



Association of the Councils of State and Supreme Administrative
Jurisdictions of the European Union i.n.p.a.

Association des Conseils d'Etat et des Juridictions administratives
suprêmes de l'Union européenne a.i.s.b.l.



Council of State of Belgium

**Association of the Councils of State and the
Supreme Administrative Jurisdictions of the
European Union
With the collaboration of the Council of State of
Belgium**

**Increasing the efficiency of the
Supreme Administrative
Courts' powers**

LATVIA

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ISSUE 1: The “administrative loop”, or the power to rectify the legality of an administrative decision

ANSWER

No, in our country’s legal system administrative court does not have the power to rectify a flaw in a disputed decision in the course of proceedings.

Administrative Procedure Law was implemented only in the year 2004, therefore this procedure is new in the legal system of Latvia. So far there has been no necessity to implement the “administrative loop” mechanism in our administrative procedure.

However, administrative court’s powers are not limited solely to the annulment of the disputed decision (administrative act). According to the Administrative Procedure Law the court has a power to amend the decision and also power to instruct the authority to issue new decision. However, that can be done only when the proceedings are ended (i.e., when the final judgement is made), but not in the course of proceedings.

One of the judgment types in Administrative Procedure Law is judgment regarding amendment of an administrative act. If the court establishes that the administrative act is unlawful and there is a possibility to rectify it, the court may amend the act and determine the specific substance of it. In such case, judgment replaces flawed decision.

Another judgment type is judgment regarding authority’s obligation to issue a new administrative act. If party has asked annulment of an administrative act, if the court has established that the act is unlawful, and if an act with another substance needs to be issued, the court can give an order to the authority to issue a new act (even unfavourable act). However, that can be done only in the case if it is necessary. In this situation, the court shall specify the substance of the act or identify the flaws that have caused its unlawfulness. Facts determined in the judgment and the legal assessments thereof are mandatory for the authority.

ISSUE 2: Power to award compensation and action for annulment

ANSWERS

Question 1: The compensation is available only if the court or authority has found the decision unlawful. If an applicant submits an application to the court requesting annulment of the decision as well as compensation for the damage, the court does not have the power to award only compensation as an alternative to annulment. Thus compensation is not regarded as an alternative to annulment of the decision.

Question 2: The applicant is required to provide an exact amount of desired compensation in the application if financial loss or personal harm (including moral) is

suffered (not compulsory in the case of personal harm). The applicant has the right to alter the said amount in the course of proceedings.

The court has the power to settle compensation considering the extent of the damage, actions taken by the applicant to reduce losses or harm suffered, and the legal and actual arguments laid out by administrative body as substantiation of the unlawful decision. It is not necessary to prove the fault of the defendant although it may be taken into consideration while determining the extent of the compensation.

The legislator has limited the maximum amount of compensation. On the one hand, the court has to take into account these limits. On the other hand, the main purpose of awarding compensation is to achieve a fair satisfaction. It is acknowledged in the latest court practice that the court has to consider whether the limited compensation is fair in each specific case. If the limits determined by the legislator cannot achieve said purpose, it is possible for the court to challenge the law limiting the maximum amount of compensation in the constitutional court.

The awarded compensation is final and it is not possible to ask for further compensation before another court.

Question 3: See answer to the question 1.

Question 4: The application for compensation may be submitted at the same time as the annulment request as well as after the annulment (within the time set out in the law).

Question 5: See answer to the question 2.

ISSUE 3: The effectiveness of enforcement of the rulings of administrative courts

ANSWERS

Question 1: The administrative courts in Latvia do not have the means to ensure actual implementation of their decisions (rulings and judgments) by the authorities. The ensuring of actual implementation of the decisions of administrative courts is trusted to higher authorities (the ministries). The courts can only review the complaints about wrong implementation of their decisions (see answer to the question 2). Criminal liability is set out for breach of the court decisions.

Question 2: The court decisions are enforceable *per se*. No special order to enforce them is necessary. If the authority does not implement the decision of the administrative court or does not implement it correctly then the applicant can bring a complaint to the court. In reviewing of the complaint, the court can establish that the decision is not implemented or is not implemented correctly. In such case the court can “remind” the authority that the adjudication must be enforced.

Question 3: The court decision can generally take an effect only after all proceedings (after appeal and cassation). Only in exclusion, it can become enforceable instantly (for example – interim measure). In such case, the competence to review a complaint

about wrong implementation of the court decision stays under the court who issued the decision even in case of appealation or cassation.

Question 4: No, administrative courts have no power to sentence the offending authority to pay a penalty or a fine.

Question 5: In such case, the applicant can bring a complaint to the court (see answer to the question 2). The decision about the complaint cannot be appealed.