

## Conclusions of the summary report on the analysis of administrative procedural law

A jurisprudence-analysing working group was set up in 2013 to examine the problematic issues of administrative procedural law, since it became necessary to modify the rules of court proceedings in administrative cases and to adopt a separate Code of Administrative Court Procedure.

The summary report of the jurisprudence-analysing working group pointed out that court proceedings in administrative cases and the procedural principles governing such proceedings should foremost ensure the protection of the public interest, the equality of arms of the parties, as well as the parties' effective legal protection. A special type of norm control procedure could be introduced under a dedicated chapter within a prospective separate Code of Administrative Court Procedure or some special rules could govern the norm control procedure within the future Code's general provisions. As regards the parties and their representation, the summary report indicates that in administrative proceedings the parties are and should be given the right to act in person or to be represented by a legal, organisational or authorised representative. Representatives should have the right to continue to represent their clients during court proceedings, and it has been suggested that representation be mandatory in appellate court proceedings. The summary report showed support to the option of maintaining the possibility of dealing with administrative cases without holding a public court hearing. The report argued that the rules on the modification of the statement of claims should be applied to the *in camera* adjudication of cases as well. The report added that the establishment of the case's factual background does not usually fall within the administrative court's competencies, however, the administrative court becomes entitled to take further evidence if it is believed that the facts should completely be reassessed.

The summary report suggested the non-use of non-litigious proceedings. The new Code's general procedural rules should be applied to the fullest possible extent. According to the summary report, the suspension of the enforcement of the administrative decision under review by the court is an appropriate means for providing legal protection, which replaces interim measures that are duly interpreted in the courts' consistent case-law. Preliminary evidence taking is not used in court proceedings in administrative cases. The summary report raised the possibility of giving the administrative court the right to render an administrative decision in lieu of the administrative authority if the latter fails to comply with the court's order. The summary report proposed to maintain the three-tier system of administrative courts in which appeals and petitions for judicial review are exceptional remedies.

The summary report also proposed to modify the procedural rules on the submission of a claim to the administrative court in social security cases. Pursuant to the relevant provisions in force, such claims are to be lodged against the first instance administrative decision, contrary to the general rules according to which the second instance decision should be impugned. The proposal aims to extend the scope of application of the general procedural rules to social security cases as well. The summary report stated that it is not the contractual parties, but the subject matter and content of the contract that have relevance in deciding on whether a public contract is of private or administrative law nature, therefore legal disputes on contractual matters should be settled on the basis of the general rules of the Code of Civil Procedure. In damages cases, in particular as regards claims for compensation for damage caused in the exercise of administrative functions, the status of the damaging party is not a primary consideration and the assessment of the acts giving rise to the damage falls within the scope of civil law.