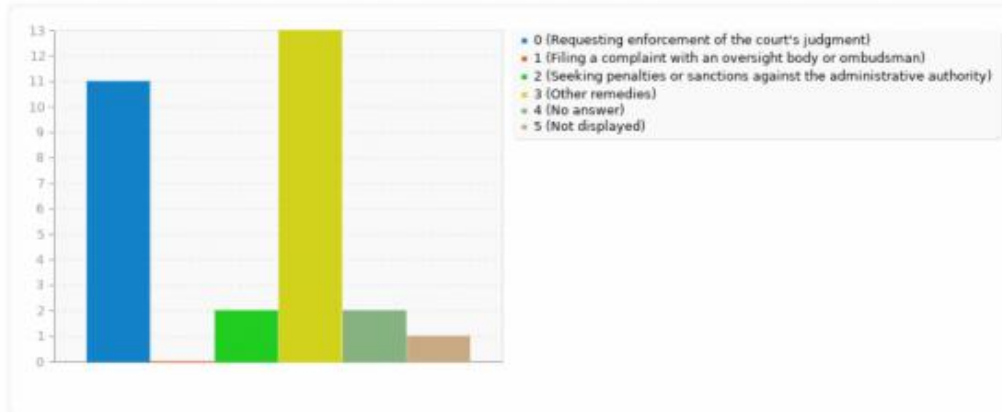
6.6.1. Remedies available in case of omission by the administrative authority

78. In 28 countries, a party has remedies against the administrative authority that has issued the administrative decision if that authority does not act in accordance with the court's judgment, *e.g.* by not issuing a new decision within a certain period of time.

6.6.2. Remedies available against the administrative authority once the time limit to act has lapsed



Which remedies are available to the party once time has lapsed?



79. Eleven countries indicated that a request for enforcement of a court decision is available to the party once the time limit has lapsed, while in 12 countries other remedies exist. Bulgaria and Belgium stated that a party may seek penalties or sanctions against the administrative authority.

Austria has indicated that if the administrative court of first instance annuls the contested administrative decision, the administrative body is obliged to determine without delay and within the limits of its jurisdiction, the legal situation corresponding to the legal opinion of the administrative court of first instance in the relevant case. If the administrative body does not issue a new decision within the deadline, the parties may file a complaint against the silence of the administration. The administrative body remains competent to issue a decision within three months from the notification of the complaint. If the administrative body does not issue a decision, it shall forward the complaint and the administrative proceedings file to the competent administrative court of first instance. Other remedies available to the party after the deadline has expired are: 1) filing an application for enforcement of the court decision; 2) filing a complaint with the supervisory authority or the ombudsman; and 3) seeking penalties or sanctions against the administrative body.

In Serbia, due to damage caused by non-enforcement, *i.e.* untimely execution of a judgment issued in an administrative dispute, the plaintiff is entitled to compensation, which must be obtained in a dispute before a competent court, in accordance with the law.



In Poland, a party to the proceedings, after calling on the competent authority (in writing) to fulfil the court's decision (granting a complaint against the failure to act or excessive length of proceedings), or handle the case, may lodge a complaint on the matter requesting that a fine (penalty) be imposed on the authority. Within court proceedings instituted in consequence of filing the said remedy, the Court may additionally adjudicate on whether there exists, or not, a right or obligation, where this is allowed by the nature of the case and non-litigious circumstances of its factual and legal status. At the same time, the court shall find whether the failure to act or excessive length of proceedings by the authority have taken place in flagrant breach of law. A person, who has suffered injury because of a lack of compliance with the court's decision, is entitled to compensation in accordance with principles specified in the Civil Code, whereby if the administrative authority has not paid the compensation within three months from the filing of a claim for compensation, the entitled entity may bring action to a common court. The administrative court may order that the authority pay the complainant a sum of up to half the amount of the imposed penalty. It must be pointed out that this remedy has to be filed to the competent Regional Administrative Court via the administrative authority.

The Supreme Administrative Court as a cassation court can only confirm (if the cassation appeal of the administrative authority has been filed) the correctness of the ruling of the administrative court of first instance. At the same time, a party may file a claim against the inaction of the public administration, after having exhausted the administrative remedies previously available to him/her.

In the Netherlands, it is possible to request enforcement of a court decision and seek penalties or sanctions against an administrative authority.

In Lithuania, all remedies are available to the party once the time for voluntarily execution of the court decision has expired. Additionally, a compensatory claim may be brought before the administrative court, requesting compensation for pecuniary and/or non-pecuniary damage caused by a public administration body that fails to comply with a court decision within the prescribed time limit. The affected party can also file a complaint with the administrative court, arguing that the public authority is failing to act as required. If the complaint is upheld, the court may order the authority to act within a specific timeframe.

In Sweden, if a public authority does not take a decision within six months, the individual can request a speedy resolution of the issue. If granted, a decision must be taken within four weeks. If such a request is not granted, that decision can be appealed to an administrative court.

In the Czech Republic, most decisions of the Supreme Administrative Court are enforced as soon as they are enforceable. Only if the decision imposes an obligation on a party to the



proceedings, the other party has the right to initiate enforcement proceedings in civil courts. If the administrative body finds the court decision unlawful but does not challenge it by filing a cassation appeal, it cannot then challenge the court's legal opinion and must comply with it. After a new administrative decision has been issued, the party may file a new action. Failure to comply with the court's legal opinion is in itself a ground for annulment of the contested decision on the grounds of unlawfulness. The party also has the possibility to file an action for failure to act. The Act on Free Access to Information provides for a special regime, under which the court has the unusual power to directly order the obliged entity to provide the requested information to the applicant (within 15 days). A further remedy available to the parties is the possibility of contacting the Public Defender of Human Rights. The latter is empowered to conduct investigations and impose remedial measures on the administrative body.

Under Slovak law, if the competent administrative authority fails to act, an action for failure to act may be brought. A party is also entitled to apply to the Ombudsman, who may investigate whether the competent administrative body is acting properly and in a timely manner and, if not, order it to do so.

In the Finnish system, many of the above options can be used: 1) Requesting enforcement of a court decision, and 2) Filing a complaint with a supervisory authority or ombudsman. Other remedies include actions for damages against an administrative authority/State which can be brought in ordinary courts.

In Estonia, an action for compensation for damage caused by an unlawful omission may be brought before an administrative court. In the event of delay or omission by an administrative body, a compulsory action may be brought. When granting a compulsory action, the court may order the administrative body to issue an administrative act or take an administrative measure, as well as to issue a new decision regarding that administrative act, or take an administrative measure. It is also possible to apply to the court to impose a fine on a party to the proceedings who was at fault for failing to comply with a court decision or a settlement approved by the court.

In Greece, there are several possibilities: 1) A request for enforcement of the court decision; and 2) Enforcement of penalties or sanctions against the administrative body. The deadline is set at the request of the party seeking enforcement.

In Slovenia, the party has the possibility to request the Administrative Court to decide on the merits of the case (in full jurisdiction) and substitute the decision of the administration authority.



Hungary, finally, indicates that proceedings for enforcing administrative performance are regulated as non-contentious procedures under Sections 152–153 of the Administrative Litigation Act.

Within 90 days from the expiry of the performance period, the plaintiff or the interested party may submit a request, with the aim of forcing performance, to the court that issued the decision of first instance; this court shall set a time limit and call on the administrative body to provide an explanation or perform its obligation.

If the administrative body fails to comply with this, the court shall impose a fine that forces performance and, in addition or instead of this, may impose a fine on the head of the administrative body. If a penalty that forces performance is imposed, the court may designate another body with identical powers or the supervisory body to perform its obligation or, in the absence of this, it may issue interim measures until the administrative body performs its obligation.

VII. BEYOND THE JURISDICTION: EXTERNAL MECHANISMS FOR ENFORCING JUDICIAL DECISIONS

7.1. Political and supervisory mechanisms to ensure enforcement

80. With regard to the possibility of appealing to higher administrative authorities or establishing the government's political responsibility to ensure the enforcement of judicial decisions, a significant number of States (13 out of 28) responded affirmatively. However, the majority provided a negative response (Romania, Austria, Italy, Spain, Portugal, Bulgaria, Ireland, France, Lithuania, Croatia, Hungary, Luxembourg, Türkiye, Greece, Denmark, Cyprus, and the United Kingdom).

Among the States that responded affirmatively, only Malta, Poland and Belgium report the existence of genuine political responsibility for the failure to enforce administrative rulings. The other surveyed States provide, with some variations, the presence of "supervisory" or higher-ranking administrative authorities responsible for overseeing the effective enforcement of administrative decisions by the competent bodies (Serbia, Poland, the Czech Republic, Estonia, Finland). Additionally, some States recognize the Ombudsman as a further safeguard mechanism (Malta, Sweden, Finland). The United Kingdom stands apart, stating that the government's compliance with administrative rulings is ensured by the *Rule of Law*.

7.2. External institutions overseeing enforcement

81. With regard to the presence of institutions external to the administrative judiciary tasked with overseeing the enforcement of court decisions, half of the surveyed countries responded affirmatively, while the other half responded negatively. The latter group includes



Serbia, Italy, the Netherlands, Bulgaria, Ireland, Croatia, Hungary, Türkiye, Estonia, Greece, the United Kingdom, Germany, Cyprus, and Luxembourg.

Among the States that responded affirmatively, some generally report the existence of external institutions responsible for monitoring the enforcement of administrative decisions (Malta, Sweden), while others identify specific institutional bodies dedicated to this function (Romania, Spain, Portugal, France). Many states also mention the presence of an Ombudsman, sometimes referred to as a public defender, who plays a role in this area (Sweden, the Czech Republic, Slovakia, Denmark). Additionally, some states highlight the significant enforcement role played by private associations (Poland), academic sectors and civil society organizations (Spain), as well as NGOs (the Czech Republic, Slovakia), which are particularly active in environmental matters.

7.3. Informal and institutional practices for enforcement

82. Regarding the existence of informal practices to address difficulties in enforcing rulings within the relevant administrations, only seven states responded affirmatively: Malta, Austria, Serbia, Spain, Portugal, France, and Lithuania.

Among these, some emphasize the central role of the Ombudsman in monitoring and reporting non-compliance with administrative decisions (Malta, Austria, Portugal).

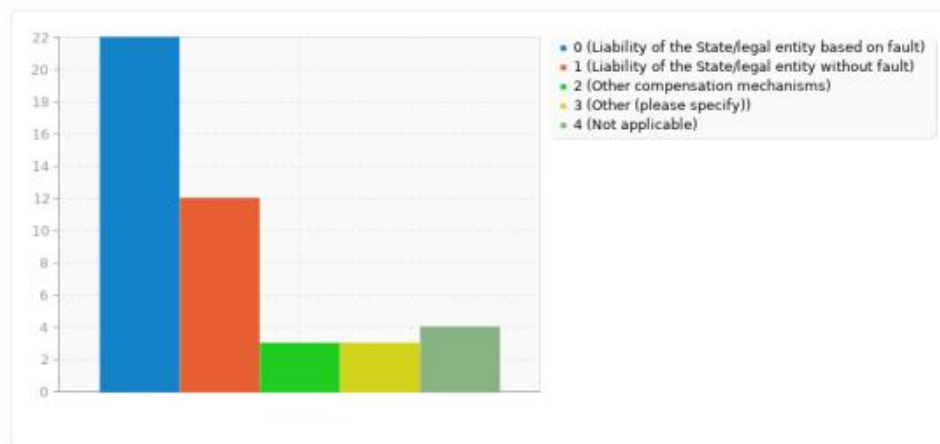
Others highlight institutional practices aimed at encouraging enforcement: in Spain, this takes the form of institutional dialogues between the administration and supreme courts, along with training exchanges organized by the General Council of the Judiciary; in Lithuania, it includes roundtables, institutional visits, scientific conferences, and practical discussions.

Furthermore, some legal systems have monitoring mechanisms for the enforcement of administrative rulings, which are sometimes entrusted to the Ombudsman (Portugal) and in other cases to specific governmental authorities. In France, for example, a representative within the General Secretariat of the Government is in contact with SEPCO for this purpose.

7.4. State and personal liability for non-enforcement



Under what conditions and in what form can the responsibility of the State or the legal entity concerned be called into question for non-enforcement or a delay in the enforcement of a court decision?



83. About three quarters of the member states are familiar with a concept of state liability when it comes to unlawful non-enforcement or delay in the enforcement of a court decision. The prerequisites for such liability differ from state to state. Yet, it is remarkable that the majority (12 out of 22) of the states which have a concept of state liability for insufficient enforcement do not make such liability dependent of a subjective fault. In contrast, liability often depends on unlawful behavior by the state, the existence of a damage and a causal link between those two (*e.g.* Portugal, Slovakia, Serbia, United Kingdom). In some member states culpability of the acting person is an extra prerequisite for liability (*e.g.* Austria, Germany, Slovenia).

84. There is also a three fourths majority (21 out of 29) of states in which a personal civil liability of the defaulting party – meaning in most cases: the civil servant who hinders or delays the enforcement of a judgement – follows from a failure or delay in relation to enforcement. In 20 of the participating members this might also result in disciplinary, and in 19, even in criminal responsibility.

For example, in Romania *e.g.*, this counts particularly for the heads of public administrations who hinder or delay the enforcement of a judgement.

Slovenia explains that although all forms of liability are possible, it rarely happens that it is invoked since a further prerequisite would be to prove subjective responsibility of the civil servant considered responsible of the fault in the enforcement process (*cf.* above).

Denmark points out that civil liability may not only lie with the civil servant (only in cases of gross negligence; likewise in Germany), but foremost with the public authority whose civil servant has caused such responsibility.

7.5. Enforcement through police and executive officials

85. In about half (15 out of 29) of the participating member states there exists the possibility to take recourse to the police or another executive official in order to enforce a court decision.

In Malta certain types of judgments are enforceable directly by the police on request.

In the Czech Republic the police is not directly responsible for the enforcement of court decisions, but it may provide protection and support for this purpose.

Slovenia allows for executive officials to enact enforcement mechanisms in cases where there is a direct obligation of action determined in the court decision.

In France the state is obliged to guarantee the execution of the judgment. If it fails to do so this may cause a right to compensation. The French Constitutional Council has decided that every court judgment can be enforced by the state.

In Belgium the enforcement of decisions of the Council of State is the responsibility of the ministers and the public authorities which includes the police.

Sweden possesses a separate Enforcement Authority for this purpose, as does Finland. Access to this authority is restricted to those cases in which the court ordered such recourse. In Estonia special enforcement agents can be called upon to enforce a court decision, while in Türkiye, recourse may be taken to the Ombudsman.

VIII. CONCLUSION

86. This report has demonstrated that while SACs across Europe operate under a shared principle of judicial finality, the effectiveness of enforcement mechanisms varies considerably.

87. A majority of jurisdictions have formal legal consequences in place for non-compliance, including the imposition of financial penalties, disciplinary actions, and, in some cases, for instance in Spain, criminal liability. Financial penalties are the most common sanction for non-compliance, often supplemented by disciplinary or legal action. Some courts are empowered to substitute their own decisions for those of the annulled administrative act, issue binding injunctions, or award compensation—measures that reflect a proactive approach toward upholding the authority of judicial rulings.



88. However, the analysis also found that many SACs lack autonomous enforcement powers and rely heavily on affected parties to initiate follow-up proceedings. Direct monitoring of compliance is rare, and only a few courts interact directly with administrative authorities post-judgment. Self-enforcing judgments and structured internal mechanisms, such as SEPCO in France or the administrative loop in the Netherlands, represent best practices, but they are exceptions rather than the norm.

The availability and scope of remedies—including quashing decisions for continued non-compliance, awarding consequential damages, or invoking institutional mechanisms—are often fragmented and not uniformly applied. In several jurisdictions, enforcement may be undermined by procedural complexity, limited judicial oversight, or the absence of dedicated enforcement units. Moreover, challenges such as administrative inertia, insufficient legal clarity, and the lack of empirical monitoring persist.

89. In sum, as administrative courts continue to serve as guarantors of legality and accountability in public governance, the development of effective enforcement tools remains essential for safeguarding the integrity of judicial review and ensuring respect for the rule of law.

