

Opozorilo: Neuradno prečiščeno besedilo predpisa predstavlja zgolj informativni delovni pripomoček, glede katerega organ ne jamči odškodninsko ali kako drugače.

Neuradno prečiščeno besedilo Zakona o upravnem sporu obsega:

- Zakon o upravnem sporu – ZUS-1 (Uradni list RS, št. 105/06 z dne 12. 10. 2006),
- Odločbo o ugotovitvi, da je del četrtega odstavka 25. člena Zakona o upravnem sporu v neskladju z Ustavo ter o razveljavitvi sklepa Vrhovnega sodišča in sklepa Upravnega sodišča (Uradni list RS, št. 107/09 z dne 24. 12. 2009),
- Zakon o spremembah in dopolnitvah Zakona o upravnem sporu – ZUS-1A (Uradni list RS, št. 62/10 z dne 30. 7. 2010),
- Odločbo o ugotovitvi, da je Zakon o upravnem sporu v neskladju z Ustavo in o razveljavitvi sklepov Vrhovnega in Upravnega sodišča (Uradni list RS, št. 98/11 z dne 2. 12. 2011),
- Zakon o dopolnitvah Zakona o upravnem sporu – ZUS-1B (Uradni list RS, št. 109/12 z dne 31. 12. 2012),
- Zakon o spremembah in dopolnitvah Zakona o pravnem postopku – ZPP-E (Uradni list RS, št. 10/17 z dne 27. 2. 2017).

**ZAKON
o upravnem sporu (ZUS-1)**

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The unofficial consolidated version of the Administrative Dispute Act comprises:

- Administrative Dispute Act – ZUS-1 (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 105/04 of 12 October 2006),
- Decision establishing that part of paragraph four of Article 25 of the Administrative Dispute Act is inconsistent with the Constitution and abrogating the ruling of the Supreme Court and ruling of the Administrative Court (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 107/09 of 24 December 2009),
- Act Amending the Administrative Dispute Act – ZUS-1A (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 62/10 of 30 July 2010),
- Decision establishing that the Administrative Dispute Act is inconsistent with the Constitution and abrogating the rulings of the Supreme Court and Administrative Court (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 89/11 of 2 December 2011),
- Act Amending the Administrative Dispute Act – ZUS-1B (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 109/12 of 31 December 2012),
- Act Amending the Civil Procedure Act – ZPP-E (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 10/17 of 27 February 2017).

**ADMINISTRATIVE DISPUTE ACT
(ZUS-1)**

(neuradno prečiščeno besedilo št. 5)

Prvi del
PRISTOJNOST IN ORGANIZACIJA SODIŠČ

1. poglavje
Temeljne določbe

1. člen

V upravnem sporu se zagotavlja sodno varstvo pravic in pravnih koristi posameznic oziroma posameznikov (v nadaljnjem besedilu: posameznik) in organizacij proti odločitvam in dejanjem državnih organov, organov lokalnih skupnosti in nosilcev javnih pooblastil (v nadaljnjem besedilu: organi) na način in po postopku, ki ga določa ta zakon, če za določeno zadevo ni z zakonom zagotovljeno drugo sodno varstvo.

2. člen

(1) V upravnem sporu odloča sodišče o zakonitosti dokončnih upravnih aktov, s katerimi se posega v pravni položaj tožnice oziroma tožnika (v nadaljnjem besedilu: tožnik). O zakonitosti drugih aktov odloča sodišče v upravnem sporu samo, če tako določa zakon.

(2) Upravni akt po tem zakonu je upravna odločba in drug javnopravni, enostranski, oblastveni posamični akt, izdan v okviru izvrševanja upravne funkcije, s katerim je organ odločil o pravici, obveznosti ali pravni koristi posameznika, pravne osebe ali druge osebe, ki je lahko stranka v postopku izdaje akta.

(3) Dokončni upravni akt je tisti akt, zoper katerega ni mogoče vložiti rednih pravnih sredstev v postopku odločanja.

3. člen

(Unofficial consolidated version No. 5)

PART ONE
JURISDICTION AND ORGANISATION OF COURTS

Chapter One
Fundamental Provisions

Article 1

In an administrative dispute, the judicial protection of the rights and legal interests of individuals and organisations against decisions and actions of state authorities, local community authorities and bearers of public authority (hereinafter: authorities) shall be provided in accordance with the methods and procedures laid down in this Act, unless any other form of judicial protection is provided by an Act for a particular case.

Article 2

(1) In an administrative dispute, the court shall rule on the legality of final administrative acts which encroach on the legal status of the plaintiff. In an administrative dispute, the court shall adjudicate on the legality of other Acts only if so required by an Act.

(2) Pursuant to this Act, an administrative act is an administrative decision and other individual act issued under public law, unilaterally, by a government authority as part of the execution of an administrative function, whereby an authority has decided on a right, obligation or legal benefit of an individual or legal entity, or of any other person who may be a party in the procedure of issuing the act.

(3) A final administrative act is an act against which no ordinary legal remedy can be filed in the decision-making procedure.

Article 3

Upravni akti niso tiste odločitve, ki jih nosilci zakonodajne in sodne veje oblasti sprejemajo za izvrševanje svojih ustavnih pristojnosti, in tisti akti, ki jih sprejemajo nosilci izvršilne veje oblasti in so utemeljeni na politični diskreciji, podeljeni na podlagi ustavnih in zakonskih pooblastil.

4. člen

(1) V upravnem sporu odloča sodišče tudi o zakonitosti posamičnih aktov in dejanj, s katerimi organi posegajo v človekove pravice in temeljne svoboščine posameznika, če ni zagotovljeno drugo sodno varstvo.

(2) Če se v upravnem sporu izpodbijajo dejanja javne oblasti, se v postopku uporabljajo določbe tega zakona, ki se nanašajo na izpodbijanje upravnega akta.

5. člen

(1) V upravnem sporu se lahko akti, s katerimi je upravni akt na podlagi rednih ali izrednih pravnih sredstev odpravljen ali razveljavljen, izpodbijajo samo, če je bil z njimi postopek odločanj o zadevi končan.

(2) V upravnem sporu se lahko izpodbijajo tisti sklepi, s katerimi je bil postopek odločanja o izdaji upravnega akta obnovljen, ustavljen ali končan.

(3) Če zakon ne določa drugače, je upravni spor dopusten tudi, če upravni akt tožniku ni bil izdan ali mu ni bil vročen v predpisanem roku.

(4) V upravnem sporu odloča sodišče o zakonitosti aktov organov, izdanih v obliki predpisa, kolikor urejajo posamična razmerja.

Decisions adopted by the representatives of judicial and legislative authorities in order to exercise their constitutional powers, as well as acts adopted by the holders of executive powers based on political discretion granted under constitutional and legal authorisation, are not administrative acts.

Article 4

(1) In an administrative dispute, the courts shall also adjudicate on the legality of individual acts and actions with which authorities have encroached on the human rights and fundamental freedoms of an individual, unless a different form of judicial protection has been guaranteed.

(2) Where the acts of public authorities are contested in an administrative dispute, the provisions of this Act regulating the procedure of contesting an administrative act shall be applied in the procedure.

Article 5

(1) In an administrative dispute, the acts by which an administrative act is annulled or abrogated on the basis of an ordinary or extraordinary legal remedy, may only be contested if the decision-making procedure concerning the case was concluded through their issuing.

(2) Procedural decisions with which the decision-making procedure for the issuing of an administrative act was reopened, stayed or concluded may be contested in an administrative dispute.

(3) Unless otherwise provided by an Act, an administrative dispute shall also be permitted if the administrative act has not yet been issued to the plaintiff, or was not served on them within the prescribed time period.

(4) In an administrative dispute, the court shall rule on the legality of acts issued in the form of a regulation, if they regulate individual relationships.

6. člen

(1) Upravni spor ni dopusten, če stranka, ki je imela možnost vložiti pritožbo ali drugo redno pravno sredstvo zoper upravni akt, tega ni vložila ali ga je vložila prepozno.

(2) V upravnem sporu v tožbi zoper akte, s katerimi je organ odločil o izrednem pravnem sredstvu zoper upravni akt, ni dopustno uveljavljati istih razlogov, iz katerih je stranka že vložila tožbo v upravnem sporu zoper sam upravni akt, ali pa bi to lahko storila.

7. člen

(1) V upravnem sporu sodišče v mejah tožbenega zahtevka odloči o pravici, obveznosti ali pravni koristi posameznika ali pravne osebe, če zakon tako določa ali če je zaradi narave pravice oziroma zaradi varstva ustavne pravice to potrebno.

(2) V upravnem sporu sme tožnik zahtevati, da se mu vrnejo vzete stvari ali da se mu povrne škoda, ki mu je nastala z izvršitvijo izpodbijanega upravnega akta.

(3) V upravnem sporu odloča sodišče o javnopravnih sporih med državo in lokalnimi skupnostmi, med lokalnimi skupnostmi ter o sporih med njimi in nosilci javnih pooblastil, če zakon tako določa ali če ni z ustavo ali zakonom zagotovljeno drugo sodno varstvo.

8. člen

Sodišča, upravni in drugi državni organi, organi lokalnih skupnosti in nosilci javnih pooblastil morajo dajati sodiščem v upravnem sporu pravno oziroma drugo pomoč.

Article 6

(1) An administrative dispute shall not be permitted where the party that had the opportunity to file a complaint or other ordinary legal remedy against the administrative act, did not do so or filed it late.

(2) In an administrative dispute, an action against acts with which an authority decided on an extraordinary remedy against an administrative act, shall not be permitted to claim the same reasons for which the party has already filed an action in an administrative dispute against the same administrative act, or could have done so.

Article 7

(1) In an administrative dispute, the court shall adjudicate within the limits of the claim on the rights, obligations or legal benefits of an individual or legal entity, where so provided by an Act, or if this is necessary due to the nature of the right or in order to protect a constitutional right.

(2) In an administrative dispute, the plaintiff may claim the return of seized items, and claim compensation for damages caused by the execution of the contested administrative act.

(3) In an administrative dispute, the court shall adjudicate on public law disputes between the state and local communities, among local communities, and between them and the bearers of public authority, if so provided by an Act and unless any other form of judicial protection has been laid down in the Constitution or by an Act.

Article 8

Courts, administrative and other state authorities, local community authorities and bearers of public authority, must provide the courts in administrative disputes with legal and other assistance.

9. člen

(1) Upravno sodišče Republike Slovenije (v nadaljnjem besedilu: upravno sodišče) ima sedež v Ljubljani.

(2) Upravno sodišče sodi na sedežu in na zunanjih oddelkih.

(3) Na zunanjih oddelkih sodi upravno sodišče:

- na oddelku v Celju za območje sodnega okrožja Višjega sodišča v Celju;
- na oddelku v Novi Gorici za območji sodnih okrožij Višjega sodišča v Kopru;
- na oddelku v Mariboru za območje sodnih okrožij Višjega sodišča v Mariboru.

(4) Na zunanjih oddelkih sodi upravno sodišče glede na prebivališče oziroma sedež tožnika.

(5) Če tožnik nima prebivališča oziroma sedeža v Republiki Sloveniji, sodi upravno sodišče na zunanjem oddelku glede na kraj izdaje upravnega akta, ki se izpodbija s tožbo.

(6) Ne glede na četrty in peti odstavek tega člena sodi upravno sodišče na sedežu sodišča v zadevah azila, varstva konkurence in v davčnih zadevah, razen v zadevah dohodnine in v zadevah po zakonu o davkih občanov.

10. člen

(1) Za položaj, izvolitev oziroma imenovanje in razrešitev sodnic oziroma sodnikov (v nadaljnjem besedilu: sodnik) upravnega sodišča veljajo določbe zakona, ki ureja sodniško službo, če ta zakon ne

Article 9

(1) The Administrative Court of the Republic of Slovenia (hereinafter: the Administrative Court) shall be based in Ljubljana.

(2) The Administrative Court shall adjudicate at its head office and in branch offices.

(3) The Administrative Court shall adjudicate at the following branch offices:

- at the Celje department for the judicial district covered by the Celje Higher Court;
- at the Nova Gorica department for the judicial districts covered by the Koper Higher Court;
- at the Maribor department for the judicial districts covered by the Maribor High Court.

(4) The decision for the Administrative Court to adjudicate at a branch office shall be made with regard to the residence or head office of the plaintiff.

(5) If the plaintiff has no residence or head office in the Republic of Slovenia, the Administrative Court shall adjudicate at the branch office in the area in which the administrative act being contested in the action was issued.

(6) Notwithstanding the provisions laid down in paragraphs four and five of this article, the Administrative Court shall adjudicate at the head office of the court in asylum cases, competition protection cases and in tax cases, except cases concerning personal income tax and cases under the Act governing civil tax.

Article 10

(1) The provisions of the Act governing the judicial service shall apply to the office, election, appointment or dismissal of Administrative Court judges, unless otherwise provided by this Act.

določa drugače.

(2) Za sodnika upravnega sodišča je lahko izvoljen, kdor izpolnjuje pogoje za višjega sodnika ali kdor ima poleg splošnih pogojev za izvolitev v sodniško funkcijo najmanj deset let izkušenj pri odločanju v upravnih stvareh ali na podobnih pravniških delih.

(3) Sodnika sodišča iz prvega odstavka 9. člena in prvega odstavka 12. člena tega zakona lahko sodni svet na predlog personalnega sveta, upoštevajoč njegove izkušnje pri delu v upravnih organih oziroma državnih organih, v skladu z rezultati njegovega dela uvrsti v višji plačni razred oziroma na položaj svetnika ne glede na merila, ki so po zakonu, ki ureja sodniško službo, podlaga za uvrstitev sodnikov v posamezne plačne razrede oziroma za napredovanje na položaj svetnika.

(4) Na upravnem sodišču lahko sodi tudi sodnik višjega sodišča, ki je dodeljen na upravno sodišče pod pogoji zakona, ki ureja sodniško službo.

(5) Dodelitev po prejšnjem odstavku ni časovno omejena. Sodni svet najmanj enkrat letno preizkusi, ali še obstojijo razlogi in privolitev sodnika za dodelitev.

3. poglavje Pristojnost in sestava sodišča

1. oddelek Stvarna pristojnost

11. člen

V upravnem sporu odloča na prvi stopnji upravno sodišče, če zakon ne določa drugače.

(2) Any person who meets the conditions set for higher court judges or who, in addition to the general requirements for election to the office of a judge, also has at least ten years of experience in making decisions in administrative matters or in similar legal tasks, may be elected as an Administrative Court judge.

(3) The judge of the court referred to in paragraph one of Article 9 and paragraph one of Article 12 of this Act, may be promoted by the judicial council on the proposal of the personnel council, by taking into account the years of work experience in administrative or state authorities and in accordance with their performance to a higher wage bracket or to the position of a senior judge, irrespective of the criteria used as the foundation for the classification of judges into wage brackets or for promotion to the position of a senior judge, as set out in the act governing the judicial service.

(4) A Higher Court judge who has been allocated to the Administrative Court under the conditions of the Act governing the judicial service, may also adjudicate in the Administrative Court.

(5) An appointment under the preceding paragraph shall not be restricted with regard to its duration. The judicial council shall, at least once a year, examine whether the reasons and the consent of the judge for allocation still exist.

Chapter Three Jurisdiction and composition of the court

Section 1 Subject matter jurisdiction

Article 11

In an administrative dispute, adjudication at the first instance shall be carried out by the Administrative Court, unless otherwise provided by an Act.

12. člen

(1) Vrhovno sodišče Republike Slovenije (v nadaljnjem besedilu: vrhovno sodišče) odloča v upravnem sporu o zakonitosti aktov volilnih organov za volitve v državni zbor, državni svet in volitve predsednika države.

(2) Vrhovno sodišče odloča o pritožbi in o reviziji.

(3) Vrhovno sodišče odloča v sporu o pristojnosti med upravnim in drugim sodiščem.

2. oddelek Sestava sodišča

13. člen

(1) Upravno sodišče odloča v senatu treh sodnikov, če zakon ne določa drugače.

(2) Upravno sodišče odloča po sodniku posamezniku v naslednjih zadevah:

- če vrednost spornega predmeta v zadevah, v katerih je pravica ali obveznost stranke izražena v denarni vrednosti, ne presega 20.000 eurov, pa ne gre za pomembno pravno vprašanje;
- če se izpodbijajo procesni sklepi v postopku izdaje upravnega akta;
- če gre za enostavno dejansko in pravno stanje;
- če ima izpodbijani upravni akt take pomanjkljivosti, da ga ni mogoče preizkusiti.

(3) O tem, ali zadeva izpolnjuje pogoje iz prve in tretje alineje prejšnjega odstavka, odloči na predlog sodnika poročevalca senat. Zoper ta sklep ni posebne pritožbe.

Article 12

(1) The Supreme Court of the Republic of Slovenia (hereinafter: the Supreme Court) shall decide on the legality of acts issued by electoral bodies for election to the National Assembly, the National Council and for electing the President of Slovenia, in an administrative dispute.

(2) The Supreme Court shall adjudicate on appeals and on reviews.

(3) The Supreme Court shall adjudicate on disputes regarding any conflict of jurisdiction between an administrative and other court.

Section 2 Composition of the court

Article 13

(1) The Administrative Court shall make decisions in a panel of three judges, unless otherwise provided by this Act.

(2) A single judge of the Administrative Court shall decide on the following cases:

- If the value of the matter in dispute, in cases where the right or obligation of a party is expressed in monetary value, does not exceed EUR 20,000 and the case does not represent an important legal question;
- If in the process for issuing an administrative act procedural decisions are contested;
- if simple facts of the case and a simple legal situation has been established;
- If the contested administrative act has such deficiencies that it cannot be tested.

(3) The panel shall decide on the proposal of the judge *rapporteur* whether the case meets the conditions laid down in the first and third indents of the preceding paragraph. No special appeal may be

(4) O obnovi postopka v primeru iz prvega odstavka tega člena odloča senat, v primeru iz drugega odstavka tega člena pa sodnik posameznik.

14. člen

(1) Vrhovno sodišče odloča o pritožbi in o reviziji v senatu treh sodnikov.

(2) Vrhovno sodišče odloča po sodniku posamezniku o ustavitvi postopka.

15. člen

(1) V sporih o pristojnosti med upravnim sodiščem in vrhovnim sodiščem odloča vrhovno sodišče v senatu petih sodnikov.

(2) V sporih o pristojnosti med upravnim sodiščem in sodiščem splošne pristojnosti oziroma specializiranim sodiščem odloča vrhovno sodišče v senatu treh sodnikov.

Drugi del POSTOPEK V UPRAVNEM SPORU

1. poglavje Stranke

16. člen

Stranke v upravnem sporu so:

- tožnik;
- toženka oziroma toženec (v nadaljnjem besedilu: toženec);
- prizadeta oseba s položajem stranke, če tako določa zakon.

filed against this procedural decision.

(4) The panel shall decide on the restoration of the procedure as referred to in paragraph one of this Article, while a single judge shall decide in the cases referred to in paragraph two of this Article.

Article 14

(1) The Supreme Court shall adjudicate on appeals and on reviews in a panel of three judges.

(2) The Supreme Court shall decide with a single judge on a stay of proceedings.

Article 15

(1) The Supreme Court shall decide on conflicts of jurisdiction between the Administrative Court and the Supreme Court in a panel of five judges.

(2) In conflicts of jurisdiction between the Administrative Court and a court of general jurisdiction or court of specialised jurisdiction, the decision shall be made by the Supreme Court in a panel of three judges.

PART TWO ADMINISTRATIVE DISPUTE PROCEDURE

Chapter One Parties

Article 16

The parties to an administrative dispute shall be as follows:

- the plaintiff;
- the defendant;
- affected person with the status of a party, if so prescribed by an Act.

17. člen

(1) Tožnik je oseba, ki je bila stranka ali stranski udeleženec v postopku izdaje upravnega akta.

(2) Zoper dokončen sklep, s katerim je bila osebi zavrnjena pravica do udeležbe v postopku izdaje upravnega akta, lahko vloži tožbo tista oseba, kateri je bila pravica do udeležbe v postopku s tem sklepom zavrnjena.

(3) Tožnik je lahko tudi zastopnica oziroma zastopnik javnega interesa (v nadaljnjem besedilu: zastopnik javnega interesa) v primerih, ki jih določa ta zakon.

(4) Tožnik ne more biti organ, ki je odločal v končanem postopku.

(5) Toženec je država, lokalna skupnost oziroma druga pravna oseba, ki je izdala upravni akt, s katerim je bil postopek odločanja končan. Toženca v upravnem sporu zastopa organ, ki je izdal akt iz prejšnjega stavka, razen če v primeru tožbe zoper državo oziroma lokalno skupnost Vlada Republike Slovenije (v nadaljnjem besedilu: vlada) oziroma župan po vložitvi tožbe za zastopnika določi drug organ države oziroma lokalne skupnosti.

18. člen

(1) Zastopnik javnega interesa v upravnem sporu je državno pravobranilstvo.

(2) Na zahtevo vlade v posamezni zadevi mora državno pravobranilstvo vložiti tožbo zaradi kršitve zakona v škodo javnega interesa.

19. člen

Article 17

(1) The plaintiff is a person who was a party or an accessory participant in the procedure in which the administrative act was issued.

(2) An action may be brought against the final procedural decision whereby a person was refused the right to participate in the procedure in which the administrative act was issued, by the person whose right to participate in the procedure was refused by such procedural decision.

(3) The plaintiff may also be a representative of the public interest in the cases stated by this Act.

(4) The plaintiff may not be an authority that decided in the completed procedure.

(5) The defendant shall be the state, the local community or another legal person that issued an administrative act by which the decision-making procedure was completed. The defendant in the administrative dispute shall be represented by the authority that issued the act referred to in the preceding sentence, except if in the case of action against the state or the local community, the Government of the Republic of Slovenia (hereinafter: the Government) or the mayor appoints another authority of the state or the local community as the representative, after the bringing of the action.

Article 18

(1) The representative of public interest in an administrative dispute is the State Attorney's Office.

(2) At the request of the Government in an individual case, the State Attorney's Office must bring an action where an Act is being infringed to the detriment of the public interest.

Article 19

(1) Položaj stranke ima tudi oseba, ki bi ji bila odprava oziroma sprememba izpodbijanega upravnega akta v neposredno škodo, pa ne gre za osebo, ki v skladu s šestim odstavkom 143. člena ter drugim odstavkom 229. člena Zakona o splošnem upravnem postopku (Uradni list RS, št. 24/06 – uradno prečiščeno besedilo, v nadaljnjem besedilu: ZUP) ali vsebinsko enake določbe drugega predpisa, ki ureja postopek izdaje upravnega akta, ne bi mogla biti stranski udeleženec v upravnem postopku.

(2) Dokler v upravnem sporu postopek na prvi stopnji ni končan, sodišče po uradni dolžnosti ali na predlog strank obvesti tretje osebe, če bi ureditev spornega razmerja lahko posegla v njihove pravice ali na zakon oprte neposredne koristi.

(3) Po prejšnjem odstavku mora sodišče ravnati tudi, če je v spornem pravnem razmerju kakšna tretja oseba udeležena na tak način, da se odločitev lahko sprejme samo enotno tudi zanjo.

2. poglavje Splošna pravila postopka

20. člen

(1) Sodišče razišče oziroma preizkusi dejansko stanje v okviru tožbenih navedb.

(2) Sodišče ni vezano na dokazne predloge strank in lahko izvede vse dokaze, za katere meni, da bodo prispevali k razjasnitvi zadeve in k zakoniti ter pravilni odločitvi.

(3) V upravnem sporu stranke ne smejo navajati dejstev in predlagati dokazov, če so imele možnost navajati ta dejstva in predlagati te dokaze v postopku pred izdajo akta.

(1) A person that could suffer direct damage as a result of the annulment or amendment of the contested administrative act, shall also hold the status of party to the proceedings, but this shall not be a person who, in accordance with paragraph six of Article 143 and paragraph two of Article 229 of the General Administrative Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 24/06– official consolidated text, hereinafter: ZUP) or substantially identical provisions of another regulation regulating the procedure for issuing the administrative act, could not be an accessory participant in the administrative procedure.

(2) Until the procedure at the first instance in an administrative dispute has been completed, the court shall *ex officio* or on the proposal of the parties, notify any third persons, if the arrangement of the contested relationship could infringe on their rights or benefits directly based in an Act.

(3) The court must also take the action under the preceding paragraph if a third person is involved in the contentious legal relationship in such a manner that only a uniform decision may also be adopted for this person.

Chapter Two General procedural rules

Article 20

(1) The court shall investigate or test the facts of the case within the bounds of the allegations contained in the action.

(2) The court shall not be bound by the evidence proposed by the parties and may present any evidence which it considers as contributing towards the clarification of the case and towards a lawful and correct ruling.

(3) In an administrative dispute, the parties may not state facts and propose evidence if they were given an opportunity to state the facts and propose evidence in the procedure prior to the issuing of the act.

21. člen

Če je sodišče samo ugotovilo dejansko stanje, je treba pred izdajo odločbe strankam dati možnost, da se izjavijo o dejstvih in okoliščinah, ki so pomembne za odločitev, če ta zakon ne določa drugače.

22. člen

(1) V upravnem sporu se uporabljajo določbe zakona, ki ureja pravdni postopek, kolikor ta zakon ne določa drugače

(2) V postopku v upravnem sporu se ne uporablja določba tretjega odstavka 86. člena Zakona o pravdnem postopku. V postopku s pritožbo in z izrednimi pravnimi sredstvi lahko stranka opravlja dejanja v postopku samo po pooblaščenca, ki ima opravljen pravniški državni izpit.

3. poglavje Roki in vrnitev v prejšnje stanje

23. člen

(1) Rok za tožbo prične teči z vročitvijo upravnega akta stranki oziroma takrat, ko je bilo storjeno posamično dejanje, s katerim se posega v človekove pravice in temeljne svoboščine posameznika.

(2) Rok za tožbo zoper akte iz četrtega odstavka 5. člena tega zakona prične teči z objavo akta.

(3) Rok za pravno sredstvo prične teči z vročitvijo sodne odločbe strankam.

(4) Če je bila vložena zahteva ali pobuda za oceno ustavnosti

Article 21

If the court has established the actual facts of the case by itself, the parties must be given, prior to the decision being issued, an opportunity to state the facts and the circumstances relevant to the decision, unless provided otherwise by this Act.

Article 22

(1) In an administrative dispute, the provisions of the Act regulating civil procedure shall apply, unless otherwise provided by this Act.

(2) In the administrative dispute procedure, the provision of paragraph three of Article 86 of the Civil Procedure Act shall not apply. In the appeal procedures and in the procedures of extraordinary legal remedies, a party may perform procedural actions only through a counsel who has passed the national bar exam.

Chapter Three Time frames and the reinstatement of a case

Article 23

(1) The period in which an action may be filed shall start from the moment the administrative act is served on the party, or when an individual act which infringes on the constitutional rights of an individual is committed.

(2) The period in which an action against acts referred to in paragraph four of Article 5 of this Act may be filed shall start with the publication of the act concerned.

(3) The period in which a legal remedy may be filed shall start from the moment the court decision is served to the parties.

(4) If a request or a petition to initiate the procedure for review

akta iz drugega odstavka tega člena, se šteje tožba za pravočasno, če je bila vložena v tridesetih dneh od vročitve odločbe ustavnega sodišča, s katero se je to sodišče izreklo za nepristojno.

24. člen

(1) Če stranka iz opravičenega vzroka zamudi rok iz 23. člena tega zakona ali drug zakoniti rok za opravo dejanja v postopku in ga zaradi tega ne more več opraviti, lahko predlaga vrnitev v prejšnje stanje.

(2) Predlog je treba vložiti v osmih dneh od dneva, ko je prenehal vzrok, zaradi katerega je stranka zamudila rok; če je stranka šele pozneje zvedela za zamudo, pa od dneva, ko je za to zvedela.

(3) Okoliščine za utemeljitev predloga je treba verjetno izkazati ob vložitvi predloga. V roku za vložitev predloga je treba opraviti tudi zamujeno dejanje.

(4) Po treh mesecih od dneva zamude ni mogoče predlagati vrnitve v prejšnje stanje.

(5) Zaradi zamude roka za vložitev predloga za vrnitev v prejšnje stanje ni mogoče predlagati vrnitve v prejšnje stanje.

(6) O vrnitvi v prejšnje stanje odloči sodišče, ki mora odločiti o zamujenem dejanju.

(7) Zoper sklep, s katerim se dovoli vrnitev v prejšnje stanje, ni dopustna pritožba, razen če se ugotovi predlogu v nasprotju s petim odstavkom tega člena.

of the constitutionality of an act referred to in paragraph two of this Article has been filed, the action shall be considered as having been filed within the prescribed period, if it was lodged within 30 days of the serving of the constitutional court decision with which this court declared its lack of jurisdiction.

Article 24

(1) If, for a justifiable reason, the party misses the deadline referred to in Article 23 of this Act, or other legal deadline for carrying out an action in a procedure and, as a result, the action can no longer be carried out, such party may propose the reinstatement of the case.

(2) The proposal must be submitted within eight days, starting from the day the reasons for which the party missed the deadline ceased to exist; if the party only later learns that they missed the deadline, the proposal must be submitted on the day they learned about it.

(3) The circumstances for the justification of the proposal must be plausibly demonstrated at the time the proposal is filed. The omitted action must also be carried out during the period in which it is possible to submit the proposal.

(4) A proposal for the reinstatement of the case may not be made more than three months after the day the delay occurred.

(5) Missing the deadline for proposing the reinstatement of the case shall not be considered a valid reason for submitting a proposal for the reinstatement of the case.

(6) The decision for the reinstatement of the case shall be made by the court, which must adjudicate on the omitted action.

(7) No appeal may be lodged against a procedural decision for the reinstatement of the case, unless a proposal contrary to paragraph five of this Article has been granted.

25. člen

(1) Če sodišče v upravnem sporu odloča o pravici, obveznosti ali pravni koristi, odloči o stroških postopka po določbah Zakona o pravnem postopku.

(2) Stranka vselej trpi stroške, ki jih je povzročila po svoji krivdi, in stroške, ki so nastali po naključju, ki se je njej primerilo.

(3) Če je sodišče ugodilo tožbi in v upravnem sporu izpodbijani upravni akt odpravilo ali ugotovilo nezakonitost izpodbijanega upravnega akta, se tožniku glede na opravljena procesna dejanja in način obravnavanja zadeve v upravnem sporu prisodi pavšalni znesek povračila stroškov skladno s pravilnikom, ki ga izda ministrica oziroma minister, pristojen za pravosodje (v nadaljnjem besedilu: minister, pristojen za pravosodje). Prisojeni znesek plača toženec.

(4) Če sodišče tožbo zavrne ali zavrže ali se postopek ustavi, trpi vsaka stranka svoje stroške postopka, razen če se postopek ustavi po tretjem ali četrtem odstavku 39. člena tega zakona.

(5) Če se postopek ustavi po tretjem odstavku 39. člena tega zakona, ker je organ izdal upravni akt, s katerim je bilo dokončno odločeno o tožnikovi pravici, obveznosti ali pravni koristi, tožnik pa pri tožbi ne vztraja, sodišče odloči o stroških postopka po prvem odstavku tega člena. Če pa se postopek ustavi po četrtem odstavku 39. člena tega zakona, sodišče odloči o stroških postopka po tretjem odstavku tega člena.

(6) Kadar sodišče v upravnem sporu odloča v sporih iz tretjega odstavka 7. člena tega zakona, trpi vsaka stranka svoje stroške postopka.

(7) Če v primeru iz tretjega, četrtega in šestega odstavka tega

Article 25

(1) If the court adjudicates on a right, obligation or legal benefit in an administrative dispute, it shall apply the provisions of the Civil Procedure Act for the decision relating to the costs of the procedure.

(2) Parties shall always be billed for costs incurred through their own fault, as well as those costs incurred by any chance occurrence affecting the party.

(3) If the court granted the action and annulled the administrative act contested in the administrative dispute, or established the illegality of the contested administrative act, the lump sum of costs shall be reimbursed to the plaintiff with respect to the performed procedural actions and the method in which the administrative dispute was processed, in compliance with the rules issued by the Minister responsible for justice. The determined amount shall be paid by the defendant.

(4) If the court dismisses or rejects the action or if a stay of the proceedings takes place, each of the parties shall bear their own costs related to the procedure, unless the stay of the proceedings is in accordance with paragraphs three or four of Article 39 of this Act.

(5) If the stay of the proceedings is in accordance with paragraph three of Article 39 of this Act because an authority issued an administrative act with which a plaintiff's right, obligation or legal benefit was finally decided, and the plaintiff does not persist with the action, the court shall decide on the costs of the procedure in accordance with paragraph one of this Article. If the stay of the proceedings is in accordance with paragraph four of Article 39 of this Act, the court shall decide on the costs of the procedure in accordance with paragraph three of this Article.

(6) Where in an administrative dispute the court rules on the disputes referred to in paragraph three of Article 7 of this Act, each of the parties shall bear their own costs related to the procedure.

(7) If shared costs arise in the case referred to in paragraphs

člena nastanejo skupni stroški, odloči sodišče, v kakšnem razmerju jih trpijo posamezne stranke.

5. poglavje
Postopek pred sodiščem prve stopnje

1. oddelek
Tožba

26. člen

Upravni spor se začne s tožbo ali z drugim pravnim sredstvom, če zakon tako določa.

27. člen

(1) Upravni akt se sme izpodbijati:

1. če v postopku za izdajo upravnega akta zakon, na zakon oprt predpis ali drug zakonito izdan predpis ali splošni akt, izdan za izvrševanje javnih pooblastil, ni bil uporabljen ali ni bil pravilno uporabljen;
2. če se v postopku pred izdajo upravnega akta ni ravnalo po pravilih postopka, pa je to vplivalo ali moglo vplivati na zakonitost oziroma pravilnost odločitve (bistvena kršitev določb postopka);
3. če dejansko stanje ni bilo pravilno in popolno ugotovljeno ali če je bil iz ugotovljenih dejstev napravljen napačen sklep o dejanskem stanju;
4. iz razlogov, zaradi katerih se upravni akt izreče za ničnega.

(2) Ne gre za nepravilno uporabo predpisa, če je pristojni organ odločil po prostem preudarku na podlagi pooblastila, ki ga je imel po predpisih, v mejah danega pooblastila in v skladu z namenom, zaradi katerega mu je bilo pooblastilo dano.

three, four and six of this Article, the court shall decide what proportion of the costs each party shall bear.

Chapter Five
Procedure at the first-instance court

Section 1
Action

Article 26

An administrative dispute shall commence with an action or other legal remedy, if so provided by an Act.

Article 27

(1) An administrative act may be contested in the following cases:

1. if an Act, a regulation based on an Act, or any other legally prescribed regulation or general act issued in order to execute public authority, was not applied or was applied incorrectly in the procedure for issuing an administrative act;
2. if, in the procedure prior to the issuing of the administrative act, the rules of the procedure were not applied, and this affected or could have affected the legality or correctness of the decision (substantial violation of procedural provisions);
3. if the facts of the case were erroneously or incompletely determined, or if an incorrect conclusion was drawn from the facts that had been determined;
4. for reasons for which an administrative act may be proclaimed void.

(2) It shall not be considered an incorrect application of regulations, if the competent authority made a discretionary decision on the basis of an authorisation granted by the regulations, within the bounds of the authorisation and in compliance with the purpose for which it was granted the authorisation.

(3) Bistvena kršitev določb postopka je vselej podana v primerih, ko gre za absolutno bistveno kršitev pravil postopka, ki jo določa ZUP ali drug zakon, ki ureja postopek izdaje upravnega akta.

28. člen

(1) Tožbo je treba vložiti v 30 dneh od vročitve upravnega akta, s katerim je bil končan postopek. Zastopnik javnega interesa lahko vloži tožbo v primeru, ko ni bil stranka v postopku izdaje upravnega akta, v roku, ki velja za stranko, v korist katere je bil upravni akt izdan.

(2) Če organ druge stopnje v dveh mesecih ali pa v krajšem, s posebnim predpisom določenem roku ne izda odločbe o strankini pritožbi zoper odločbo prve stopnje in če je tudi na novo zahtevo ne izda v nadaljnjih sedmih dneh, sme stranka sprožiti upravni spor, kot če bi bila njena pritožba zavrnjena.

(3) Po prejšnjem odstavku sme ravnati tožnik tudi, če organ prve stopnje ne izda odločbe, zoper katero ni pritožbe, ter v primeru, če organ v treh letih od začetka postopka ni izdal dokončnega upravnega akta, ne glede na to, ali so v tem postopku že bila uporabljena redna ali izredna pravna sredstva, razen če je bil postopek ustavljen.

(4) Če organ prve stopnje, zoper katerega odločbo je dopustna pritožba, ne izda odločbe o zahtevi v dveh mesecih ali pa v krajšem, s posebnim predpisom določenem roku, ima stranka pravico obrniti se s svojo zahtevo na organ druge stopnje, ki je v tem primeru pristojen za odločanje. Zoper odločbo organa druge stopnje sme stranka sprožiti upravni spor; če so izpolnjeni pogoji iz drugega odstavka tega člena, pa sme sprožiti upravni spor tudi, kadar ta organ ne izda odločbe.

(3) A substantial violation of procedural provisions shall always exist in cases where there is a substantial breach of the rules of the administrative procedure as provided by the General Administrative Disputes Act or another Act regulating the procedure for issuing an administrative act.

Article 28

(1) The action shall be filed within 30 days of the service of the administrative act by which the procedure was concluded. A representative of the public interest may bring an action in a case in which they were not a party to the procedure for issuing an administrative act, within the time period applicable to the party for whose benefit the administrative act was issued.

(2) If the second instance authority does not issue its decision on an appeal filed by a party against the decision of the first instance, within two months, or within a shorter period prescribed by an Act, and if, following a repeated request by the party, it does not issue its decision within seven days of the request, the party may initiate an administrative dispute as if their appeal had been rejected.

(3) The plaintiff may also take action referred to in the preceding paragraph, even if the first-instance authority does not issue a decision against which there may be no appeal, and in cases where the authority has not issued a final administrative act within three years of the beginning of the procedure, irrespective of the fact whether or not ordinary and extraordinary remedies were already used in the procedure, except if the proceedings were stayed.

(4) If the first-instance authority against which an appeal may be filed, does not, within two months or within a shorter period prescribed by a special regulation, issue its decision about the party's request, the party shall be entitled to address its request to the second instance authority, which is competent for adjudication in this case. The party may initiate an administrative dispute against the decision of the second instance authority; if the conditions referred to in paragraph two of this Article have been met, the party may also initiate an administrative dispute when the authority does not issue its decision.

29. člen

(1) Tožba se vloži pri pristojnem sodišču neposredno pisno ali pa se mu pošlje po pošti.

(2) Šteje se, da je bila tožba vložena pri sodišču tisti dan, ko je bila priporočeno oddana na pošto.

(3) Če tožba ni bila vložena pri sodišču, temveč pri kakšnem drugem organu, pristojno sodišče pa jo dobi, ko poteče rok zanjo, se šteje, da je bila pravočasno vložena, če je mogoče njeno vložitev pri drugem organu pripisati nevednosti ali očitni pomoti vložnika.

30. člen

(1) V tožbi je treba navesti tožnikovo ime in priimek ter prebivališče oziroma njegovo ime in sedež, naziv toženca, upravni akt, ki se izpodbija s tožbo, razložiti, zakaj toži, ter predlagati, kako in v čem naj se upravni akt odpravi ali ugotovi njegova nezakonnost. V zadevah, kjer je pravica ali obveznost stranke izražena v denarni vrednosti, mora biti v tožbi določena tudi vrednost spornega predmeta. Tožbi je treba priložiti tudi akt v izvorniku, prepisu ali kopiji.

(2) Če se s tožbo zahteva odločitev o pravici, obveznosti ali pravni koristi ali vrnitev stvari ali odškodnina, mora tožba obsegati določen zahtevek glede glavne stvari in stranskih terjatev, dejstva, na katera tožnik opira zahtevek, in dokaze, s katerimi se ta dejstva ugotavljajo.

(3) Če se s tožbo zahteva ugotovitev, da je bilo z dejanjem nezakonito poseženo v človekove pravice ali temeljne svoboščine tožnika oziroma se zahteva prepoved izvrševanja posamičnega dejanja, s katerim se posega v človekove pravice in temeljne svoboščine tožnika, je treba v tožbi navesti dejanje, kje in kdaj je bilo storjeno, organ ali uradno osebo,

Article 29

(1) The action shall be filed directly with the court competent for adjudication in writing or sent by post.

(2) The action shall be considered to have been filed with the court on the day it was submitted to the post office as registered post.

(3) If the action was not submitted to the court but to some other authority, and was received by the competent authority after the deadline for filing had passed, it shall be considered as having been filed on time, if the act of submitting the action to the other authority can be attributed to ignorance, or to an obvious mistake on the part of the applicant.

Article 30

(1) In the action, the plaintiff's name, surname and place of residence, or their title and registered office, must be given, as well as information about the administrative act which is being challenged through the action, an explanation for why they are filing the action, and a proposal as to how and in which parts the administrative act should be annulled or its illegality established. In cases where the right or liability of the party is expressed in monetary value, the action should also state the value of the matter in dispute. The action must be accompanied by the original, written copy or a photocopy of the act.

(2) If the action calls for a decision on a right, obligation or legal benefit, or the return of items or compensation, the action must contain a definite claim regarding the main and side claims, the facts supporting the plaintiff's claim, and the evidence substantiating the facts.

(3) If the action is filed in order to establish that a specific act has illegally infringed on the human rights or fundamental freedoms of the plaintiff, or demand that the execution of a specific act interfering with the human rights and fundamental freedoms of the plaintiff be prohibited, the action must state the act, when and where it was committed, which

ki je to storila, dokaze o tem in zahtevk, naj se poseg v človekove pravice in temeljne svoboščine ugotovi, odpravi oziroma prepove.

(4) Tožbi je treba priložiti tudi po en prepis ali kopijo tožbe in prilog za toženca, če je kdo prizadet z upravnim aktom, pa tudi zanj.

(5) Tožbi je treba v izvorniku ali v prepisu v celoti ali v izvlečkih priložiti listine, ki se nanašajo na zadevo, kolikor niso že v upravnem spisu.

31. člen

(1) Če je tožba nepopolna ali nerazumljiva, zahteva predsednica oziroma predsednik senata (v nadaljnjem besedilu: predsednik senata) od tožnika, naj v določenem roku odpravi pomanjkljivosti. Obenem ga mora poučiti, kaj in kako naj napravi, in ga opozoriti na posledice, če tega ne stori.

(2) Če tožnik v določenem roku ne odpravi pomanjkljivosti tožbe in sodišče zaradi tega zadeve ne more obravnavati, zavrže tožbo s sklepom, razen če spozna, da je izpodbijani upravni akt ničen.

32. člen

(1) Tožba ne ovira izvršitve upravnega akta, zoper katerega je vložena, kolikor zakon ne določa drugače.

(2) Sodišče na tožnikovo zahtevo odloži izvršitev izpodbijanega akta do izdaje pravnomočne odločbe, če bi se z izvršitvijo akta prizadela tožniku težko popravljiva škoda. Pri odločanju mora sodišče skladno z načelom sorazmernosti upoštevati tudi prizadetost javne koristi ter koristi nasprotnih strank.

authority or public official carried out the act, as well as state the evidence and the request to assess, remove or prohibit the infringement of human rights and fundamental freedoms.

(4) A written copy or photocopy of the action together with all of the supplements, must be attached to the action for the defendant, and if any other person has been affected by the administrative act, for this person as well.

(5) The original documents concerning the case, their complete written copy or extracts, must be attached to the action, if they are not already contained in the administrative file.

Article 31

(1) If the action is incomplete or incomprehensible, the chairman of the panel of judges (hereinafter: chairman of the panel) shall request that the plaintiff eliminate the deficiencies within a set period of time. At the same time, the chairman must instruct the plaintiff what to do and how to do it, and inform the plaintiff of the consequences, should the request not be fulfilled.

(2) If the plaintiff does not eliminate the deficiencies in the action within the set period of time, and as a result the court is unable to consider the case, it shall reject the action by a procedural decision, unless it has established that the contested administrative act is void.

Article 32

(1) The action shall not stay the execution of the administrative act against which it was filed, unless otherwise provided by an Act.

(2) The court shall, at the request of the plaintiff, suspend the execution of the contested act until the issuing of a final decision, if the execution would cause damage to the plaintiff that would be difficult to redress. In deciding, the court shall take into consideration the detriment of the public right and the benefits of the opposing parties in accordance with the principle of proportionality.

(3) Tožnik lahko iz razlogov iz prejšnjega odstavka zahteva tudi izdajo začasne odredbe za začasno ureditev stanja glede na sporno pravno razmerje, če se ta ureditev, zlasti pri trajajočih pravnih razmerjih, kot verjetna izkaže za potrebno.

(4) Za izdajo začasne odredbe po prejšnjih odstavkih je pristojno sodišče, ki je pristojno za odločitev o tožbi. O izdaji začasne odredbe odloča senat, če ni za odločanje o zadevi pristojen sodnik posameznik.

(5) O zahtevi za izdajo začasne odredbe odloči sodišče v sedmih dneh od prejema zahteve s sklepom. Sodišče lahko izdajo začasne odredbe veže na pogoj, da tožnik položi varščino za škodo, ki utegne nastati nasprotni stranki zaradi njene izdaje.

(6) Zoper sklep iz prejšnjega odstavka lahko stranke v treh dneh vložijo pritožbo. Pritožba ne zadrži izvršitve izdane začasne odredbe. O pritožbi zoper sklep mora pristojno sodišče odločiti brez odlašanja, najkasneje pa v 15 dneh po prejemu pritožbe.

33. člen

(1) S tožbo se lahko zahteva:

- odprava upravnega akta (izpodbojna tožba),
- ugotovitev nezakonnosti upravnega akta, s katerim je bilo poseženo v tožnikove pravice ali pravne koristi (ugotovitvena tožba),
- izdaja oziroma vročitev upravnega akta (tožba zaradi molka),
- sprememba upravnega akta (tožba v sporu polne jurisdikcije).

(2) S tožbo zaradi kršitve človekovih pravic in temeljnih svoboščin po tem zakonu se lahko zahteva:

- odprava, izdaja ali sprememba posamičnega akta,
- ugotovitev, da je bilo z dejanjem poseženo v človekovo pravico ali temeljno svoboščino tožnika,
- prepoved nadaljevanja dejanja,

(3) For any of the reasons referred to in the preceding paragraph, the plaintiff may also request an interim injunction in order to temporarily regulate the situation in connection with the contentious legal relationship, if it appears likely that such regulation is necessary, particularly in lasting legal relationships.

(4) An interim injunction referred to in the preceding paragraph shall lie within the jurisdiction of the court responsible for making decisions in the case. The panel shall decide on the issuing of an interim Injunction, if the case is not being decided by a single judge.

(5) The court shall, within seven days of receiving a request, decide on issuing an interim injunction in a procedural decision. The court may tie the issuing of an interim injunction to the condition that the plaintiff lodges a security deposit for any damages which may be incurred by the opposing party because of the issuing of the interim injunction.

(6) Parties may appeal the procedural decision referred to in the preceding paragraph within three days. An appeal shall not stay the execution of an issued interim injunction. The competent court must decide on the appeal against the procedural decision without delay, and in any case, no later than fifteen days after receiving the appeal.

Article 33

(1) An action may include the following claims:

- annulment of the administrative act (challenging action),
- establishment of illegality of an administrative act that infringed on the plaintiff's rights or legal benefits (declaratory action),
- issuing or service of an administrative act (action due to silence),
- amendments to an administrative act (action in a dispute of full jurisdiction).

(2) In cases of infringement of human rights and fundamental freedoms, the following may be requested in an action under this Act:

- annulment, issuing or amendment of a particular act,
- establishment that the individual act has illegally infringed on the human rights or fundamental freedoms of the plaintiff,
- prohibiting the continuation of the individual act,

- odprava posledic dejanja.

34. člen

(1) Tožnik lahko umakne tožbo brez privolitve toženca do pravnomočne odločbe.

(2) Če se tožba umakne, sodišče postopek s sklepom ustavi.

35. člen

Tožnik lahko z eno tožbo uveljavlja več tožbenih zahtevkov proti istemu tožencu, če vsi zahtevki temeljijo na isti dejanski in pravni podlagi in je za vse zahtevke pristojno isto sodišče.

2. oddelek
Predhodni preizkus tožbe

36. člen

(1) Sodišče tožbo zavrže s sklepom, če ugotovi, da:

1. odločanje o sporu ne spada v sodno pristojnost;
2. je bila tožba vložena prepozno ali prezgodaj;
3. tožnik v svoji tožbi ne uveljavlja kakšne svoje pravice ali pravne koristi oziroma, če po tem zakonu ne more biti stranka;
4. akt, ki se izpodbija s tožbo, ni upravni akt oziroma akt, ki se lahko izpodbija v upravnem sporu;
5. upravni akt, ki se izpodbija s tožbo, očitno nima nobenih posledic za tožnika, ali pa so te posledice zanemarljive, razen če gre za rešitev pomembnega pravnega vprašanja;
6. upravni akt, ki se izpodbija s tožbo, očitno ne posega v tožnikovo pravico ali v njegovo neposredno, na zakon oprto osebno korist;
7. je bila zoper upravni akt, ki se s tožbo izpodbija, mogoča pritožba, pa ta sploh ni bila vložena ali je bila vložena prepozno;

- elimination of the consequences of the individual act.

Article 34

(1) The plaintiff may withdraw the action without the consent of the defendant until the final decision.

(2) If the action has been withdrawn, the court shall issue a stay of the proceedings by a procedural decision.

Article 35

The plaintiff may pursue several claims in one action against the same defendant, if they are based on the same factual and legal grounds and if they are within the jurisdiction of the same court.

Section 2
Preliminary assessment of the action

Article 36

(1) The court shall reject an action by a procedural decision if the following has been established:

1. that adjudication in the dispute does not fall under the jurisdiction of the court;
2. that the action was filed late or prematurely;
3. the plaintiff is not pursuing any of their rights or legal benefits in the action, or that they may not be a party under this Act;
4. that the act contested through the action is not an administrative act or an act that may be contested in an administrative dispute;
5. the administrative act challenged in the action entails no obvious consequences for the plaintiff, or that these consequences are negligible, except if an important legal question is to be solved;
6. that an administrative act contested through the action, does not clearly violate the plaintiff's rights or benefits directly based in an Act;
7. that an appeal could have been filed against the administrative act contested in the action, but was not, or was filed late;

8. je bila o isti zadevi v upravnem sporu že izdana pravnomočna odločba.

(2) Na razloge iz prejšnjega odstavka mora sodišče paziti po uradni dolžnosti ves čas postopka.

(3) Sklep v primerih iz 1., 4., 5., in 6. točke prvega odstavka tega člena izda senat, v ostalih primerih pa predsednik senata, razen če je po tem zakonu za odločanje v zadevi pristojen sodnik posameznik.

37. člen

(1) Če ima upravni akt take bistvene pomanjkljivosti, da zaradi njih ni mogoče presoditi, ali je zakonit ali ne, sme sodišče akt s sodbo odpraviti, ne da bi poslalo tožbo v odgovor.

(2) Če sodišče ugotovi, da je upravni akt ničen, odloči, ne da bi poslalo tožbo v odgovor. Na ničnost pazi sodišče po uradni dolžnosti ves čas postopka.

3. oddelek Postopek s tožbo

38. člen

(1) Če sodišče tožbe po 36. členu tega zakona ne zavrže in ne odloči po 37. členu tega zakona, pošlje kopijo tožbe s prilogami v odgovor toženi stranki in drugim strankam.

(2) Rok za odgovor na tožbo določi sodišče. Ta rok ne sme biti daljši od 30 dni.

(3) Tožena stranka mora v določenem roku poslati vse spise, ki se nanašajo na zadevo. Če tožena stranka tudi na novo zahtevo ne pošlje

8. that a final decision has already been issued in an administrative dispute procedure on the same case.

(2) The court shall be attentive to the reasons referred to in the preceding paragraph *ex officio* throughout the procedure.

(3) The decision in cases under points 1, 4, 5 and 6 of paragraph one of this Article shall be issued by the panel and in the rest of the cases by the president of the panel, except if a single judge is responsible for deciding the case under this Act.

Article 37

(1) If an administrative act contains such essential deficiencies that they make an assessment of its legality impossible, the court may annul the act by a decision, without sending the action to the other party for its response.

(2) If the court establishes that the administrative act is void, it shall issue its decision without sending the action to the other party for its response. The court shall be attentive to the voidness of acts *ex officio* throughout the duration of the procedure.

Section 3 The appeal procedure

Article 38

(1) If the action is not rejected by the court under Article 36 of this Act and if the court does not issue a decision under Article 37 of this Act, a copy of the action, complete with attachments, shall be forwarded to the defendant and other parties, in order for them to provide their response.

(2) The duration of the period for responding shall be set by the court. This time period may not be longer than thirty days.

(3) The defendant must submit all files relating to the case within a set period of time. If the defendant, even after repeated

spisov o zadevi ali če izjavi, da jih ne more poslati, sme sodišče odločiti o stvari tudi brez spisov.

39. člen

(1) Če organ med sodnim postopkom izda drug upravni akt, s katerim spremeni ali odpravi izpodbijani upravni akt ali če v primeru molka pozneje izda upravni akt, mora to sporočiti sodišču, pri katerem je sprožen spor.

(2) V primeru iz prejšnjega odstavka zahteva sodišče od tožnika, da mu v 15 dneh sporoči, ali vztraja in v kakšnem delu vztraja pri tožbi oziroma ali jo razširja tudi na spremenjeni oziroma novi upravni akt.

(3) Če tožnik izjavi, da vztraja pri tožbi, sodišče postopek nadaljuje, sicer pa postopek s sklepom ustavi.

(4) Če je bil v primeru, ko prvostopenjski organ ni izdal in vročil stranki upravnega akta v predpisanem roku, tak akt izdan po vložitvi tožbe, sodišče s sklepom ustavi postopek, če je zoper izdani upravni akt dovoljena pritožba. Če pritožba ni dovoljena, postopa sodišče po drugem odstavku tega člena.

40. člen

(1) Sodišče presoja upravni akt v mejah tožbenega predloga, ni pa vezano na tožbene razloge.

(2) V primerih iz drugega odstavka 30. člena tega zakona je sodišče vezano na tožbeni zahtevek.

(3) Če je upravni organ pooblaščen, da odloča po prostem preudarku, sodišče preveri, ali je upravni akt nezakonit, ker so bile prekoračene meje prostega preudarka ali ker je bil prosti preudarek

invitations, fails to submit the files or declares that they cannot supply the files, the court may adjudicate on the case without the files.

Article 39

(1) If, during the court procedure, the authority issues another administrative act by which it amends or annuls the contested administrative act or if, in the case of silence, it issues the administrative act later on, it must notify the court at which the dispute was filed.

(2) In the case referred to in the preceding paragraph, the court shall request that the plaintiff informs the court within fifteen days whether they will persist with their action and in which part, or if they will expand it in order to dispute the amended or new administrative act.

(3) If the plaintiff states that they will persist with the action, the court shall continue the procedure; otherwise it shall issue a stay of the proceedings by a procedural decision.

(4) If in the event that the first-instance authority did not issue and serve the administrative act to the party within the prescribed period of time, the act which had been issued after the action was filed, the court shall issue a stay of the proceedings by a procedural decision, if an appeal may be filed against the issued administrative act. If an appeal is not permitted, the court shall act in accordance with paragraph two of this Article.

Article 40

(1) The court shall assess the administrative act within the scope of the claim, but shall not be bound to the reasons deriving from the claim.

(2) In cases referred to in paragraph two of Article 30 of this Act, the court shall be bound to the claim.

(3) If the administrative authority is authorised to issue discretionary decisions, the court shall test whether the administrative act is illegal because the limits of the discretionary decision have been

uporabljen na način, ki ne ustreza namenu, za katerega je določen.

41. člen

(1) Če se s tožbo zahteva vrnitev stvari ali odškodnina, je sprememba tožbe dopustna, če vanjo privoli toženec do konca glavne obravnave oziroma do odločitve na seji.

(2) Privolitev toženca v spremembo tožbe se domneva, če se je, ne da bi ji ugovarjal, z vlogo ali na glavni obravnavi spustil v obravnavo spremenjene tožbe.

(3) Zoper sklep, s katerim sodišče predlog za spremembo tožbe zavrne, ni dovoljena posebna pritožba.

42. člen

(1) Sodišče lahko s sklepom več pri oddelku sodišča odprtih postopkov o istem predmetu združi v skupno obravnavo in odločanje, lahko pa tudi odloči, da se več v enem postopku vloženi zahtevkov obravnava in o njih odloči v ločenem postopku.

(2) Zoper sklep iz prejšnjega odstavka pritožba ni dovoljena.

4. oddelek
Vzorčni postopek

43. člen

(1) Če so pri sodišču vložene tožbe zoper več kot 20 upravnih aktov, pri katerih se pravice ali obveznosti opirajo na enako ali podobno dejansko in isto pravno podlago, lahko sodišče po prejemu odgovorov na tožbe na podlagi ene tožbe izvede vzorčni postopek, ostale postopke pa

breached, and whether the discretionary decision was used in a manner that does not correspond to the purpose for which it was granted.

Article 41

(1) If the action requests a return of items or compensation, the amending of the action shall be permitted if the defendant consents to it before the end of the main hearing, or before the decision is made at a session.

(2) It shall be presumed that the defendant has consented to the amendments to the action if they start, in their application or at the main hearing, discussing the amended action without objecting to the changes.

(3) No special appeal shall be allowed against a procedural decision in which the court has dismissed a proposal to amend the action.

Article 42

(1) The court may, by a procedural decision, unite several proceedings open in a court department concerning the same subject matter, for joint discussion and adjudication, and may also decide that several claims filed in one procedure shall be discussed and adjudicated in separate procedures.

(2) No appeal may be lodged against the procedural decision referred to in the preceding paragraph.

Section 4
Model procedure

Article 43

(1) If actions against more than twenty administrative acts in which the rights or obligations are based on the same or similar factual and legal grounds have been filed with the court, the court may, after receiving answers to the actions, carry out a model procedure on the

prekine.

(2) Pred izdajo sklepa o prekinitvi postopka mora sodišče omogočiti tožniku, da se izjavi o navedbah v odgovoru na tožbo.

(3) Zoper sklep o prekinitvi postopka zaradi izvedbe vzorčnega postopka ni dovoljena pritožba.

(4) O zadevah, o katerih se odloča v vzorčnem postopku, odloča sodišče prednostno.

44. člen

(1) Po pravnomočnosti odločbe, izdane v vzorčnem postopku, sodišče brez obravnave odloči o prekinjenih postopkih, če ti postopki glede na vzorčni postopek nimajo bistvenih posebnosti dejanske ali pravne narave in če je dejansko stanje razjasnjeno.

(2) Če v primeru iz prejšnjega odstavka odloči sodišče enako, kot je bilo odločeno v vzorčnem postopku, lahko odloči o vseh tožbah z eno sodbo.

5. oddelek Pripravljalni postopek

45. člen

(1) Predsednik senata mora že pred glavno obravnavo ukreniti vse, kar je potrebno, da se spor čim hitreje reši. Zlasti lahko:

- stranke povabi k razpravi o spornem stanju ter k sklenitvi poravnave;
- strankam naloži, da v določenem roku navedejo dejstva in dokaze, dopolnijo ali pojasnijo njihove pripravljalne vloge ter predložijo listine in druge predmete, ki so primerni za deponiranje pri sodišču, zlasti pa, da se izjavijo o dejstvih, pomembnih za odločitev;

basis of one of the actions and suspend the other procedures.

(2) Before the procedural decision to suspend a procedure is issued, the court must enable the plaintiff to make a statement regarding statements made in the responses to the action.

(3) No appeal may be lodged against the procedural decision to suspend the procedure in order to conduct a model procedure.

(4) The court shall give priority to resolving cases which are being decided in a model procedure.

Article 44

(1) After a decision issued in a model procedure becomes final, the court shall, without a hearing, make decisions on the suspended procedures, if these procedures contain no essential differences of a factual or legal nature from the model procedure, and if the facts of the case have been clarified.

(2) If in a case referred to in the preceding paragraph, the court decides in the same way as it did in the model procedure, it may also decide on all the actions by a single decision.

Section 5 Preparatory procedure

Article 45

(1) The chairman of the panel must, even before the main hearing has taken place, carry out everything that is required for the swift resolution of the dispute. In particular, they may undertake the following:

- invite the parties to a discussion of the contentious situation and to come to a settlement;
- order the parties to state the facts and evidence within a set period of time, to supplement or elucidate their preparatory applications, and to submit documents and other items suitable for depositing with the court, and in particular to make statements on the facts that are

- pridobi potrebne podatke.

(2) Sodišče lahko izjave in dokazila, ki se navedejo oziroma predložijo po izteku roka, določenega po prejšnjem odstavku, zavrne in odloči brez nadaljnega ugotavljanja dejstev:

1. če bi njihova dopustitev po presoji sodišča zavlačevala rešitev spora,
2. če stranka zamude ni zadostno opravičila,
3. če je bila stranka poučena o posledicah zamude roka.

46. člen

V pripravljalnem postopku predsednik senata odloči:

1. o prekinitvi postopka;
2. o ustavitvi postopka zaradi umika tožbe ali sodne poravnave;
3. o zadevah, o katerih lahko odloči pri predhodnem preizkusu tožbe predsednik senata.

6. oddelek
Predhodno vprašanje

47. člen

(1) Če je odločitev v upravnem sporu v celoti ali delno odvisna od vprašanja, ki je samostojna pravna celota in sodi v pristojnost drugega sodišča ali organa (predhodno vprašanje), ga lahko sodišče ob pogojih tega zakona samo obravnava, lahko pa postopek prekine, dokler vprašanja ne reši pristojni organ.

(2) Če sodišče samo obravnava to vprašanje, ima njegova rešitev pravni učinek samo v stvari, v kateri je bilo vprašanje rešeno.

- important for the decision;
- acquire the necessary data.

(2) The court may dismiss statements and evidence given after the end of the period defined under the preceding paragraph, and decide without establishing the evidence any further:

1. if, in the assessment of the court, the acceptance thereof would delay the resolution of the dispute,
2. if the party did not adequately justify the delay,
3. if the party was informed of the consequences of missing the deadline.

Article 46

In the preparatory procedure, the chairman of the panel shall make a decision:

1. to suspend the procedure;
2. to stay the proceedings due to the withdrawal of the action or due to a court settlement;
3. on cases which the chairman may decide through preliminary assessment of the action.

Section 6
Preliminary question

Article 47

(1) If the decision in an administrative dispute depends entirely or partly on a question which must be considered as an independent legal issue, and falls within the jurisdiction of another court or authority (preliminary question), the court may, under the provisions of this Act, consider the question itself, or it may suspend the procedure until the question has been resolved by the competent authority.

(2) If the court considers the question by itself, its resolution shall have legal effect only in the matter in which the question has been resolved.

48. člen

(1) Sodišče mora prekiniti postopek, če se predhodno vprašanje nanaša na obstoj kaznivega dejanja, obstoj zakonske zveze ali ugotovitev očetovstva ali če zakon tako določa.

(2) Kadar se tiče predhodno vprašanje kaznivega dejanja, pa ni mogoč kazenski pregon, obravnava sodišče tudi to vprašanje.

(3) Sodišče mora prekiniti postopek, če o predhodnem vprašanju že teče postopek pred pristojnim sodiščem oziroma drugim organom.

(4) O prekinitvi postopka izda sodišče sklep, zoper katerega je dovoljena pritožba. Pritožbo je treba vložiti v treh dneh od dneva vročitve sklepa strankam.

49. člen

(1) Kadar sodišče zaradi predhodnega vprašanja postopek prekine, lahko s sklepom o prekinitvi postopka naloži tožniku, da v določenem roku začne postopek pred pristojnim sodiščem oziroma drugim organom in mu predloži dokazilo o tem. Rok začne teči z vročitvijo sklepa o prekinitvi postopka oziroma z iztekom roka za pritožbo, če je ta dovoljena po četrtem odstavku 48. člena tega zakona.

(2) Če tožnik ne ravna po prejšnjem odstavku, se šteje, da je tožbo umaknil. V tem primeru sodišče postopek s sklepom ustavi. Na to posledico je potrebno stranko v sklepu o prekinitvi postopka opozoriti.

50. člen

Postopek, ki je bil prekinjen zato, da bi se rešilo predhodno

Article 48

(1) The court must suspend the procedure if the preliminary question concerns the existence of a criminal offence, the existence of a marriage, or the establishment of paternity or if so prescribed by an Act.

(2) Where the preliminary question concerns a criminal offence and criminal prosecution is not possible, the court shall also consider this question.

(3) The court must suspend the procedure if a procedure on the preliminary question before the competent court or other authority is already underway.

(4) The court may issue a procedural decision to suspend the procedure; an appeal may be filed against such decision. The appeal must be filed within three days of the decision being served to the parties.

Article 49

(1) Where the court suspends a procedure due to a preliminary question, it may, through a procedural decision to suspend the procedure, order the plaintiff to initiate a procedure before the competent court or other authority within a set period, and to supply the court with proof of having done so. The period shall start upon the procedural decision to suspend the procedure being served, or at the end of the period set aside for appeal, if this is permitted under paragraph four of Article 48 of this Act.

(2) If the plaintiff does not act in accordance with the preceding paragraph, it shall be considered that the action has been withdrawn. In this case, the court shall issue a stay of the proceedings by a procedural decision. The party must be informed of this consequence in the procedural decision to suspend the procedure.

Article 50

A procedure that was suspended so that the preliminary

vprašanje pri pristojnem sodišču ali drugem organu, se nadaljuje, ko postane odločba o tem vprašanju pravnomočna.

7. oddelek
Glavna obravnava in seja

51. člen

(1) Sodišče na prvi stopnji odloči po opravljeni glavni obravnavi.

(2) Na glavni obravnavi sodišče izvaja dokaze, kadar in kolikor je to potrebno za odločitev v upravnem sporu, pa dokazi niso bili že izvedeni v postopku izdaje izpodbijanega upravnega akta ali če druga dejstva kažejo na to, da jih je treba drugače presoditi, kot jih je presodil organ, ki je izdal izpodbijani upravni akt.

52. člen

V tožbi lahko tožnik navaja nova dejstva in nove dokaze, vendar pa mora obrazložiti, zakaj jih ni navedel že v postopku izdaje upravnega akta. Nova dejstva in novi dokazi se lahko upoštevajo kot tožbeni razlogi le, če so obstajali v času odločanja na prvi stopnji postopka izdaje upravnega akta in če jih stranka upravičeno ni mogla predložiti oziroma navesti v postopku izdaje upravnega akta.

53. člen

Predsednik senata lahko izven glavne obravnave izvede posamezne dokaze, vendar le, če je to koristno za potek poznejše obravnave.

54. člen

question could be resolved by the competent court or other authority shall continue, once the decision on this question becomes final.

Section 7
Main hearing and session

Article 51

(1) The first-instance court shall adjudicate after the main hearing.

(2) At the main hearing, the court shall take evidence when and to the extent necessary for adjudication in the administrative dispute, if the evidence was not already presented in the procedure in which the contested administrative act was issued, or if other facts point to the need for a different assessment of the evidence from that made by the authority which passed the contested administrative act.

Article 52

The plaintiff may state new facts and new evidence in the action, but must explain why they were not already stated in the procedure in which the administrative act was issued. New facts and new evidence may only be taken into consideration as reasons for the claim if they existed during the period in which the first-instance decision was being made in the procedure on issuing the administrative act, and if the party could not submit or state them in the procedure for issuing the administrative act.

Article 53

The chairman of the panel may take individual evidence outside the main hearing, but only if this is beneficial for the later course of the hearing.

Article 54

Sodišče obvesti stranke o vseh narokih za izvedbo dokazov, ki jim stranke lahko prisostvujejo. Stranke lahko pričam in izvedencem postavljajo vprašanja. Če nasprotna stranka vprašanju ugovarja, odloči predsednik senata.

55. člen

- (1) Glavno obravnavo vodi predsednik senata.
- (2) Po oklicu zadeve predsednik senata pove bistveno vsebino spisa.
- (3) Potem dobi besedo tožnik, da razloži tožbo, za njim tožena stranka in druge stranke, da razložijo svoje stališče.
- (4) Na glavni obravnavi vloženi dokazni predlog se lahko zavrne samo s sklepom sodišča, ki mora biti ustno obrazložen.

56. člen

- (1) O glavni obravnavi se piše zapisnik. Če so pisne vloge dokumentirane, se lahko zapisnik sklicuje nanje, vanj pa se vpišejo samo bistvena dejstva in okoliščine in izrek odločbe.
- (2) Zapisnik podpišeta predsednik senata in zapisnikar.

57. člen

- (1) Stranke lahko v upravnem sporu sklenejo poravnavo ves čas do izdaje odločbe.
- (2) Sodišče ne sme dovoliti sodne poravnave, ki bi bila v

The court shall notify the parties of all the hearings for the presentation of evidence which the parties may attend. The parties may pose questions to witnesses and experts. A decision shall be made by the chairman of the panel regarding situations in which an opposing party objects to a question.

Article 55

- (1) The chairman of the panel shall preside over the main hearing.
- (2) After the case has been announced, the chairman of the panel shall state the essential contents of the file.
- (3) The plaintiff shall then be given the opportunity to explain the action, followed by the defendant and other parties, who shall explain their positions.
- (4) The evidence submitted at the main hearing may only be dismissed by a procedural decision of the court, for which a verbal statement of grounds must be given.

Article 56

- (1) A record of the main hearing shall be kept. If written applications are documented, the record may refer to them, but only essential facts, circumstances and the operative part of the decisions shall be entered in the record.
- (2) The record shall be signed by the chairman of the panel and by the court reporter.

Article 57

- (1) In an administrative dispute, the parties may conclude a settlement at any time, until the decision has been issued.
- (2) The court shall not allow a court settlement that would be

nasprotju z zakonom.

(3) Tožena stranka pri sklepanju poravnave ni vezana na izdano upravno odločbo.

(4) Sklenjena sodna poravnava glede na vsebino poravnave deloma ali v celoti nadomesti izpodbijani upravni akt.

58. člen

(1) V upravnem sporu ni poravnalnega naroka in mirovanja postopka.

(2) Če toženec ne pride na glavno obravnavo, se ta kljub temu opravi.

(3) Če ne pride na obravnavo nobena od strank ali če ne pride tožnik, lahko odloči sodišče brez glavne obravnave.

59. člen

(1) Sodišče lahko odloči brez glavne obravnave (sojenje na seji), če dejansko stanje, ki je bilo podlaga za izdajo upravnega akta, med tožnikom in tožencem ni sporno.

(2) Ne glede na določbo prejšnjega odstavka lahko sodišče odloči brez glavne obravnave tudi v naslednjih primerih:

- če je že na podlagi tožbe, izpodbijanega akta ter upravnih spisov očitno, da je potrebno tožbi ugoditi in upravni akt odpraviti na podlagi prvega odstavka 64. člena tega zakona, pa v upravnem sporu ni sodeloval tudi stranski udeleženec z nasprotnim interesom,
- če je dejansko stanje med tožnikom in tožencem sporno, vendar stranke navajajo zgolj tista nova dejstva in dokaze, ki jih skladno s tem zakonom sodišče ne more upoštevati (52. člen tega zakona) ali pa predlagana nova dejstva in dokazi niso pomembni za odločitev,

contrary to an Act.

(3) In concluding a settlement, the defendant shall not be bound to the issued administrative decision.

(4) Depending on the content of the settlement, the concluded court settlement shall replace the contested administrative act wholly or partially.

Article 58

(1) There shall be no settlement hearing or stay of proceedings in an administrative procedure.

(2) If the defendant does not appear at the main hearing, the hearing shall proceed regardless.

(3) If none of the parties appear for the hearing or if the plaintiff does not appear, the court may decide on the dispute without a main hearing.

Article 59

(1) The court may adjudicate without a main hearing (trial in a session) if the facts of the case that were the basis for the issuing of the administrative act between the plaintiff and defendant are not contentious.

(2) Notwithstanding the provision of the preceding paragraph, the court may also decide without a main hearing in the following cases:

- if it is already evident on the basis of the action, contested act and administrative files, that the action needs to be upheld and the administrative act annulled, on the basis of paragraph one of Article 64 this Act, and the accessory participant with an opposing interest did not take part in the administrative dispute
- if the facts of the case between the plaintiff and the defendant are contentious, but the parties state only new facts and new evidence, which the court may not take into consideration in compliance with this Act (Article 52 of this Act), or the proposed new facts and evidence are not relevant for the decision

- če gre za spor med istima strankama, pa gre za podobno dejansko in pravno podlago ter je o tem vprašanju sodišče že pravnomočno odločilo.

(3) Ne glede na določbo prvega odstavka tega člena sodišče odloči na glavni obravnavi, če:

- osebi, ki bi morala biti udeležena kot stranka ali stranski udeleženec v upravnem postopku, ta možnost ni bila dana, pa ne gre za primer iz drugega odstavka 229. člena ZUP ali vsebinsko enake določbe drugega predpisa, ki ureja postopek izdaje upravnega akta,
- stranki ali stranskemu udeležencu v postopku izdaje upravnega akta ni bila dana možnost, da se izjavi o dejstvih in okoliščinah, pomembnih za izdajo odločbe.

(4) Sodišče vselej sodi na seji v sporih o zakonitosti aktov volilnih organov.

(5) Kadar sodišče sodi na seji, seja ni javna, sodnik poročevalec pa ima v postopku pred sejo enaka pooblastila, kot jih ima po določbah tega zakona predsednik senata.

(6) O pravnih sredstvih odloči sodišče na seji.

60. člen

Kadar sodišče sodi na seji, odloči le na podlagi dejanskega stanja, ki je bilo ugotovljeno v postopku izdaje upravnega akta.

8. oddelek
Odločba

61. člen

- if there is a dispute between the same parties where the factual and legal basis are similar, and the court has already passed a final decision on this issue.

(3) Notwithstanding the provision of paragraph one of this Article, the court shall adjudicate at the main hearing if:

- a person who should have participated as a party or an accessory participant in the administrative procedure, was not given this opportunity, and the situation is not similar to the case described in paragraph two of Article 229 of the General Administrative Procedure Act, or described in a substantively identical provision of another regulation governing the procedure for issuing an administrative act,
- a party or an accessory participant in the administrative procedure was not given the opportunity to make a statement on the facts and circumstances relevant for the issuing of the decision.

(4) The court always adjudicates in a session regarding disputes on the legality of acts of electoral bodies.

(5) Where the court adjudicates in a session, the session shall not be public and the judge *rappporteur* shall have the same authorisations in the procedure prior to the session as those held by the chairman of the panel under the provisions of this Act.

(6) A decision on legal remedies shall be made by the court in a session.

Article 60

Where the court adjudicates in a session, it may only make its decision based on the facts of the case established in the administrative procedure.

Section 8
Decision

Article 61

(1) Sodišče odloči o sporu s sodbo, o vprašanjih, ki se tičejo postopka ali se pojavijo v zvezi s postopkom, pa s sklepom, če ni s tem zakonom drugače določeno.

(2) Senat sprejme sodbo ali sklep z večino glasov.

(3) O posvetovanju in glasovanju se piše poseben zapisnik, ki ga podpišejo vsi člani senata in zapisnikar.

(4) Senat se posvetuje in glasuje brez navzočnosti strank.

62. člen

Sodba se lahko opira samo na dejstva in dokaze, o katerih so se stranke lahko izjavile pred sodiščem ali pred organi, ki so odločali v postopku za izdajo upravnega akta, razen če dejstvo ni sporno ali mu stranke niso ugovarjale, kakor tudi, kadar zakon izrecno določa, da se lahko odloči brez predhodne izjave strank.

63. člen

(1) Sodišče s sodbo tožbo kot neutemeljeno zavrne, če ugotovi, da je bil postopek pred izdajo izpodbijanega upravnega akta pravilen, da je odločba pravilna in na zakonu utemeljena.

(2) Sodišče odloči po prejšnjem odstavku tudi:

- če spozna, da je izpodbijani upravni akt sicer nezakonit, vendar ne posega v tožnikovo pravico ali pravno korist;
- če spozna, da je bil postopek pred upravnim organom sicer nezakonit, vendar je sodišče v svojem postopku tako kršitev odpravilo;
- če spozna, da je izpodbijani upravni akt po zakonu utemeljen, vendar

(1) The court shall decide on a dispute by a decision, and on questions concerning a procedure, or which appear to be in connection with a procedure, by a procedural decision, unless otherwise provided by this Act.

(2) The court shall adopt a decision or procedural decision by a majority of votes.

(3) Consultations and voting shall be kept in a special record and shall be signed by all members of the panel and by the court reporter.

(4) The panel shall consult and vote without the presence of the parties.

Article 62

The decision may only be supported by facts and evidence on which the parties were able to make statements in the court, or before the authorities that made decisions in the procedure for issuing the administrative act, unless a fact is not contentious or was not objected to by the parties, and also where it is expressly provided by an Act, that the decision could be made without prior statements from the parties.

Article 63

(1) The court shall, by a decision, dismiss an action as unsubstantiated, if it establishes that the procedure prior to the issuing of the contested administrative acts was correct, and that the decision was correct and based on an Act.

(2) The court shall also make the decision referred to in the preceding paragraph if:

- it concludes that the contested administrative act is illegal, but it does not violate the plaintiff's right or legal benefit;
- it concludes that the procedure before the administrative authority was illegal, but that the court eliminated such violation in its procedure;
- it concludes that the contested administrative act is substantiated in

iz drugih razlogov, kot so navedeni v upravnem aktu; te razloge navede sodišče v sodbi.

64. člen

(1) Sodišče tožbi ugodi in s sodbo izpodbijani upravni akt odpravi:

1. če ga ni izdal pristojni organ;
2. če spozna, da na podlagi dejanskega stanja, ki je bilo ugotovljeno v postopku za izdajo upravnega akta, ne more rešiti spora, zato ker so bili zmotno presojeni dokazi, ker so ugotovljena dejstva v nasprotju s podatki spisa, ker so v bistvenih točkah dejstva nepopolno ugotovljena ali ker je bil iz ugotovljenih dejstev narejen napačen sklep glede dejanskega stanja in da je treba pravo dejansko stanje ugotoviti v upravnem postopku;
3. če spozna, da v postopku za izdajo upravnega akta niso bila upoštevana pravila postopka (2. točka prvega odstavka in tretji odstavek 27. člena tega zakona), pa sodišče v svojem postopku takih kršitev ni odpravilo in ni pogojev za zavrnitev tožbe po drugem odstavku 63. člena tega zakona;
4. če ugotovi, da je podan razlog iz 1. točke prvega odstavka 27. člena tega zakona, pa ni pogojev za zavrnitev tožbe po drugem odstavku 63. člena tega zakona.

(2) Če je bil izpodbijani upravni akt že izvršen in bi njegova odprava nesorazmerno posegla v pridobljene pravice ali pravne koristi posameznikov ali pravnih oseb, sodišče v primerih iz prejšnjega odstavka s sodbo ugotovi nezakonitost izpodbijanega upravnega akta. Če je tožnik postavil zahtevek za povrnitev škode, ravna sodišče po 67. členu tega zakona.

(3) Če sodišče upravni akt odpravi, vrne zadevo organu, ki je upravni akt izdal, v ponoven postopek, v primeru iz 1. točke prvega odstavka tega člena pa pošlje zadevo v odločitev pristojnemu organu. Glede na vsebino zadeve lahko sodišče odpravi tudi druge akte, izdane v postopku izdaje izpodbijanega upravnega akta. Zadeva se vrne v stanje, v katerem je bila, preden so bili odpravljeni upravni akti izdani.

an Act, but for reasons other than those cited in the administrative act; these reasons shall be cited by the court in the decision.

Article 64

(1) The court shall uphold the action and annul the contested administrative act by a decision:

1. if it was not issued by a competent authority;
2. if it concludes, based on the facts of the case established in the procedure for issuing the administrative act, that it is unable to resolve the dispute because the evidence was assessed erroneously, because the established facts contradict the data infrom the file, because the facts were incompletely determined in their essential points, or because an erroneous conclusion was drawn from the established facts regarding the facts of the case, and the real facts of the case should be established in an administrative procedure;
3. if it concludes, that in the procedure for issuing an administrative act, the procedural rules (point 2 of paragraph one and paragraph three of Article 27 of this Act) were not followed, and the court did not remedy such violations during its procedure and the conditions for dismissing an action under paragraph two of Article 63 of this Act, do not exist;
4. if it concludes, that the reasons from point 1 of paragraph one of Article 27 of this Act exist, but the conditions for dismissing an action under paragraph two of Article 63 of this Act, do not.

(2) If the contested administrative act was already executed and its annulment would disproportionately infringe on the acquired rights or legal benefits of individuals or legal persons, the court in the cases from the preceding paragraph establishes the illegality of the contested administrative act through a decision. If the plaintiff made a claim for the compensation of damages, the court shall act in compliance with Article 67 of this Act.

(3) If the court annuls the administrative act, it shall return the case to the authority that issued the administrative act for new adjudication, and in the case referred to in point 1 of paragraph one of this Article, it shall send that case to the competent authority for a decision. Depending on the content of the case, the court may also annul other acts issued in the procedure for issuing the contested administrative act. The case shall be returned to the state in which it was before the annulled

(4) V primerih iz prvega odstavka tega člena mora pristojni organ izdati nov upravni akt v 30 dneh od dneva, ko je dobil sodbo oziroma v roku, ki ga določi sodišče; pri tem je vezan na pravno mnenje sodišča glede uporabe materialnega prava in na njegova stališča, ki se tičejo postopka.

(5) Na pravno mnenje in stališča sodišča iz prejšnjega odstavka je vezan tudi vsak drug upravni organ, ki odloča o rednih ali izrednih pravnih sredstvih zoper nov upravni akt, izdan na podlagi sodbe sodišča.

64.a člen

(1) V primeru utemeljenosti tožbe iz druge alineje prvega odstavka 33. člena tega zakona sodišče s sodbo ugotovi, da je upravni akt nezakonit.

(2) Če je tožnik postavil zahtevek za povrnitev škode, ravna sodišče po 67. členu tega zakona.

65. člen

(1) Sodišče sme upravni akt odpraviti in s sodbo odločiti o stvari, če narava stvari to dopušča in če dajejo podatki postopka za to zanesljivo podlago ali če je na glavni obravnavi samo ugotovilo dejansko stanje, še zlasti, če:

1. bi odprava izpodbijanega upravnega akta in novi postopek pri pristojnem organu prizadela tožniku težko popravljivo škodo;
2. izda pristojni organ potem, ko je bil upravni akt odpravljen, nov upravni akt, ki je v nasprotju s pravnim mnenjem sodišča ali z njegovimi stališči, ki se nanašajo na postopek.

(2) Po prejšnjem odstavku sme sodišče odločiti tudi, kadar pristojni organ ne izda v 30 dneh po odpravi upravnega akta oziroma v

administrative acts were issued.

(4) In cases referred to in paragraph one of this Article, the competent authority must issue a new administrative act within thirty days of the day it received the decision, or within the time period set by the court; in so doing it shall be bound by the legal opinion of the court regarding the application of substantive law and its positions on the procedure.

(5) All other administrative authorities deciding on ordinary or extraordinary legal remedies against the new administrative act issued on the basis of the court's decision shall also be bound by the legal opinion and positions of the court as referred to in the preceding paragraph.

Article 64a

(1) Where the action referred to in the second indent of paragraph one of Article 33 of this Act is well-founded, the court shall establish the illegality of the administrative act by a decision.

(2) If the plaintiff made a claim for the compensation of damages, the court shall proceed in accordance with Article 67 of this Act.

Article 65

(1) The court may annul the administrative act and decide on the case by a decision, if this is permitted by the nature of the matter and if a reliable foundation for this is provided by the data of the procedure, or if the court established the facts of the case at the main hearing, particularly if:

1. the annulment of the contested administrative act and the new procedure at the competent authority would cause damage for the plaintiff which would be difficult to redress;
2. after the administrative act has been annulled, the competent authority issues a new administrative act which contradicts the legal opinion of the court or its positions on the procedure.

(2) In accordance with the preceding paragraph, the court may also decide where the competent authority does not issue a new

roku, ki ga določi sodišče, novega upravnega akta, in tega ne stori niti na posebno zahtevo stranke v nadaljnjih sedmih dneh, če stranka s tožbo zahteva od sodišča, da odloči o pravici, obveznosti ali pravni koristi, in je to zaradi narave pravice oziroma varstva ustavne pravice potrebno.

(3) V primeru iz prejšnjega odstavka sodišče od pristojnega organa zahteva pojasnilo, zakaj upravnega akta ni izdal. Pristojni organ mora pojasnilo sporočiti v sedmih dneh. Če tega ne stori ali če ga dano sporočilo po mnenju sodišča ne opravičuje, sodišče odloči o stvari, v nasprotnem primeru pa tožbo zavrže.

(4) Zoper sklep o zavrženju iz prejšnjega odstavka je dovoljena pritožba.

(5) Po prvem odstavku tega člena odloči sodišče, kadar je s tožbo zahtevana odločitev o pravici, obveznosti ali pravni koristi, če so izpolnjeni pogoji iz prvega odstavka 7. člena tega zakona.

66. člen

(1) V upravnem sporu iz prvega odstavka 4. člena tega zakona sme sodišče ugotoviti nezakonitost akta ali dejanja, prepovedati nadaljevanje posamičnega dejanja, odločiti o tožnikovem zahtevku za povrnitev škode in določiti, kar je treba, da se odpravi poseg v človekove pravice in temeljne svoboščine ter vzpostavi zakonito stanje.

(2) O prepovedi nadaljevanja dejanja in ukrepih za vzpostavitev zakonitega stanja, če nezakonito dejanje še traja, odloči sodišče brez odlašanja s sklepom, zoper katerega je dovoljena pritožba v treh dneh. Vrhovno sodišče mora o pritožbi odločiti v treh dneh od njenega prejema.

(3) Če sodišče v primeru iz prejšnjega odstavka ne more odločiti brez odlašanja, lahko izda po uradni dolžnosti začasno odredbo v

administrative act within thirty days of the annulment of the administrative act, or within the time period set by the court, or within seven days of a special request made by the party, if the party demands in an action, that the court adjudicates on a right, obligation or legal benefit and if this is necessary, due to the nature of the right or the protection of a constitutional right.

(3) In the case referred to in the preceding paragraph, the court shall request from the competent authority an explanation as to why it did not issue the administrative act. The competent authority must submit its explanation within seven days. If it does not, or if the court is of the opinion that the explanation is not satisfactory, the court shall decide on the matter; otherwise it shall reject the action.

(4) An appeal may be lodged against the rejection order referred to in the preceding paragraph.

(5) Under paragraph one of this Article, the court shall decide on actions which request that a decision be made regarding rights, obligations or legal benefits, if the conditions referred to in paragraph one of Article 7 of this act have been met.

Article 66

(1) The court may, in an administrative dispute referred to in paragraph one of Article 4 of this Act, establish that the act or action is illegal, prohibit the continuation of an individual action, decide on the plaintiff's claim for the compensation of damages, and where necessary, order the elimination of infringements of human rights and fundamental freedoms and re-establish a legal state of affairs.

(2) If an illegal action persists, the court shall decide without delay on prohibiting the continuation of the action and on the adoption of measures for establishing a legal state of affairs, by a procedural decision, against which an appeal may be lodged within three days. The Supreme Court shall decide on such appeal within three days of receiving it.

(3) If the court is unable to decide on a case referred to in the preceding paragraph without delay, it may issue an interim injunction ex

skladu z 32. členom tega zakona.

67. člen

(1) S sodbo, s katero sodišče odloči o pravici, obveznosti ali pravni koristi tožnika po 65. členu tega zakona, odloči tudi o tožnikovem zahtevku, da se mu vrnejo vzete stvari ali povrne škoda.

(2) Če odločitev o zahtevku iz prejšnjega odstavka zahteva ugotavljanje dejstev, ki bi pomenilo bistveno podaljševanje postopka v upravnem sporu ali če se postopek izdaje upravnega akta po sodbi nadaljuje, lahko sodišče napoti tožnika, naj uveljavlja svoj zahtevek v pravdi.

(3) Pri odločanju o škodi pravdno sodišče ne more presojati zakonitosti upravnega akta.

68. člen

Če sodišče ugotovi, da so podani razlogi iz 4. točke prvega odstavka 27. člena tega zakona, s sklepom izreče upravni akt za nič. Z ugotovitvijo ničnosti se odpravijo posledice ničnega upravnega akta.

69. člen

(1) Če je tožba vložena zaradi molka, sodišče pa spozna, da je upravičena, ji s sodbo ugodi in pod pogoji iz prvega oziroma petega odstavka 65. člena tega zakona samo odloči o stvari ali pa naloži pristojnemu organu, kakšen upravni akt naj izda, oziroma če odločba ni bila vročena, naloži vročitev odločbe.

(2) Če pristojni organ ne ravna po navodilu iz prejšnjega odstavka in stranka zaradi tega vložijo tožbo, ravna sodišče po drugem in tretjem odstavku 65. člena tega zakona.

officio, in accordance with Article 32 of this Act.

Article 67

(1) In a decision in which a court decides on the right, obligation or legal benefit of the plaintiff under Article 65 of this Act, it shall also decide on the plaintiff's claim for the return of seized items and claim for the compensation of damages.

(2) Where deciding on a claim referred to in the preceding paragraph requires the establishing of facts, which would significantly prolong the administrative dispute procedure, or if the procedure for issuing the administrative act is continued after the decision, the court may refer the plaintiff to pursue their claim in a civil action.

(3) In adjudicating on damages, the civil court may not assess the legality of an administrative act.

Article 68

If the court establishes that the reasons set out in point 4 of paragraph one of Article 27 exist, it shall declare the administrative act as void by a procedural decision. On the declaration of nullity, the effects of the voided administrative act shall be annulled.

Article 69

(1) If the action is filed due to silence and the court finds it justified, it shall uphold the action by a decision and under the conditions referred to in paragraph one or five of Article 65 of this Act, decide on the matter by itself, or instruct a competent authority what kind of administrative act it should issue, or, if the decision was not served, it shall order the service of the decision.

(2) If the competent authority does not act in accordance with the instructions referred to in the preceding paragraph, and as a result the party files an action, the court shall act in accordance with paragraphs two and three of Article 65 of this Act.

70. člen

(1) Če je bila opravljena glavna obravnava, sodišče takoj po končani obravnavi izda sodbo, ki jo razglasi predsednik senata. Ob razglasitvi sodbe navede predsednik senata najpomembnejše razloge odločitve.

(2) V zapletenih primerih lahko sodišče odloži izdajo sodbe za osem dni od dneva, ko je bila končana glavna obravnava. V tem primeru se sodba ne razglasi.

(3) Če je sodišče sklenilo, da konča glavno obravnavo, pa je treba preskrbeti še spise ali listine, v katerih so dokazi, se mora sodba izdati v osmih dneh od dneva, ko prejme sodišče spise ali listine.

71. člen

(1) Sodba obsega uvod (naslov sodišča, imena in priimke predsednika in članov senata ter zapisnikarja, imena strank in njihovih zastopnikov, označbo sporne zadeve, dan, ko je bila končana glavna obravnava oziroma opravljena seja senata), izrek, obrazložitev in pouk o pritožbi.

(2) Sodišču ni treba navajati razlogov za odločitev, če sledi utemeljitvi upravnega akta in to v sodbi ugotovi.

(3) Sodbo podpiše predsednik senata.

(4) Sodba se vroči strankam v overjenem prepisu.

72. člen

Article 70

(1) If the main hearing has been completed, the court may issue its decision immediately after the end of the main hearing and the decision shall be proclaimed by the chairman of the panel. In proclaiming the decision, the chairman of the panel shall give the most important reasons for the decision.

(2) In complex cases, the court may postpone its decision by eight days from the day the main hearing was completed. In this event, the decision shall not be proclaimed.

(3) If the court elects to end the main hearing and the files and documents containing evidence still need to be supplied, the court must issue its decision within eight days of the day of receipt of the files or documents.

Article 71

(1) A court decision shall comprise the introductory part (the title of the court, the name and surname of the chairman of the panel and the members of the panel, name and surname of the court reporter, the names of the parties and their representatives, the designation of the matter in dispute, the day the main hearing was concluded or the panel session took place), operative part, statement of grounds and the instruction on the legal remedy of appeal.

(2) The court shall not need to cite the reasons for the decision if it follows the justification of the administrative act and establishes this in the decision.

(3) The decision shall be signed by the chairman of the panel.

(4) A certified copy of the decision shall be served on the parties.

Article 72

(1) Za sklepe se ustrezno uporabljata določbi 70. in 71. člena tega zakona.

(2) Sklepe je treba obrazložiti, če je zoper njih dopustna pritožba ali če se z njimi odloči o pravnem sredstvu ter v drugih primerih, določenih s tem zakonom.

6. poglavje
Pravna sredstva

1. oddelek
Pritožba

73. člen

(1) Zoper sodbo, ki jo izda upravno sodišče, je dovoljena pritožba, če je sodišče samo ugotovilo drugačno dejansko stanje, kot ga je ugotovila tožena stranka, ter je na tej podlagi spremenilo izpodbijani upravni akt ali če je sodišče odločilo na podlagi 66. člena tega zakona.

(2) V primeru iz prejšnjega odstavka imajo pravico do pritožbe stranke, ki so sodelovale v upravnem sporu na prvi stopnji.

(3) Pritožba se lahko vloži v 15 dneh od vročitve prepisa sodbe strankam. Vloži se pri sodišču, ki je izdalo sodbo na prvi stopnji v zadostnem številu izvodov za sodišče in stranke, ki so se udeleževale postopka na prvi stopnji.

(4) Pritožba ni dovoljena v sporih o zakonitostih aktov volilnih organov za lokalne volitve.

74. člen

(1) V pritožbi sme pritožnik navajati nova dejstva in dokaze le,

(1) The provisions of Articles 70 and 71 of this Act shall apply correspondingly to procedural decisions.

(2) Procedural decisions shall require statements of grounds if an appeal may be lodged against them, or if they are used to decide on legal remedies and in other cases laid down by this Act.

Chapter Six
Legal remedies

Section 1
Appeal

Article 73

(1) An appeal may be lodged against a decision issued by the administrative court, if the court itself established the facts of the case differently from those established by the defendant, and if it amended the contested administrative act on the basis of these facts, or if the court decided on the basis of Article 66 of this Act.

(2) In the case referred to in the preceding paragraph, the parties that participated in the administrative dispute at the first instance shall have the right to appeal.

(3) An appeal may be filed within fifteen days of the serving of a copy of the decision to the parties. It shall be filed with the court that passed the decision in the first instance, in a sufficient number of copies for the needs of the court and the parties involved in the procedure of the first instance.

(4) An appeal shall not be permitted in disputes over the legality of acts passed by local election bodies.

Article 74

(1) The plaintiff may only state new facts and evidence in an

če izkaže za verjetno, da jih brez svoje krivde ni mogel navesti oziroma predložiti do konca glavne obravnave, če je postopek tekel brez glavne obravnave, pa do konca postopka na prvi stopnji.

(2) Predsednik senata sodišča prve stopnje po potrebi sam ali na zahtevo sodnika poročevalca sodišča druge stopnje opravi poizvedbe, da bi se preverila resničnost pritožnikovih navedb.

(3) Če je sodišče na prvi stopnji samo ugotovilo dejansko stanje na opravljeni glavni obravnavi, lahko sodišče druge stopnje, kadar tožnik izpodbija pravilnost tako ugotovljenega dejanskega stanja, tudi samo opravi glavno obravnavo, če spozna, da je treba za pravilno ugotovitev dejanskega stanja ponoviti vse ali le nekatere od že izvedenih dokazov pred sodiščem druge stopnje, ali če meni, da bi bilo treba ugotoviti nova dejstva in izvesti nove dokaze iz prvega odstavka tega člena, ki bi bili koristni za razjasnitev stvari.

(4) Za obravnavo pred sodiščem druge stopnje iz prejšnjega odstavka se smiselno uporabljajo pravila, ki veljajo za obravnavo pred sodiščem prve stopnje.

75. člen

(1) Sodba se sme izpodbijati:

1. zaradi bistvene kršitve določb postopka v upravnem sporu;
2. zaradi zmotne uporabe materialnega prava ali zmotne presoje pravilnosti postopka izdaje upravnega akta;
3. zaradi zmotne ali nepopolne ugotovitve dejanskega stanja.

(2) Bistvena kršitev določb postopka v upravnem sporu je podana, če sodišče med postopkom ni uporabilo kakšne določbe tega zakona oziroma Zakona o pravnem postopku ali jo je uporabilo nepravilno, pa je to vplivalo na zakonitost ali pravilnost sodbe.

appeal if it has been plausibly demonstrated that they were unable, through no fault of their own, to state or supply them by the end of the main hearing, and by the end of the procedure at the first instance, if the procedure was conducted without a main hearing.

(2) Where necessary, the chairman of the panel of the first-instance court shall, independently or at the request of the judge *rapporteur* of the second-instance court, carry out the enquiries necessary to test the truth of the plaintiff's statements.

(3) If the first-instance court established the facts of the case at the main hearing, the second-instance court may, where the plaintiff contests the accuracy of the established facts, also conduct a main hearing, if it establishes that all or some of the evidence already presented before the second-instance court should be presented again in order to state the facts correctly, or if it believes that new facts should be established and new evidence referred to in paragraph one of this Article should be presented that would be beneficial for the clarification of matters.

(4) The rules applicable to the hearing in the second-instance court referred to in the preceding paragraph shall be applied *mutatis mutandis* to the hearing in the first-instance court.

Article 75

(1) A decision may be contested:

1. due to a substantial violation of the provisions governing administrative dispute procedures;
2. due to an incorrect application of substantive law or erroneous assessment of the correctness of the procedure for issuing the administrative act;
3. due to the erroneous or incomplete determination of facts.

(2) A substantial violation of the provisions governing administrative dispute procedures shall exist if, during the procedure, the court failed to apply a provision of this Act or the Civil Procedure Act, or applied such provision incorrectly, and this had an effect on the legality or correctness of the decision.

(3) Bistvena kršitev določb postopka je vselej podana, če gre za kakšen razlog iz 1., 2., 3., 4. ali 14. točke drugega odstavka 339. člena Zakona o pravnem postopku ali za razlog iz prvega, drugega ali tretjega odstavka 78. člena tega zakona.

(4) Če je sodišče izdalo sodbo brez glavne obravnave v nasprotju s tem zakonom, je podana bistvena kršitev določb postopka v upravnem sporu.

76. člen

Vrhovno sodišče s sodbo pritožbo kot neutemeljeno zavrne in potrdi sodbo sodišča prve stopnje, če spozna, da niso podani razlogi, zaradi katerih se sodba lahko izpodbija, in ne razlogi, na katere mora paziti po uradni dolžnosti.

77. člen

Vrhovno sodišče s sklepom sodbo sodišča prve stopnje razveljavi, če ugotovi, da je podana bistvena kršitev določb postopka v upravnem sporu, pa samo tega ne odpravi, in vrne zadevo istemu sodišču prve stopnje ali jo odstopi pristojnemu sodišču prve stopnje, da opravi nov postopek. V tem sklepu sodišče odloči tudi o tem, katera dejanja, ki jih zajema bistvena kršitev določb postopka v upravnem sporu, se ponovno opravijo.

78. člen

(1) Vrhovno sodišče s sklepom sodbo sodišča prve stopnje razveljavi in zavrže tožbo, če je bila v postopku pred sodiščem prve stopnje prekršena določba prvega odstavka 36. člena tega zakona.

(2) Vrhovno sodišče s sodbo razveljavi sodbo sodišča prve

(3) A substantial violation of the provisions governing administrative dispute procedures shall always exist in cases involving the reasons set out in points 1, 2, 3, 4 or 14 of paragraph two of Article 339 of the Civil Procedure Act or a reason set out in paragraph one, two and three of Article 78 of this Act.

(4) If the court passed a decision without a main hearing contrary to this Act, this shall constitute a substantial violation of the provisions governing administrative dispute procedures.

Article 76

The Supreme Court shall, by a decision, dismiss the appeal as unsubstantiated and uphold the decision of the first-instance court, if it establishes that the reasons under which the decision may be contested or the reasons to which it must be attentive *ex officio* do not exist.

Article 77

The Supreme Court shall, by a procedural decision, abrogate the decision of the first-instance court, if it establishes that a substantial violation of the provisions governing administrative dispute procedures has been committed, and it does not remedy it by itself, but returns the case to the same first-instance court or to a competent first-instance court, in order for it to start a new procedure. In the procedural decision, the court shall decide which actions contained in the substantial violation of the provisions governing administrative dispute procedures must be repeated.

Article 78

(1) The Supreme Court shall, by a procedural decision, abrogate the decision of the first-instance court and reject the action if, in the procedure in the first-instance court, the provision of paragraph one of Article 36 of this Act was violated.

(2) The Supreme Court shall, by a decision, abrogate the

stopnje in odpravi upravni akt, če je bila v postopku pred sodiščem prve stopnje prekršena določba 37. člena tega zakona.

(3) Če vrhovno sodišče ugotovi, da se je postopka na prvi stopnji udeleževal nekdo, ki ne more biti stranka v upravnem sporu, ali če stranke v skladu z zakonom ni zastopal zakoniti zastopnik ali če zakoniti zastopnik oziroma pooblaščenec stranke ni imel potrebnega dovoljenja za opravljanje dejanj v postopku, razen če so bila posamezna dejanja v postopku pozneje odobrena, razveljavi s sklepom sodbo sodišča prve stopnje in glede na naravo kršitve vrne zadevo sodišču prve stopnje v ponovno odločanje ali zavrže tožbo.

79. člen

(1) Vrhovno sodišče razveljavi s sklepom sodbo sodišča prve stopnje in mu vrne zadevo v novo sojenje, če misli, da je treba za pravilno ugotovitev dejanskega stanja ugotoviti nova dejstva ali izvesti nove dokaze ali če spozna, da je bilo zaradi zmotne uporabe materialnega prava dejansko stanje nepopolno ugotovljeno.

(2) V primeru iz prejšnjega odstavka lahko vrhovno sodišče ob razveljavitvi sodbe sodišča prve stopnje tudi odpravi izpodbijani upravni akt in vrne zadevo v odločanje pristojnemu organu, če je glede na okoliščine primera to potrebno.

80. člen

(1) Če vrhovno sodišče samo opravi glavno obravnavo in ugotovi drugačno dejansko stanje, kakor je bilo ugotovljeno v sodbi sodišča prve stopnje, s sodbo spremeni sodbo sodišča prve stopnje.

(2) V primeru iz prejšnjega odstavka lahko vrhovno sodišče ob spremembi sodbe sodišča prve stopnje tudi spremeni ali odpravi

decision of the first-instance court and repeal the administrative act, if in the procedure in the first-instance court, the provision of Article 37 of this Act was violated.

(3) If the Supreme Court establishes that a person who may not be a party to an administrative dispute participated in the procedure at the first instance, or if the parties were not represented in accordance with an Act by a statutory representative, or if the statutory representative or the counsel of the parties did not have the required authorization to perform actions in the procedure, unless individual actions in the procedure were approved later on, it shall repeal the decision of the first-instance court by a procedural decision and, depending on the nature of the violation, either return the case to the first-instance court for re-adjudication or reject the action.

Article 79

(1) The Supreme Court shall abrogate the decision of the first-instance court by a decision and return the case for a retrial, if it believes that new facts must be established and new evidence presented in order to establish the correct facts of the case, or if it establishes that due to the incorrect application of substantive law, the facts were determined incompletely.

(2) In cases referred to in the preceding paragraph, the Supreme Court may also, upon abrogating the decision of the first-instance court, annul the contested administrative act and return the case to the competent authority for adjudication, if it is deemed appropriate with regard to the circumstances of the case.

Article 80

(1) If the Supreme Court conducts the main hearing itself and establishes facts which are different from those established in the decision of first-instance court, it shall, by a decision, change the decision of the first-instance court.

(2) In the case referred to in the preceding paragraph, the Supreme Court may, upon amending the decision of the first-instance

izpodbijani upravni akt, če je glede na okoliščine primera to potrebno.

(3) Po prvem in drugem odstavku tega člena odloči vrhovno sodišče brez glavne obravnave:

1. če je sodišče prve stopnje zmotno presodilo listine ali posredno izvedene dokaze, njegova odločba pa se opira samo na te dokaze;
2. če je sodišče prve stopnje iz ugotovljenih dejstev nepravilno sklepalo na obstoj drugih dejstev, sodba pa se opira na ta dejstva;
3. če misli, da je dejansko stanje v sodbi prve stopnje pravilno ugotovljeno, da pa je sodišče prve stopnje zmotno uporabilo materialno pravo;
4. če ugotovi, da je izpodbijani upravni akt ničen, sodišče prve stopnje pa je tožbo kot neutemeljeno zavrnilo.

81. člen

Vrhovno sodišče ne sme spremeniti sodbe sodišča prve stopnje v škodo stranke, ki se je pritožila, če se je pritožila samo ona.

82. člen

(1) Sklep se lahko izpodbija s posebno pritožbo samo, če tako določa ta zakon.

(2) Zoper sklep sodišča prve stopnje, s katerim se onemogoči nadaljnji postopek, je dovoljena posebna pritožba, če ta zakon ne določa drugače.

2. oddelek
Revizija

83. člen (črtan)

court, also amend or annul the contested administrative act, if it is deemed appropriate with regard to the circumstances of the case.

(3) Under paragraph one and two of this Article, the Supreme Court shall decide without a main hearing:

1. if the assessment of documents or indirectly presented evidence made by the first-instance court is incorrect, and the decision is supported solely by this evidence;
2. if the first-instance court drew an incorrect conclusion from the established facts concerning the existence of other facts, and its decision is supported solely by these facts;
3. if it considers that the facts of the case in the decision at the first instance were established correctly, but that the first-instance court applied substantive law incorrectly;
4. if it establishes that the contested administrative act is void, and the first-instance court rejected the action as unsubstantiated.

Article 81

The Supreme Court may not amend a decision of the first-instance court to the detriment of the party that appealed, if that party is the only one to appeal.

Article 82

(1) A procedural decision may only be contested by a special appeal, where so provided in this Act.

(2) A special appeal may be lodged against the procedural decision of the first-instance court preventing further continuation of the procedure, unless otherwise provided by this Act.

Section 2
Review

Article 83 (Deleted)

84. člen

(1) Vložena revizija ne zadrži izvršitve pravnomočne sodbe, zoper katero je vložena.

(2) Vrhovno sodišče lahko na zahtevo revidenta izda začasno odredbo do odločitve o reviziji zaradi razlogov iz drugega odstavka 32. člena tega zakona.

85. člen

(1) Revizija se lahko vložijo:

1. zaradi bistvene kršitve določb postopka v upravnem sporu iz drugega in tretjega odstavka 75. člena tega zakona,
2. zaradi zmotne uporabe materialnega prava.

(2) Revizije ni mogoče vložiti zaradi zmotne ali nepopolne ugotovitve dejanskega stanja.

(3) Revizije ni mogoče vložiti v sporih zoper akte volilnih organov za državne oziroma lokalne volitve.

86. člen (črtan)

87. člen (črtan)

88. člen (črtan)

89. člen (črtan)

Article 84

(1) A lodged request for review shall not stay the execution of the final decision against which it was made.

(2) The Supreme Court may, on the request of the reviewer, issue an interim injunction until the decision on the review is issued, for the reasons set out in paragraph two of Article 32 of this Act.

Article 85

(1) A request for review may be lodged:

1. due to a substantial violation of the provisions governing administrative dispute procedures, as referred to in paragraphs two and three of Article 75 of this Act;
2. due to an incorrect application of substantive law.

(2) A request for review may not be lodged due to the erroneous or incomplete determination of facts.

(3) A request for review may not be lodged in disputes against the acts of electoral bodies for the national or local elections.

Article 86 (Deleted)

Article 87 (Deleted)

Article 88 (Deleted)

Article 89 (Deleted)

**90. člen
(črtan)**

**Article 90
(Deleted)**

**91. člen
(črtan)**

**Article 91
(Deleted)**

92. člen

Article 92

Vrhovno sodišče s sodbo zavrne revizijo kot neutemeljeno, če ugotovi, da niso podani razlogi, zaradi katerih je bila vložena, in ne razlogi, na katere mora paziti po uradni dolžnosti.

The Supreme Court shall dismiss a review as unfounded by a decision, if it establishes that the reasons on the basis of which it was filed, are without foundation, nor are there reasons to which it must be attentive *ex officio*.

93. člen

Article 93

(1) Če vrhovno sodišče ugotovi bistveno kršitev določb postopka v upravnem sporu, zaradi katerih je dopustna revizija, pa takih kršitev v svojem postopku ni odpravilo, s sklepom v celoti ali deloma razveljavi sodbo sodišča prve stopnje in vrne zadevo v novo sojenje istemu ali drugemu senatu sodišča prve stopnje oziroma drugemu pristojnemu sodišču.

(1) If the Supreme Court establishes substantial violations of the provisions governing administrative dispute procedures, which make a review permissible, and it did not remedy such violations in its procedure, it shall wholly or partially abrogate the decision of the first-instance court and return the case to the same or different panel of the first-instance court, or other competent court for retrial.

(2) Če je bila v postopku pred sodiščem prve ali druge stopnje storjena kršitev iz 3. točke drugega odstavka 339. člena Zakona o pravnem postopku, razen če je bilo odločeno o zahtevku, o katerem že teče pravda, vrhovno sodišče s sklepom razveljavi izdane odločbe in zavrže tožbo.

(2) If in the procedure in the first or second instance court, point 3 of paragraph two of Article 339 of the Civil Procedure Act was violated, the Supreme Court shall abrogate the issued decisions and reject the action by a procedural decision, unless it was decided on a claim that is already being litigated.

94. člen

Article 94

(1) Če vrhovno sodišče ugotovi, da je bilo materialno pravo zmotno uporabljeno, s sodbo ugodi reviziji in spremeni izpodbijano sodbo.

(1) If the court establishes that substantive law was applied incorrectly, it shall uphold the request for review and amend the contested decision.

(2) Če vrhovno sodišče ugotovi, da je bilo zaradi zmotne uporabe materialnega prava dejansko stanje nepopolno ugotovljeno in da

(2) If the Supreme Court establishes that due to the incorrect application of substantive law the facts of the case were determined

zato ni pogojev za spremembo izpodbijane sodbe, s sklepom ugodi reviziji in v celoti ali deloma razveljavi sodbo sodišča ter vrne zadevo v novo sojenje.

95. člen

(1) Stranke lahko vložijo revizijo tudi zoper sklep sodišča prve stopnje, s katerim je bila ugotovljena ničnost izpodbijanega upravnega akta po 68. členu tega zakona.

(2) Revizije zoper sklep iz prejšnjega odstavka ni v sporih, v katerih ne bi bila dovoljena revizija zoper pravnomočno sodbo.

(3) V postopku z revizijo zoper sklep se smiselno uporabljajo določbe tega zakona o reviziji zoper sodbo.

3. oddelek Obnova postopka

96. člen

(1) Postopek, ki je bil pravnomočno končan s sodno odločbo, se na predlog stranke obnovi, če:

1. stranka zve za nova dejstva ali če najde nove dokaze ali dobi možnost uporabiti nove dokaze, na podlagi katerih bi bil spor zanjo ugodneje rešen, če bi se nanje sklicevala ali če bi jih uporabila v prejšnjem postopku;
2. se odločba opira na ponarejeno ali prenarejeno listino ali na krivo izpovedbo priče, izvedenca ali stranke pri zaslišanju pred sodiščem;
3. sodišče ni bilo sestavljeno po določbah tega zakona;
4. je pri odločitvi sodeloval sodnik, ki je bil ali bi moral biti po zakonu izločen;
5. se je postopka udeleževal nekdo, ki ne more biti stranka v upravnem

incompletely, and that therefore no conditions exist for the amending of the contested decision, it shall grant the review by a procedural decision, and wholly or partially abrogate the decision of the court and return the case for new adjudication.

Article 95

(1) The parties may also lodge a request for review of a procedural decision of the first-instance court, whereby the nullity of the contested administrative act under Article 68 of this Act was declared.

(2) The review against the procedural decision referred to in the preceding paragraph may be lodged in disputes where a review of the final decision would not be permitted.

(3) In the procedure of reviewing a procedural decision, the provisions of this Act regarding review of a decision shall be applied *mutatis mutandis*.

Section 3 Reopening of a case

Article 96

(1) A procedure which ended with a decision that is final, shall be reopened on the proposal of the party, if:

1. the party learns of new facts, finds new evidence, or is given an opportunity to use new evidence on the basis of which the outcome of the dispute could have been more favourable for them, if they had referred to or used them in the previous procedure;
2. the decision is based on a fake or falsified document, or false testimony given by a witness, expert or party at the hearing in the court;
3. the court is not composed in accordance with the provisions of this Act;
4. a judge who was or should have been excluded, in accordance with an Act, was involved in issuing the decision;
5. a person who may not be a party to an administrative dispute

sporu, ali če stranke v skladu z zakonom ni zastopal zakoniti zastopnik ali če zakoniti zastopnik oziroma pooblaščenec stranke ni imel potrebnega dovoljenja za opravljanje dejanj v postopku, razen če so bila posamezna dejanja v postopku pozneje odobrena;

6. se odločba opira na sodbo, ki je bila izdana v kazenski ali civilni zadevi, ta sodba pa je bila pozneje razveljavljena z drugo pravnomočno sodno odločbo;
7. je prišlo do odločbe sodišča zaradi kaznivega dejanja sodnika ali delavca pri sodišču, strankinega zastopnika ali pooblaščenca, njenega nasprotnika ali nasprotnega zastopnika ali pooblaščenca;
8. stranka najde odločbo, ki je bila izdana že prej v istem upravnem sporu, ali dobi možnost, da jo uporabi;
9. prizadeti osebi ni bila dana možnost udeležbe v upravnem sporu.

(2) Zaradi razlogov iz 1. točke prejšnjega odstavka se sme obnova dovoliti le, če je sodišče samo ugotavljalo dejansko stanje.

(3) Zaradi razlogov iz 1., 2. in 5. do 9. točke prvega odstavka tega člena se sme dovoliti obnova samo, če se stranka brez lastne krivde ni mogla sklicevati nanje v prejšnjem postopku.

97. člen

(1) Obnova postopka se lahko zahteva najpozneje v 30 dneh, odkar je stranka zvedela za obnovitveni razlog oziroma odkar bi ga lahko uporabila. Če je zvedela za obnovitveni razlog, preden je bil postopek pri sodišču končan, pa ga ni mogla uporabiti v tem postopku, lahko zahteva obnovo v 30 dneh od dneva, ko ji je bila vročena odločba.

(2) Po petih letih od pravnomočnosti odločbe se obnova ne more več zahtevati, razen če se obnova postopka zahteva iz razloga po 6. točki prvega odstavka 96. člena tega zakona.

participated in the procedure, or if the parties were not represented in accordance with an Act by a statutory representative, or if the statutory representative or counsel of the party did not have the authorizations required to perform procedural actions, unless individual procedural actions were subsequently approved;

6. the decision is based on a decision issued in a criminal or civil case, and the decision was subsequently abrogated by another final court decision;
7. the court's decision was the result of a criminal offence committed by a judge or by court staff, the party's statutory representative or counsel, the opposing party, or the statutory representative or counsel of the opposing party;
8. the party discovers a decision issued earlier in the same administrative dispute, or obtains an opportunity to apply it;
9. the affected person was not given an opportunity to participate in the administrative dispute.

(2) The reopening of a case for the reasons referred to in point 1 of the preceding paragraph may only be allowed if the court itself established the facts of the case.

(3) The reopening of a case for the reasons referred to in points 1, 2 and 5 to 9 of paragraph one shall only be permitted if the party, through no fault of their own, was unable to refer to them in the earlier procedure.

Article 97

(1) The reopening of a case may not be requested later than thirty days from the day that the party learned of the reasons for reopening the case, or from when they could have exercised this. If the reasons for the reopening of the case were learnt before the court procedure ended, but could not be applied in the procedure itself, the party may request the reopening of the case within thirty days of the day the decision was served on them.

(2) Five years after the decision becomes final the reopening of a case may no longer be requested, unless the reopening of the case is requested for reasons under point 6 of paragraph one of Article 96 of this Act.

98. člen

(1) Predlog za obnovo postopka se vloži pri sodišču, ki je pristojno za odločitev o njej.

(2) O predlogu za obnovo postopka odloči sodišče, ki je izdalo odločbo, na katero se nanaša obnovitveni razlog.

(3) O predlogu za obnovo postopka odloči sodišče v senatu treh sodnikov, če ta zakon ne določa drugače.

99. člen

V predlogu za obnovo je treba zlasti navesti:

1. sodbo ali sklep, s katerim je bil končan postopek, glede katerega se zahteva obnova;
2. razloge za obnovo in dokaze oziroma okoliščine, ki razloge verjetno izkazujejo;
3. okoliščine, iz katerih izhaja, da je bil predlog vložen v zakonitem roku, in dokaze za to.

100. člen

(1) Sodišče zavrže predlog za obnovo s sklepom, če ugotovi, da je predlog vložila neupravičena oseba ali je bil vložen prepozno ali da stranka ni izkazala, da je zakoniti razlog za obnovo vsaj verjeten.

(2) Če sodišče ne zavrže predloga, ga pošlje nasprotni stranki in prizadetim osebam, te pa lahko nanj odgovorijo v 15 dneh.

101. člen

Article 98

(1) A request for the reopening of a case shall be filed with the court responsible for deciding on the reopening of the case.

(2) The decision on a request to reopen a case shall be made by the court that issued the decision to which the reasons for the reopening of the case refer.

(3) The decision on a request to reopen a case shall be made by the court in a panel of three judges, unless provided otherwise by this Act.

Article 99

The request to reopen a case shall list the following in particular:

1. the decision or procedural decision by which the procedure whose reopening is requested was concluded;
2. the reasons for reopening, together with the evidence and circumstances which plausibly support the reasons;
3. the circumstances from which it is possible to ascertain that the request was submitted within the legal period, and proof of this.

Article 100

(1) The court shall reject a request to reopen a case by a procedural decision, if it establishes that the request was submitted by a person who is not entitled to do so, or if it was submitted late, or if the party failed to demonstrate that the legal reason for reopening the case is at least plausible.

(2) If the court does not reject the request, it shall send it to the opposing party and to all affected persons, who may submit their responses within fifteen days.

Article 101

Zoper odločbo, ki jo izda sodišče v obnovljenem postopku, so dovoljena pravna sredstva, ki so dovoljena zoper sodbo.

The legal remedies permitted against a decision shall also be permitted against the decisions made by a court in the procedure in which a case was reopened.

7. poglavje Izvršba

Chapter Seven Execution

102. člen

Article 102

(1) Sodba, s katero sodišče nadomesti upravni akt, se izvrši po določbah ZUP.

(1) A decision by which the court replaces an administrative act shall be executed in accordance with the provisions of the General Administrative Procedure Act.

(2) Sklep, izdan na podlagi tretjega odstavka 32. člena tega zakona, in sklep, izdan na podlagi tretjega odstavka 66. člena tega zakona, se izvršita po določbah Zakona o izvršbi in zavarovanju (Uradni list RS, št. 44/06 – uradno prečiščeno besedilo).

(2) A procedural decision issued on the basis of paragraph three of Article 32 of this Act, and a procedural decision issued on the basis of paragraph three of Article 66 of this Act, shall be executed under the provisions of the Claim Enforcement and Security Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 44/06 – official consolidated text).

(3) Sodbe sodišča, s katerimi se naloži obveznost državi, lokalni skupnosti ali njunim organom ali organizacijam, se izvršujejo po določbah Zakona o izvršbi in zavarovanju.

(3) The decisions of the court by which an obligation is imposed on the state, local community or their authorities or organizations, shall be executed under the provisions of the Claim Enforcement and Security Act.

103. člen

Article 103

(1) Če se izvršba opravi proti državi, lokalni skupnosti ali njunim organom ali organizacijam, mora sodišče, ki je pristojno za izvršbo po Zakonu o izvršbi in zavarovanju, pred izdajo sklepa o izvršbi organ oziroma organizacijo o nameravani izvršbi obvestiti s pozivom, naj se izvršbi izogne s prostovoljno izpolnitvijo obveznosti. Rok za prostovoljno izpolnitev ne sme biti daljši od treh mesecev.

(1) Where execution is enforced against the state, local community or their authorities or organizations, the court competent for the execution under the Claim Enforcement and Security Act shall, prior to issuing the order of execution, inform the authority or organization of the intended execution with an invitation to avoid the execution by a voluntary fulfilment of obligations. The time limit for the voluntary fulfilment of obligations shall not exceed three months.

(2) Izvršba ni dopustna na stvareh, ki so javno dobro v lasti države oziroma lokalne skupnosti in tudi ne na stvareh, ki so nujni pogoj za izvrševanje javnih nalog.

(2) Execution shall not be permitted on public goods owned by the state or the local community, nor on goods that constitute an indispensable condition for the implementation of public duties.

(3) Naznanitev izvršbe in upoštevanje roka za prostovoljno izpolnitev nista potrebna, če gre za izvršitev začasne odredbe.

PREHODNE IN KONČNE DOLOČBE

104. člen

Za postopke, ki so ob uveljavitvi tega zakona v teku, se uporabljajo določbe Zakona o upravnem sporu (Uradni list RS, št. 50/97, 65/97– popr. in 70/00), kolikor ni v členih 105 do 107 tega zakona drugače določeno.

105. člen

Upravno sodišče nadaljuje postopke, glede katerih do uveljavitve tega zakona še ni bilo odločeno, po sodniku posamezniku ali senatu skladno z določbami tega zakona.

V postopkih, v katerih do uveljavitve tega zakona še ni bilo odločeno, se uporabljajo določbe tega zakona, ki se nanašajo na začasno odredbo, odločanje na glavni obravnavi in seji ter na pooblastila sodišč glede odločanja (51. do 72. člen tega zakona).

106. člen

Zadeve, ki jih je prejelo vrhovno sodišče, pa o njih še ni odločeno in je po določbah tega zakona zanje pristojno upravno sodišče, prevzame z uveljavitvijo tega zakona v delo upravno sodišče.

107. člen

Glede pravnih sredstev zoper izdane odločbe sodišča se

(3) Notification of execution and consideration of the time limit for voluntary fulfilment shall not be required if an interim injunction is being executed.

TRANSITIONAL AND FINAL PROVISIONS

Article 104

For those procedures that are in progress prior to the entry into force of this Act, the provisions of the Administrative Dispute Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 50/97, 65/97 – corr. and 70/00) shall apply, if not provided otherwise in Articles 105 to 107 of this Act.

Article 105

The administrative court shall continue the procedures that were not yet decided on prior to the entry into force of this Act, by a single judge or a panel in compliance with the provisions of this Act.

In the procedures in which a decision has not yet been made prior to the entry into force of this Act, the provisions of this Act referring to interim injunctions, deciding in a main hearing and session, and the authorisations of the courts concerning decision-making (Articles 51 to 72 of this Act), shall be applied.

Article 106

Cases accepted by the Supreme Court but not yet decided on, and which fall under the jurisdiction of the administrative court under the provisions of this Act, shall be taken over by the administrative court upon the entry into force of this Act.

Article 107

Regarding legal remedies against the issued orders of the

uporabljajo določbe tega zakona, če ni s posebnim zakonom drugače določeno.

Zadeve, v katerih je bila vložena pritožba pred uveljavitvijo tega zakona, vrhovno sodišče obravnava kot pritožbe po tem zakonu, če izpolnjujejo pogoje za pritožbo po določbah tega zakona, v primerih, ko je pravomočnost sodbe po zakonu pogoj za izvršitev upravnega akta, ter v primerih, ko je pritožba izrecno dovoljena na podlagi posebnega zakona. Te zadeve označi vrhovno sodišče kot pritožbe po 107. členu tega zakona in jih rešuje pred vsemi drugimi zadevami. V drugih primerih se vložene pritožbe, ki jih je vložila upravičena oseba ter so pravočasne in dovoljene po določbah Zakona o upravnem sporu, obravnavajo kot pravočasne in dovoljene revizije, prvostopenjske sodbe pa postanejo pravomočne.

Vložene zahteve za varstvo zakonitosti, ki jih je pred uveljavitvijo tega zakona vložila upravičena oseba ter so pravočasne in dovoljene po določbah Zakona o upravnem sporu, se obravnavajo kot pravočasne in dovoljene revizije.

Če je bila v upravnem sporu izdana začasna odredba, ki je zadržala izvršitev odločbe ali uredila sporno razmerje do pravomočnosti sodbe (po 30. in 69. členu Zakona o upravnem sporu), ostane začasna odredba v veljavi, če je bila zoper sodbo vložena pritožba, ki jo bo sodišče obravnavalo kot revizijo po drugem odstavku tega člena, in to vse dokler sodišče ne odloči o reviziji. Vrhovno sodišče lahko še pred odločitvijo o reviziji tako začasno odredbo na predlog stranke razveljavi, če meni, da zanjo niso podani pogoji po 32. členu tega zakona.

108. člen

Minister, pristojen za pravosodje, izda predpis iz tretjega odstavka 25. člena tega zakona v enem mesecu po uveljavitvi tega zakona.

109. člen

court, the provisions of this Act shall apply, unless otherwise provided by a special Act.

Cases in which an appeal was lodged before the entry into force of this Act, shall be treated by the Supreme Court as appeals under this Act, if they fulfil the conditions for appeal under the provisions of this Act, in situations in which the finality of the decision under the law is the condition for the execution of the administrative act, and in cases where an appeal is expressly permitted on the basis of a special Act. These cases shall be designated by the Supreme Court as appeals under Article 107 of this Act, and shall be settled before all other cases. In other cases, appeals filed by the entitled person, and which are timely and permitted under the provisions of the Administrative Dispute Act, shall be considered timely and permitted reviews, and the first-instance decisions shall become final.

Requests filed for the protection of legality which have been filed prior to the entry into force of this Act by an entitled person and filed on time and permitted under the provisions of the Administrative Dispute Act, shall be considered timely and permitted reviews.

If an interim injunction was issued in an administrative dispute which stayed the execution of the decision or regulated the contentious relationship until the finality of the decision (under Articles 30 and 69 of the Administrative Dispute Act), the interim injunction shall remain valid if an action was filed against the decision which the court will treat as a review under paragraph two of this Article, until the Court has decided on the review. Even prior to a decision on the review, the Supreme Court may abrogate the interim injunction on the proposal of the party, if it believes that the conditions referred to in Article 32 of this Act do not exist.

Article 108

The minister responsible for justice shall issue a regulation pursuant to paragraph three of Article 25 of this Act in one month after the entry into force of this Act.

Article 109

Z dnem uveljavitve tega zakona preneha veljati:

- Zakon o upravnem sporu (Uradni list RS, št. 50/97, 65/97 – popr. in 70/00),
- tretji odstavek 27. člena, četrti odstavek 251. člena in drugi odstavek 277. člena Zakona o splošnem upravnem postopku (Uradni list RS, št. 24/06 – uradno prečiščeno besedilo), v delu, ki se glasi »pač pa je zoper njo mogoče začeti upravni spor«.

110. člen

Ta zakon začne veljati 1. januarja 2007.

On the day of entry into force of this Act the following shall cease to be in force:

- Administrative Dispute Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 50/97, 65/97 – corr. and 70/00),
- paragraph three of Article 27, paragraph four of Article 251 and paragraph two of Article 277 of the General Administrative Procedure Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], No. 24/06 – official consolidated text) in the part reading "but an administrative dispute may be initiated against it".

Article 110

This Act shall enter into force on 1 January 2007.