

# **LAW**

## **ON ADMINISTRATIVE DISPUTES<sup>1</sup>**

### **I. BASIC PROVISIONS**

#### **Scope and Purpose of the Law**

##### **Article 1**

This Law shall regulate the subject of administrative disputes, competences for deciding in administrative disputes, parties, rules of proceedings, legal remedies and execution of judgements issued by courts.

This law shall ensure judicial protection of individual rights and statutory interests and legality of deciding in administrative and other individual issues specified in the Constitution and the law.

#### **Fairness of Trials in Administrative Disputes**

##### **Article 2**

Court shall decide in administrative disputes in accordance with the law and within a reasonable time period, based on the facts identified in the oral public discussion.

#### **Subject of Administrative Dispute**

##### **Article 3**

In an administrative dispute, the court shall decide on the legality of final administrative acts, except on those which require a different judicial protection.

In an administrative dispute, the court shall also decide on the legality of final individual acts defining a right, obligation, or statutory interests, in terms of which, in certain cases, the law does not define a different judicial protection.

Court shall decide in administrative disputes on the legality of other final individual acts if stipulated by the law.

Provision of this law which relate to an administrative act, shall also apply to other acts which may be subject to administrative disputes.

#### **Definition of Administrative Act**

##### **Article 4**

An administrative act, in terms of this Law, is an individual act by which a competent authority, in the direct application of regulations, decides on specific rights or obligations of a specific natural or legal person, or other party in an administrative matter.

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<sup>1</sup> "Official Gazette of RS", number 111/09.

### **Definition of Administrative Matter**

#### **Article 5**

An administrative matter, in terms of this Law, is an individual undisputable situation of public interest in which there is a need arising from legal regulations that the future conduct of a party should be authoritatively legally defined.

### **Definition of Competent Authority**

#### **Article 6**

Competent authorities, in terms of this Law, are state authorities, authorities of autonomous provinces and local self-government units, companies, public and other enterprises, institutions, organisations and individuals, as well as special authorities, which, within the course of execution of public authorisations, decide on administrative matters.

### **Binding Nature of the Final Judgement**

#### **Article 7**

A judgement issued in an administrative dispute shall be obligatory.

A judgement issued in an administrative dispute shall not be subject to an appeal (final judgement).

## **II. COMPETENCES AND COMPOSITION OF COURT**

### **Administrative Court**

#### **Article 8**

An administrative dispute shall be decided on by the Administrative Court.

The Administrative Court shall decide in a chamber of three judges, unless otherwise stipulated by this Law.

### **Supreme Court of Cassation**

#### **Article 9**

In a proceeding initiated at the request to review a court decision against the decision issued by the Administrative Court, the Supreme Court of Cassation shall decide.

The Supreme Court of Cassation shall decide in the chamber of three judges.

## **III. PARTIES IN ADMINISTRATIVE DISPUTES**

### **Parties**

#### **Article 10**

Parties in an administrative dispute are a plaintiff, defendant and interested party.

### **Plaintiff**

#### **Article 11**

A plaintiff in an administrative dispute may be a natural person, legal person or any other person, if he/she believed that some of his/her rights or any statutory interest have been violated by an administrative act.

State authority, authority of autonomous provinces and local self-government units, organisations, part of a company with the authorisations in legal transactions, settlements, groups of persons, and others who do not have the capacity of a legal entity, may institute an administration dispute if they have the capacity to be the holders of the rights and responsibilities which were subject to the administrative proceedings.

If an administrative act violates the law with a damage to a public interest, an administrative dispute may be instituted by the responsible public prosecutor.

If an administrative act defines property rights and interests of the Republic of Serbia, autonomous province or local self-government unit, an administrative dispute may be instituted also by the responsible public attorney's office.

### **Defendant**

#### **Article 12**

A defendant in an administrative dispute is an authority whose administrative act is being challenged, or an authority that upon a request, or an appeal by a party failed to issue an administrative act.

### **Interested Party**

#### **Article 13**

An interested party is a person who would suffer detrimental effect in case the challenged administrative act is annulled.

## **IV. SUBJECT OF ADMINISTRATIVE DISPUTE**

### **Final Administrative Act**

#### **Article 14**

An administrative dispute may be instituted against an administrative act issued in the second instance.

An administrative dispute may be instituted also against a first instance administrative act against which an appeal in the administrative proceeding shall not be allowed.

### **Silence of the Administration**

#### **Article 15**

An administrative dispute may be instituted also when the competent authority fails to issue an administrative act upon the request or appeal filed by a party, in line with the conditions stipulated by this law.

## **Return of Seized Things and Compensation for Damages**

### **Article 16**

A return of seized things and compensations for damages suffered by the plaintiff due to the execution of a challenged act may be claimed in an administrative dispute.

## **V. INITIATION OF DISPUTES**

### **Lawsuit**

#### **Article 17**

An administrative dispute shall be initiated by a lawsuit.

### **General Deadline for Filing of an Appeal**

#### **Article 18**

A lawsuit shall be filed within 30 days from the date of submitting the administrative act to the party filing it or within a shorter period of time stipulated by the law.

The deadline referred to in paragraph 1 of this Article shall also apply to the body authorised to file a lawsuit, if provided with the administrative act.

If the body authorised to file a lawsuit, i.e. interested person is not provided with the administrative act, the body i.e. interested party may file a lawsuit, within 60 days from the date of providing the party with the administrative act.

### **Deadline for Filing a Lawsuit due to Silence of Administration**

#### **Article 19**

If a second instance authority fails to issue a decision on the appeal filed by the party against the first instance decision within 60 days from the date of receiving the appeal or within the shorter time period stipulated by the law, and fails to issue it within the extended period of seven days upon the subsequent request filed by the party to the second instance authority, the party may file a lawsuit, after the expiry of that time period, due to the non-issuance of the requested act.

If a first instance authority, upon the request of a party, fails to issue a decision which may not be subject to an appeal, within the time period stipulated by the law regulating general administrative proceeding, and fails to issue it within the extended period of seven days upon the subsequent request filed by the party, the party may file an appeal, after the expiry of that time period, due to the non-issuance of the requested act.

### **Submission of a Lawsuit**

#### **Article 20**

A lawsuit shall be submitted to the competent court directly or via mail.

Submission of a lawsuit in the form of an electronic document shall be considered a direct submission to the court.

A lawsuit may be recorded in minutes before the court.

The day the lawsuit is submitted to the post office as a registered mail, or the day the lawsuit is recorded in the minutes shall be considered to be the day it was filed with the court.

If the lawsuit is not filed with a competent court within the deadline stipulated by the law, but with some other court or other body, and it arrives at the court only after the expiration of the deadline for lodging a lawsuit, it shall be considered that it was filed on time, if the fact that it was filed with the other court or other body may be ascribed to ignorance or an obvious mistake on the part of the applicant.

For persons in the Serbian Armed Forces, the day of filing the lawsuit to the military unit or military institution shall be considered to be the day it was filed with the court.

Provision of paragraph 6 of this Article also relates to other persons employed in the Serbian Armed Forces serving in military units or military institutions in places where there is no regular postal service.

### **Handling Electronic Documents**

#### **Article 21**

A party may provide the court with the lawsuit or other submission also in the form of an electronic documents, in accordance with the law.

A court may provide the party with the acts in the form of an electronic document, with the previous explicit consent by the party.

Handling electronic documents shall be performed in accordance with the law regulating electronic documents.

If an electronic document submitted to the court cannot be read or fails to meet technical requirements referred to in paragraph 5 of this Article, the court shall, without any delay, inform the applicant, invite him/her to correct the submission within a time period, and present him/her the consequences of such failing.

Manner, technical requirements of submitting and defining the time period for providing the submission and acts in the form of an electronic document, shall be closely defined by the rules of procedures of the Court.

If the law stipulates that an act should be signed by the person, that requirement shall be considered fulfilled for an act in the form of an electronic document, when at the end of the electronic documents there is a stated name and surname of the relevant person, and the electronic document is signed with the qualified electronic signature of that person.

### **Content of the Lawsuit**

#### **Article 22**

A lawsuit must contain the name and surname, address and place of residence, i.e. place and seat of the plaintiff, the administrative act against which the lawsuit is aimed, reasons for the lawsuit, the direction and scope of the proposed annulment of the administrative act, and the plaintiff's signature.

The original act or a photocopy of the act against which the lawsuit is aimed shall be enclosed with the lawsuit.

With the lawsuit filed due to the silence of administration, provide the copy of the request, i.e. appeal, copy of the subsequent request referred to in Article 19 of

this law, and the evidence on delivery of these submissions to the competent authority.

If a lawsuit is filed through the attorney, the original of the attorney power shall be submitted together with the lawsuit.

If the return of things or payment of compensation for damages is claimed by the lawsuit, it must include a specific claim in relation to these things or the amount of damages incurred.

One copy of the lawsuit and the enclosures shall be enclosed with the lawsuit for the accused body and for all interested persons, if there are any.

A lawsuit may also contain the reference to the facts based on which the plaintiff creates his/her requests from the lawsuit. .

### **Suspensory Effect of the Lawsuit**

#### **Article 23**

A lawsuit, as a rule, does not prevent the enforcement of an administrative act against which the lawsuit is filed.

At the request of the plaintiff, the court may postpone the legal effect of the final administrative act that was decided on the merits of the administrative matter, until the court decision is rendered, if the enforcement would cause harm to the plaintiff which would be difficult to rectify, and if the postponement is not against the public interest, or the postponement would not cause greater or irreparable damage to the opposing party, or interested party.

Exceptionally, parties in an administrative proceeding may request from the court to postpone the enforcement of an administrative act even before the lawsuit is filed:

- 1) in case of emergency;
- 2) in case of an appeal which, by law, does not have the suspensory effect, and proceeding on the appeal is not terminated.

At the request for the postponement of the enforcement the court shall render a decision, not later than five days from the day of receiving the request referred to in paragraphs 2 and 3 of this Article.

### **Reasons for the Initiation of Administrative Disputes**

#### **Article 24**

An administrative act may be challenged by a lawsuit in an administrative dispute due to the illegality, if:

- 1) in the act, the law, other regulation or a general act is not at all or not properly implemented;
- 2) the act was issued by an incompetent body;
- 3) in the process of issuing the act, the rules of the proceeding were not followed;
- 4) the factual state is incompletely or incorrectly defined or if the identified facts brought to an incorrect conclusion in terms of the factual state;

5) in the act issued based on a free assessment, the body has exceeded the limits of the legal authority or if such an act was not issued in line with the objective in which the authorisation was given.

A lawsuit may be filed also for the purpose of determining if the accused repeated his/her previous act which has been already annulled by the judgement, as well as for the purpose of determining the illegality of the issued act which has no legal effect.

## **VI. PREVIOUS PROCEEDING**

### **Dismissal of a Lawsuit as Disorderly**

#### **Article 25**

If the lawsuit is incomplete or incomprehensible, the single judge shall invite the plaintiff to correct the failings in the lawsuit within a specific time limit and present him/her the consequences that will occur if he/she does not act as the court requires.

If the plaintiff does not correct the failings in the lawsuit which prevent the court doing its work within the given time limit, the single judge referred to in paragraph 1 of this Article shall dismiss the lawsuit by a ruling as disorderly, if it does not find the challenged administrative act to be null and void.

If the single judge does not dismiss the lawsuit as disorderly, the court council shall do it.

### **Dismissal of a Lawsuit due to Other Legal Reasons**

#### **Article 26**

The single judge shall dismiss the lawsuit by a ruling if it establishes:

- 1) that the lawsuit has not been filed on time (Article 18) or that it was filed prematurely (Article 19);
- 2) that the act which is challenged in the lawsuit is not an act which legality is an administrative dispute matter (Article 3);
- 3) that with the lawsuit filed due to the silence of administration not entire evidence is provided (Article 22, paragraph 3);
- 4) that it is clear that the administrative act challenged in the lawsuit does not affect the rights of the plaintiff or his/her direct personal interests founded on the law (Article 11, paragraph 1);
- 5) that after filing the lawsuit the challenged act is annulled based on the lawsuit filed by other party;
- 6) that an appeal could have been filed against the administrative act challenged in the lawsuit, but the appeal was not filed at all or on time, or the applicant gave up on the appeal in the course of second instance proceeding;
- 7) that there already exists a legally effective court decision rendered in an administrative dispute on the same matter.

If the single judge does not dismiss the lawsuit on the basis of the reasons referred to in paragraph 1 of this Article, the court council shall do it.

## **Right to Object the Dismissal of the Lawsuit**

### **Article 27**

The person filing a lawsuit shall have the right to object the ruling of the single judge by which it dismisses the lawsuit as referred to in Articles 25 and 26 of this law, within eight days from the date of submission of the ruling.

The objection referred to in paragraph 1 of this Article shall be subject to a decision of a special court council of three judges, after an oral public hearing, if the applicant required the hearing to be held.

The special court council referred to in paragraph 2 of this Article shall decide on the objection by a ruling.

The objection shall be dismissed by the ruling if made untimely or by an unauthorised person.

If the council referred to in paragraph 2 of this Article dismisses the objection, the ruling on the lawsuit dismissal shall become final and enforceable.

If the council referred to in paragraph 2 of this Article accepts the objection, it will annul the ruling on the dismissal of the lawsuit, and the proceeding before the court shall continue.

## **Annulment of an Administrative Act in the Previous Proceeding**

### **Article 28**

If the court does not dismiss the lawsuit on the basis of Article 25, paragraph 2 or Article 26 of this law, but finds that the challenged act contains such essential failings in the form and integral parts that make obvious the illegality of the act, it may for this reason annul the act by a judgement even without sending the lawsuit for an answer, with inviting the defendant to make a previous statement.

If the defendant in case referred to in paragraph 1 of this Article abolishes or amends the challenged act on his/her own, the single judge shall, at obtained statement by a plaintiff that he/she is satisfied with the subsequently rendered ruling, render a ruling on the termination of the proceeding, according to the application of provisions referred to in Article 29 of this law.

In terms of legal protection against the ruling of the single judge on the termination of the proceeding, the provisions of Article 27 of this Law shall apply accordingly.

## **Satisfying the Plaintiff's Request by the Defendant**

### **Article 29**

If during the court proceedings the defendant passes another act by which it amends or abolishes the administrative act against which the administrative dispute was instituted, and if in case referred to in Article 19 of this law it subsequently passes a first instance or second instance administrative act, that body shall, apart from the plaintiff, at the same time inform the court on that.

In case referred to in paragraph 1 of this Article, the court shall summon the plaintiff to state in writing, within 15 days from the date of being summoned, whether he/she is satisfied with the subsequently passed act or wishes to continue with the lawsuit and to what extent, or to extend the lawsuit to the new act.

If the plaintiff timely furnishes the court with a written statement that he/she is satisfied with the subsequently passed act or if he/she does not make a statements within the time limit referred to in paragraph 2 of this Article, the court shall render a ruling to terminate the proceedings.

If the plaintiff states that he/she is not satisfied with the new act, the court shall continue the proceedings.

### **Answer to the Lawsuit and Settlement of Disputes without Files**

#### **Article 30**

If it does not dismiss the lawsuit by a ruling according to Article 25, paragraph 2 or Article 26 of this law, nor annual it according to Article 28, paragraph 1 of this law, or declare it null and void according to Article 42, paragraph 3, the court shall send one copy of the lawsuit with enclosures for an answer to the defendant and interested persons if there are any.

The answer referred to in paragraph 1 of this Article shall be given within the time limit set by the court in each individual case, while the court may not set the time limit longer than 30 days from the date of sending the lawsuit for the answer.

The defendant shall furnish the court with all the files relating to the case within the time limit set, and make statements on the lawsuit charges. If the defendant does not furnish all the case files even after a repeated request within eight days, or if he/she states that he/she is unable to furnish them, the court may settle the dispute even without these files, and it shall determine the factual state in the hearing on its own.

### **Obligation to Submit Documents**

#### **Article 31**

Upon the request of the court, all state authorities, authorities of the autonomous province and local self-government unit, and other holders of public authorities (hereinafter referred to as: "public authorities") shall be obliged to submit the documents they have within the time limit set by the court.

Public authorities referred to in paragraph 1 of this Article shall be obliged to specify which documents, or part of documents represent a secret in line with the special law, so as the party must not have insight in them.

If a public authority at the repeated request of the court in the second set time period does not provide the required documents, the court shall summon the manager of that authority to provide an explanation of the reasons for not acting in line with the request made by the court.

### **Dropping the Lawsuit by the Plaintiff**

#### **Article 32**

The plaintiff may drop the lawsuit right up to the moment the court decision is dispatched.

In case of dropping the lawsuit by the plaintiff the single judge or the court council shall terminate the proceedings by a ruling.

In terms of a legal protection against the ruling of the single judge on termination of the proceedings, the provisions of Article 27 of this law shall apply accordingly.

## VII. DETERMINATION OF THE FACTS

### General Information on Determination of Facts in a Hearing

#### Article 33

In an administrative dispute the court shall decide based on the facts determined in an oral hearing (hereinafter referred to as: "hearing").

The court shall decide without holding an oral hearing, only if the matter of the dispute is such that it obviously does not require direct hearing of the parties and special determination of the factual state, or if parties explicitly agree to this.

The court shall be obliged to state the reasons of not holding an oral hearing.

### Special Cases for Holding Hearings

#### Article 34

The court council shall always hold a hearing due to the complexity of the disputed matter, or if it finds it necessary for a better understanding of the matter, as well as in case referred to in Article 30, paragraph 3 of this law.

A hearing shall be obligatory even if the administrative proceeding was participated by two or more parties with opposite interests and when the court defines the factual state for deciding in full jurisdiction.

### Public Hearing

#### Article 35

The hearing shall be public.

The court council may decide to exclude the public from the entire hearing or from a certain part of the hearing if the reasons of protection of the national safety, public order and morale require so, and for the purpose of protection of the interest of minors or privacy of the participants in the proceeding.

The exclusion of the public shall be decided by the court in a ruling which must be explained and published.

### Scheduling a Hearing

#### Article 36

President of the council shall set the day of the hearing and summon the parties and interested persons if there are any, to the hearing.

The hearing may only be postponed for important reasons, on which the council shall decide.

### Chairing the Hearing and Minutes

#### Article 37

The hearing shall be chaired by the president of the council.

Minutes shall be kept of the hearing, which shall include only the important facts and circumstances.

Minutes of the held oral hearing shall be signed by the president and the recording secretary.

## **Party's Absence from the Hearing**

### **Article 38**

Absence of duly summoned parties from the oral hearing shall not postpone the hearing itself.

It may not be assumed that the party has dropped the claim if he/she fails to appear at the oral hearing, but his/her filings shall be read.

If the plaintiff and the defendant both fail to attend the oral hearing, and the hearing is not postponed, the court shall hear the arguments of the dispute without the presence of the parties.

## **Course of the Hearing**

### **Article 39**

At the hearing the floor is first of all given to the member of the council acting as rapporteur. The rapporteur shall present the facts and the essence of the dispute, not giving his/her opinion. After this the president of the council shall give the floor to the plaintiff, then to the representative of the defendant and interested parties, ensuring that their statements refer only to the disputed issues and circumstances of importance for the decision on the matter.

The court shall decide in the hearing which evidence shall be presented for the purpose of determination of the factual state.

## **VIII. COURT DECISIONS**

### **1. Judgement**

#### **Dispute Settlement**

### **Article 40**

The court shall settle a dispute with a judgement.

The judgement shall accept the lawsuit or reject it as ungrounded.

The court shall render a judgement with the majority of votes.

Special minutes shall be kept on deliberation and voting signed by all the council members and the recording secretary.

Deliberation and voting shall be performed without the presence of the parties.

#### **Limits of the Court Examination of the Challenged Act**

### **Article 41**

The court shall examine the legality of the challenged administrative act within the limits of the claim from the lawsuit, but in so doing it is not bound by the reasons for the lawsuit.

The court shall examine if the administrative act is null and void *ex officio*.

## **Judgements Rendered in a Dispute of Limited Jurisdiction**

### **Article 42**

If the lawsuit is accepted, the court shall render a judgement to annul the challenged administrative act in part or in its entirety and shall return the case to the competent authority for re-decision, unless a new act is required in this matter.

If the lawsuit is accepted and the claim is to determine the illegality of the act without legal effects, or the claim is consisted of only determination whether the defendant has repeated his/her previous act already annulled before the court – the court shall limit itself to the requested determination.

If the court finds that the challenged act is null and void, it shall render a judgement by which that act shall be proclaimed null and void.

## **Judgements Rendered in a Dispute of Full Jurisdiction**

### **Article 43**

When it finds that the challenged administrative act should be annulled, the court shall render a judgement in order to decide the administrative matter, if the nature of the matter so allows and if the facts of the case give a reliable foundation for doing. This judgement shall completely replace the annulled act (dispute of full jurisdiction).

A dispute of full jurisdiction shall be excluded if the subject of the administrative dispute is an administrative act passed based on a discretionary assessment.

Exceptionally, in some matters a dispute of full jurisdiction may be explicitly excluded by a special law.

If the plaintiff requires that the court renders a judgement to decide the administrative matter, the court shall be obliged to state the reasons why that request is not accepted.

In cases when the annulment of the challenged act and a repeated proceeding before the competent authority would cause a harm to the plaintiff which would be difficult to rectify, and the court itself determined the factual state, it must decide in a dispute of full jurisdiction, unless such a dispute is excluded by the law.

## **Judgments Rendered in a Dispute due to Silence of Administration**

### **Article 44**

When the lawsuit is filed based on Article 19 of this law, and the court finds it grounded, it shall render the judgement to accept the lawsuit and order to the competent authority to render a ruling. If the court hold the necessary facts, and if the nature of the matter so allows, it may with its own judgement to directly decide the administrative matter.

## **Deciding on Civil Matters in an Administrative Dispute**

### **Article 45**

With the judgement which annuls the challenged administrative act, or pronounces it null and void, the court may also decide on the claim of the plaintiff for the return of things or compensation for the damage, if the determined factual state

provides reliable grounds for that. Otherwise it shall instruct the plaintiff to exercise its claim in the civil proceeding before the competent court.

### **Pronouncing and Publishing of the Judgement**

#### **Article 46**

The court shall, upon the completed hearing, immediately pronounce and publish the judgement together with the most important reasons.

In complex cases the court may render a judgement within no more than fifteen days from the date of concluding the hearing.

If no judgement or ruling can be pronounced after the oral hearing, because prior to this it is necessary to establish a fact for which it is not necessary to hold another oral hearing, the court shall render its judgement without a hearing, within no more than eight days from when the fact is established.

### **Content and Integral Part of the Judgement**

#### **Article 47**

The judgement shall contain the title of the court, the name and surname of the president of the council, council members and recording secretary, the title of the parties and their representatives, subject of the dispute, the day when the judgement was pronounced and published, the enacting terms, a statement of reasons and instructions on legal remedy.

The enacting terms must be separate from the statement of reasons.

The original judgement shall be signed by the president of the council and the recording secretary.

The judgment shall be served on the parties as authenticated copies.

#### **2. Ruling**

### **Proper Application of Provisions which refer to the Judgement**

#### **Article 48**

Provisions of Articles 46 and 47 of this law shall accordingly apply also to the rendering of court rulings.

## **IX. EXTRAORDINARY LEGAL MEANS**

### **1. Request for a Review of a Court Decision**

#### **Requirements and Reasons for Application**

#### **Article 49**

Against the final decision of the Constitutional Court, a party or a responsible public prosecutor may file a request to the Supreme Court of Cassation to review the court decision (hereinafter referred to as: "request").

The request may be filed:

- 1) when the law allows it;
- 2) in cases then the court decided in full jurisdiction;

3) in matters in which the appeal was excluded in the administrative proceeding.

The request may be filed due to a violation of the law, other regulation or general act or violation of the rules of the proceeding which might affect the decision on the matter.

### **Manner of Submission**

#### **Article 50**

The request shall be submitted to the Supreme Court of Cassation, in the manner defined in Article 30, paragraphs 1, 2 and 4 of this law.

When the party is a natural person, the request shall be submitted through the attorney who is a lawyer.

### **Deadline for the Submission**

#### **Article 51**

The request shall be submitted to the Supreme Court of Cassation within 30 days from the date of submitting to the party or competent public prosecutor the court decision against which the request is submitted.

If the court decision is not submitted to the competent public prosecutor, he/she may file a request within 60 days from the date of delivery of the decision of the court to the party to which it was last delivered.

### **Content of the Request and the Rejection of a Disorderly Request**

#### **Article 52**

The request shall contain the title of the court decision which review is proposed, title of the applicant, and the reasons and scope within which the review is proposed.

If the request is incomplete or incomprehensible, the Supreme Court of Cassation shall reject it with a ruling which shall not be subject to an appeal.

### **Handling the Request**

#### **Article 53**

The Supreme Court of Cassation shall reject an unallowed or untimely request or the request filed by an unauthorised person.

If the Supreme Court of Cassation does not reject the request, it shall submit it to the opposing party from the administrative dispute, which may, within the time limit set by the court, submit an answer to the request.

The court against which decision a request has been filed and the defendant shall be obliged to immediately and without delay, within 30 days at the latest, submit all the files to the Supreme Court of Cassation, at its request.

## **Manner and Limits in Deciding on the Request**

### **Article 54**

The Supreme Court of Cassation shall decide on the request for review of the court decision, i.e. without holding an oral hearing, and the annulled decision shall be reviewed only within the limits of the request.

### **Content of the Decision on the Request**

### **Article 55**

The Supreme Court of Cassation shall reject or accept the request as grounded, with a judgement.

The judgement with which the request is accepted, the Supreme Court of Cassation may suspend or amend the court decision against which the request is filed.

If the Supreme Court of Cassation suspends the court decision, the case shall be returned to the court which decision was suspended, and that court shall be obliged to carry out all the procedural actions and discuss the issues referred to by the competent court.

## **2. Reopening of proceedings**

### **Reasons of Reopening**

### **Article 56**

Proceedings concluded with a judgement or a ruling shall be reopened upon a lawsuit by a party:

- 1) if the party discovers new facts, or finds or obtains the opportunity to use new evidence on the basis of which the dispute would have been more favourably resolved for him/her if these facts or evidence had been presented or used in the previous court proceedings;
- 2) if the court decision was rendered as a result of a criminal offence committed by the judge or a court employee, or if the decision was gained by a fraudulent act by an attorney or representative of a party, his/her opponent or the opponent's representative or attorney and that act constitutes a criminal offence;
- 3) if the court decision was based on a judgement rendered in a criminal or civil matter and that judgement was later annulled by another legally effective court decision;
- 4) if the document on the basis of which the decision was made was false or fraudulently amended, or if a witness, expert witness or party gave false testimony at the hearing before the court and the court decision was based on that testimony;
- 5) if the party finds or obtains the opportunity to use a previous court decision rendered in the same administrative dispute;
- 6) if an interested person was not given the opportunity to participate in the administrative dispute;
- 7) if the position of the subsequent decision of the European Court of Human Rights in the same matter may affect the legality of the final court proceeding.

For the circumstances in items 1 and 5, paragraph 1 of this Article, a reopening of proceedings will only be permitted only if the party was not able to present these facts at the previous proceedings for no fault of his/her own.

### **Deadlines for Requesting the Reopening of the Proceeding**

#### **Article 57**

A reopening of proceedings may be requested no more than 30 days from the date when the party discovers the reason for the reopening of the proceedings, unless in cases referred to in Article 56, paragraph 1, item 7 when the reopening of proceedings may be requested no more than 6 months from the date of publication of the decision of the European Court of Human Rights in the "Official Gazette of the Republic of Serbia".

If the party discovers a reason for the reopening of the proceeding before the proceeding is terminated before the court, and that reason could not be used during the proceeding, the reopening of the proceeding may be requested no more than 30 days from the date of issuance of the court decision.

After the expiry of five years from the final court decision, a reopening of proceedings may not be requested.

### **Competences for Deciding on the Lawsuit to Reopen Proceedings**

#### **Article 58**

The lawsuit for a reopening of proceedings shall be filed with the court which rendered the decision to which the reason of reopening of the proceeding refers to.

### **Content of the Lawsuit for a Reopening the Proceedings**

#### **Article 59**

The lawsuit for a reopening of the proceedings shall contain in particular:

- 1) the judgement rendered in the proceedings for which a reopening of proceedings is requested;
- 2) the statutory basis for reopening the proceedings (Article 56) and the evidence or circumstances which make the existence of this basis likely;
- 3) the circumstances from which it arises that the lawsuit was filed within the statutory time limit and evidence to support it;
- 4) the direction and the scope of the requested amendments to the judgement rendered in the proceedings for which a reopening of proceedings is requested.

### **Dismissal of the Lawsuit for a Reopening of the Proceedings**

#### **Article 60**

The court shall dismiss the lawsuit for a reopening of the proceedings if it establishes that the lawsuit was filed by an unauthorised person or that the lawsuit was untimely or that the party did not demonstrate the existence of a statutory basis for a reopening of proceedings at least likely.

## **Submission of the Lawsuit for an Answer**

### **Article 61**

If the court does not dismiss the lawsuit according to Article 60 of this law, it shall serve it on the opposing party in the administrative dispute and interested persons and invite them to reply to the lawsuit within 15 days.

## **Deciding on Allowing a Reopening of the Proceedings**

### **Article 62**

After the expiration of the time limit for an answer, the court shall render a ruling on a reopening of proceedings.

If the court establishes that there are statutory grounds for a reopening of the proceedings, those procedural actions affected by the reasons of the reopening shall be reopened.

## **Deciding on the Lawsuit for a Reopening of the Proceedings**

### **Article 63**

After the reopened proceedings the court shall render a judgement.

The judgement referred to in paragraph 1 of this Article may put out of force, repeal or amend the previous judgement.

## **Legal Protection against the Court Decision regarding the Reopening the Proceedings**

### **Article 64**

Against a court decision on rejecting the lawsuit for a reopening of the proceedings, against the ruling not allowing the reopening of the proceedings, and against the court judgement rendered based on the lawsuit for a reopening of the proceedings, a request may be filed for a review referred to in Article 49 of this law.

## **Proper Application of Other Procedural Provisions in Reopened Proceedings**

### **Article 65**

In the reopened proceedings, provisions of this law on the proceedings based on a lawsuit and the request for a review of a court decision shall be applied appropriately, unless provisions of Articles 56 to 64 of this law provide differently.

## **X. COSTS OF ADMINISTRATIVE DISPUTES**

### **Costs of Disputes**

### **Article 66**

The costs of an administrative disputes shall mean the costs incurred during or in relation to the dispute.

## **Deciding on the Costs**

### **Article 67**

In an administrative dispute the court shall decide on the costs of the dispute.

## **XI. JUDGEMENT ENFORCEMENT**

### **Enforceability of the Judgement**

### **Article 68**

The judgement may be enforced once it becomes final.

### **Legal Consequences of the Annulment of an Act in an Administrative Dispute**

### **Article 69**

When the court annuls an act, against which an administrative dispute was instituted, the case shall be returned to the state of a reopened proceeding based on the appeal, i.e. the state of a reopened proceeding based on the request of a party in the first instance proceeding, if the appeal was excluded by the law (the state before the annulled act was passed).

If according to the nature of the matter, which was the subject of the dispute it is necessary to pass another administrative act in place of the one that has been annulled, the competent body shall pass it without delay, no later than 30 days after the day the judgement is served, and in doing so it shall be bound by the legal opinion of the court and the comments of the court in relation to the proceedings.

### **Legal Consequences of the Active Failure to Follow a Judgement**

### **Article 70**

If the competent body, after annulling the administrative act, passes an administrative act contrary to the legal opinion of the court, or contrary to the comments made by the court in relation to the proceedings, and the plaintiff files another law suit, the court shall annul the challenged act and as a rule resolve the matter itself by a judgement, unless that is not possible due to the nature of the matter or due to the exclusion of the full jurisdiction by the law.

The judgement rendered in case referred to in paragraph 1 of this Article shall replace the act by the competent body in its entirety.

If the court deems that due to the nature of the matter it is unable to resolve the matter itself, it shall be bound to explain it separately.

The court shall notify the body responsible for supervision of the work of the body about the case referred to in paragraph 1 of this Article.

### **Legal Consequences of the Passive Failure to Follow a Judgement**

### **Article 71**

If the competent body, following the annulment of the administrative act does not pass a new administrative act immediately or within no more than 30 days, or pass an act on the enforcement of the judgement pursuant to Article 43 of this law, the party may by means of a separate filing request such an act to be passed.

If the competent body does not pass the act referred to in paragraph 1 of this Article even after seven days from this request, the party may by means of a separate filing request the court which rendered the judgement to pass this act.

Upon the request by the party referred to in paragraph 2 of this Article, the court shall request the competent body to inform it of the reasons why it did not pass the administrative act. The competent body shall provide this information immediately, within no more than seven days. If it fails to do so, or if the information given, in the opinion of the court, does not justify the failure to enforce the court judgement, the court shall render a ruling which shall replace the act by the competent body in its entirety

The court shall serve the ruling referred to in paragraph 3 of this Article on the body competent for enforcement, and at the same time inform the body responsible for supervision. The body responsible for enforcement shall execute this ruling without delay.

#### **Right to Compensation for the Damage due to the Failure to Enforce the Judgement**

#### **Article 72**

Due to the damage incurred by the failure to enforce, or the untimely enforcement of the judgement rendered in the administrative dispute, the plaintiff has the right to a compensation realised in the dispute before the competent court, pursuant to the law.

#### **Reopening the Proceedings Terminated by the Act Rendered in the Enforcement of the Judgement**

#### **Article 73**

When the competent body rendered an administrative act in the enforcement of the judgement, and that body is requested to reopen the administrative proceedings terminated by an administrative act passed in the enforcement of the court judgement, the reopening may be allowed only if the reason to the reopening occurred in the body which has passed that administrative act.

### **XII. PROPER APPLICATION OF PROVISIONS OF A CIVIL PROCEDURE**

#### **Article 74**

Provisions of the law regulating civil procedures shall be accordingly applied to the issues regarding the settlement of administrative disputes not regulated by this law.

### **XIII. PECUNIARY PENALTY**

#### **Pecuniary Penalties for the Body Managers**

#### **Article 75**

If the manager of the body referred to in Article 31, paragraph 1 fails to appear before the court or fails to state justified reasons according to the court for the failure to submit the required documents, the court shall render a ruling on the fine in the amount from 10,000 to 50,000 dinars.

To the manager of the body who has failed to follow the judgement, in terms of Article 70, paragraph 1 and Article 71 of this law, the court shall issue a ruling on the fine in the amount from 30,000 to 100,000 dinars.

In case that the person referred to in paragraphs 1 and 2 of this Article, in spite of the imposed fine, fails to execute the obligation because of which the fine was imposed, the court may again impose the fine specified in paragraphs 1 and 2 of this Article.

### **Execution of Fines**

#### **Article 76**

A fine imposed pursuant to this law shall be executed *ex officio*.

## **XIV. TRANSITIONAL AND FINAL PROVISIONS**

### **Conducting the Unfinished Proceedings**

#### **Article 77**

The proceedings upon lawsuits, requests for extraordinary review of a court decision and lawsuits for the reopening of proceedings lodged until the day of entry into force of this law, shall be completed before the Constitutional Court, by the rules of the proceedings applicable until the day of entry into force of this law.

The Proceedings upon appeals filed against the judgements rendered in an administrative dispute, and requests for the protection of legality filed until the day of entry into force of this law, shall be completed before the Supreme Court of Cassation, by the rules of the proceedings applicable until the day of entry into force of this law.

### **Termination of Validity of Previous Regulations**

#### **Article 78**

As of the day of entry into force of this law, the Law on Administrative Disputes ("Official Gazette of FRY" number 46/96) shall cease to be valid.

As of the day of entry into force of this law, the provisions of Article 94 of the Law on the Basic Rights of Veterans, Disabled Veterans, and Families of Fallen Soldiers ("Official Gazette of FRY", number 24/98).

### **Entry into Force of this Law**

#### **Article 79**

This law shall enter into force on the day following its publication in the "Official Gazette of the Republic of Serbia".