

Conclusions of the summary report on the procedural issues of administrative lawsuits

Upon the proposal of the head of the Curia's Administrative-Labour Department, the President of the Curia set up a jurisprudence-analysing working group for the examination of the procedural issues of administrative lawsuits. The subject-matter was determined in view of the fact that under Section 191(1)(c) of Act No. CLXI of 2011 on the Organisation and Management of Courts (henceforth: Bszi), as of 1 January 2013 the administrative-labour courts and the administrative-labour regional departments were to start operation.

The jurisprudence-analysing working group was charged with the tasks of reviewing the procedural rules applicable to administrative cases, of identifying any arising problems, and of proposing appropriate competence-related and procedural rules to be created for the new organizational structure. In the course of the analysis the working group surveyed and analysed the procedural rules that had been applied to administrative lawsuits in the preceding twenty years, the Curia's guiding decisions on principles, the international experiences gained in the field of administrative adjudication, the competences, the remedy forums, the procedural rules of foreign administrative courts, the international and national legal literature on administrative adjudication, the competence-, jurisdiction- and remedy-related rules of administrative and labour adjudication, the detailed rules of contentious proceedings, the established court practice, the legislative amendments needed for the administrative and labour courts and for the regional departments to start operation, and the court jurisprudence related to the protection of the basic self-governance rights.

Though in carrying out its task the jurisprudence-analysing working group could not ignore the fact that parallel legislative preparation works had already been in progress in connection with the new organizational and procedural framework of administrative adjudication, because of the nature of the work, primarily a static analysis could be carried out by examining the experiences gained on administrative lawsuits. Though some of the issues that arose at the time of compiling the summary report was meanwhile determined by the legislation, several organizational and procedural issues remained to be answered, to the determination of which the summary report wished to provide theoretical and practical background information for any future legislation.

The summary report consists of four main chapters which bear the following titles: changes in the competence and procedural rules of administrative lawsuits; the effects of the structural changes of administrative adjudication on the competence and procedural rules of administrative lawsuits; long-term program for developing administrative jurisdiction via an administrative procedure; overview of certain detailed rules of contentious administrative proceedings. The chapters have subchapters and several annexes. The closing chapter (Chapter 5) of the summary report contains the concluding statements which mostly identify the legislative tasks to be accomplished and, in addition, urges to continue in 2013 the revision of contentious and non-contentious administrative proceedings, to work out the competence-related remedy system of the full-fledged administrative adjudication system and to formulate, in light of the results of the revision, proposals for the creation of a separate code of administrative court procedure regulating the procedural rules applicable to legal disputes on public law relationships in a uniform manner.

This latter concluding statement is of utmost importance and is supported by detailed reasons in Chapter III. A primarily applicable code of administrative court procedure distinct from the code of civil procedure would make it possible to articulate the specific purposes of the administrative lawsuits.