



Slovakia: Code of Civil Procedures

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PART FIVE ADMINISTRATIVE JUSTICE

CHAPTER ONE GENERAL PROVISIONS ON ADMINISTRATIVE JUSTICE

Article 244

- (1) Within the administrative justice the courts investigate the legitimacy of the decisions taken by the public administration bodies on the basis of suits (actions) or legal remedies.
- (2) Within the administrative justice the courts investigate the legitimacy of the decisions taken by the public administration bodies, regional (territorial) self-administration bodies, as well as special-interest self-administration bodies and other legal entities as far as they are entitled by law to make decisions concerning rights and duties of natural persons and legal entities in the sphere of public administration (hereinafter referred to as "the decision of the administrative body").
- (3) Under the term "decisions of administrative bodies", the decisions taken by the administrative bodies within administrative procedures, as well as other decisions which lay down, change or cancel competencies and duties of the natural persons or legal entities are meant.

Article 245

- (1) During the investigation of the legitimacy of a decision taken by an administrative body, the court will review also the legitimacy of the former administrative decision on the bases of which the investigated decision was taken, if the former decision was binding on the investigated decision and if no special procedure exists for its investigation.
- (2) Concerning a decision, which was taken by an administrative body on the basis of the free consideration permitted by law (administrative consideration), the court investigates only if such decision is not outside the bounds and viewpoints set by law.

Article 246

- (1) The investigation of decisions is under material competence (jurisdiction) of regional courts, if it is not set otherwise by law.
- (2) The Supreme Court of the Czech and Slovak Federative Republic has material competency (jurisdiction) for investigation of decisions taken by the central bodies of the Czech and Slovak Federative Republic.
- (3) The Supreme Court of the Czech Republic or the Supreme Court of the Slovak Republic has material competency (jurisdiction) for investigation of decisions taken by the central bodies of the Czech Republic or the Slovak Republic, except the matters concerning pension schemes, sick benefit schemes, and financial security schemes for job applicants in accordance with the employment regulations.
- (4) District courts have material competency (jurisdiction) for investigation of decisions on offences and in cases which are set by law.

Article 246a

(1) That court is territorially competent (has territorial jurisdiction) to investigate any decision of any administrative body in accordance with the district where the seat of the administrative body, whose decision is being investigated, is located, if it is not set otherwise.

(2) In the procedure according to Chapter Three of this Part, the general court of the proposer (plaintiff) or the regional court, in whose district such court has its seat, is territorially competent (has territorial jurisdiction).

Article 246b

(1) The investigation of decisions taken by administrative bodies is carried out and decisions are made by senates of courts which are composed of a presiding judge and two judges, if it is not set otherwise.

(2) A sole judge executes and makes decisions concerning matters the settlement of which is within the material competence of district courts and concerning matters where it is expressly set by law.

Article 246c

The settlement of matters which are not covered by this Part, the appropriate provisions of Parts One and Three of this Act are applied.

CHAPTER TWO DECISION-MAKING CONCERNING ACTIONS (CIVIL SUITS) AGAINST DECISIONS TAKEN BY ADMINISTRATIVE BODIES

Article 247

(1) The provisions of that Chapter are applied in cases when a natural person or a legal entity claims that as the result of a decision taken by an administrative authority he or it was derogated from his or its rights, and request the court to investigate the legitimacy of that decision.

(2) A precondition that the procedures according to this Chapter, which concerns any decision taken by an administrative body within an administrative procedure, will be applied is that it is a decision, which after applying of all legal remedies which are admissible, became valid in law (are lawful).

Article 248

(1) The courts do not investigate decisions of administrative bodies which do not have nature of decisions on rights and duties of natural persons or legal entities, especially generally binding (normative) acts, decisions of organizing nature and decisions governing the inside conditions (relations, circumstances) of the bodies by which such decisions were taken.

(2) Furthermore, the courts do not investigate

A) decisions which are investigated according to Chapter Three of this Part or according to the general provisions of the Code of Civil Procedure,

B) decisions of administrative bodies concerning civil law and commercial law affairs in which the administrative body acts on behalf of the state as the owner or on behalf of another participant in the legal relationship,

C) decisions of military administration bodies which were taken in order to ensure the preparation and fulfilment of tasks under the military preparedness of the state,

D) commands of armed forces and armed corps officials (officers),

E) decisions of administrative bodies which have preliminary, procedural or disciplinary nature including decisions on disciplinary fines (penalties),

F) decisions of administrative bodies on disciplinary penalties (punishments) for armed forces and armed corps personnel (officers), as far as they do not restrict personal freedoms and as far as they do not result in cessation of the service relation, further decisions concerning convicts in reformatory prisons (houses of corrections, penitentiaries). as well as convicts under arrest,

G) decisions which depend on the judgment of health conditions of persons or technical conditions of matters, as far as they alone do not represent legal obstacles for performance of the professions, occupations. business or another economic activities of persons,

H) decisions that natural persons were not granted or were deprived (withdrawn) of the professional qualification (capacity), as far as they alone do not represent legal obstacles for performance of the professions or occupations of the persons,

I) decisions concerning false claims to compensation or requests to eliminate (abolish) the hardship of law, especially decisions of financial bodies on levy, tax and fee allowances,

J) decisions by which applications on granting exception to the security regulations and technical standards were rejected.

(3) Except of the above-mentioned decisions the courts do not investigate decisions of administrative authorities taken on the basis of provisions mentioned in Supplement A which represents an integral part of this Act, as well as decisions the investigation of which is excluded by special laws.

Article 249

(1) The procedure begins on the basis of a motion which is called suit (action).

(2) The suit (action) has to contain, besides general data appropriate for filing the action, the specification (indication) of the decision of the administrative body, which is contested, show causes why the plaintiff considers the decision of the administrative body to be unlawful and what his final proposal is.

Article 250

(1) The participants in the procedure are a plaintiff and a defendant.

(2) The plaintiff is a natural person or a legal entity which claims that he or it, as a participant in the administrative procedure, was derogated from his or its rights by the decision of the administrative body. The suit (action) can be taken also by a natural person or a legal entity that did not act as a participant in the administrative procedure, although he or it had to be a participant.

(3) If more persons have feelings that they were derogated from their rights by one decision of an administrative body, they can file a common action (suit). The participants in the procedures are also such persons to whom the decision of the court has to relate because of their inseparable unity with the plaintiff (Art. 91 Par. 2).

(4) What concerns a decision of an administrative body taken within an administrative procedure, the defendant is the last-instance administrative body which took (made) the decision.

Article 250a

The plaintiff has to be represented by a counsel for the plaintiff or by a commercial lawyer as far as he or his employee (member), who acts on his behalf before the court, is not learned in law; this does not apply to the matters under material competence of a district court or if it concerns the investigation of a decision on matters which relate to the sick benefits or pension schemes.

Article 250b

(1) The action (suit) is to be filed within two months since the delivery of the decision of the last-instance administrative body, as far as it is not set otherwise by a special law. The delay in filing the action (suit) cannot be waived (there is no waiver of the time-limit).

(2) If the action (suit) is filed by a person who alleges that the decision of the administrative body was not delivered to him, although he had to be as a participant in the procedure, the court shall verify such allegations and charge the administrative body to deliver the administrative decision to such participant, and based on the circumstances, delay its enforceability. The competent body is bound by the standpoint of the court. After the realized delivery the administrative body will submit the documents to the court for the decision on the action (suit).

Article 250c

The action (suit) does not have any dilatory effect on the enforceability of the decision of the administrative body, as far as it is not set otherwise by a special law. Upon the request of the participant, the presiding judge of the senate can postpone the enforceability of the administrative body by an order of the court (court ruling), if the immediate enforceability of the contested decision could result in considerable harm.

Article 250d

(1) The presiding judge of the senate will ask for documents of the defendant administrative body, which is obliged to submit them without any delays together with the documents of the first-instance administrative body.

(2) If the presiding judge of the senate will find that the action (suit) is not under the material or territorial competence of the court, he will transfer the matter, by an order of the court (court ruling), to the competent court.

(3) The presiding judge of the senate will terminate the procedure if the action (suit) was not filed within the time-limit, if it was filed by an unauthorized person, if it is against the decision which cannot represent a matter of investigation by the court, if the plaintiff did not correct shortages of the action (suit), the correction of which was ordered by the court and which obstruct the material (objective) settlement of the action (suit), or if the plaintiff is not represented in accordance with Art. 250a, or if the action (suit) was withdrawn (Art. 250h Par. 2).

Article 250e

If the action (suit) is not settled in the way mentioned in Art. 250d Pars. 2 and 3, the court will deliver the source (original, primary) documents of the action (suit) to the plaintiff. The presiding judge of the senate can order (direct) the defendant to express his opinion of the content of the action (suit) within the time-limit which will be set by him at the same time.

Article 250f

In easy cases, especially if it is evident that the administrative body based its decision on the properly found facts, and it concerns only the judgment of legal issue, the court is entitled to make a decision on the action (suit) without the trial in court in the form of an order of the court (court ruling). The same procedure is followed if a decision is contested which cannot be investigated because it is incomprehensible or because of the lack of causes.

Article 250g

(1) If the action (suit) is not settled in the way mentioned in Art. 250f, the presiding judge of the senate will summon the participants to the trial; at the trial he can ask for more necessary data or documents and/or other written statements (expressions, opinions) of the participants.

(2) If the participants do not enter an appearance, the matter can be discussed without their presence; the procedure (trial) cannot be suspended for such reason.

Article 250h

(1) Until the decision of the court is made (court ruling is taken), the plaintiff is allowed to limit the extent of the contested administrative decision; he is allowed to extend it only within the time-limit in accordance with Art. 250b.

(2) Until the decision of the court is made (court ruling is taken), the plaintiff is allowed to withdraw the action (suit); if in the meantime some law costs (expenses) arose to the defendant because of the procedure, the court will make a decision on their compensation.

Article 250i

(1) At the investigation of the lawfulness of the decision, the decisive for the court are real facts which were valid on the date when the contested decision was taken; the facts are not to be proven.

(2) If in the meantime the decision of the administrative body was contested by a protest of the prosecutor, the court will suspend the procedure till the protest is settled; if the contested decision was withdrawn or changed, the court will terminate the procedure. The similar procedure is followed in the case when earlier than the action (suit) was filed in the court, an extraordinary remedy was lodged against the lawful decision of the administrative body.

(3) The shortcomings of the procedure carried out before the administrative body will be taken into account by the court only in the case when such shortcomings could affect the lawfulness of the contested decision.

Article 250j

(1) If the court will come to the conclusions that the contested decision is in abeyance with law, the court will set in the declaratory judgment that the action (suit) is dismissed.

(2) If the court will come to the conclusions that the administrative decision was not from the legal point of view correct or that the finding of the facts on which the decision was based is in contradiction with the content of documents or that the finding of the facts is insufficient for the judgment of the matter, the court will set in the declaratory judgment that the contested decision of the administrative body is invalidated and based on the circumstances the court will invalidate also the decision of the first-instance administrative body and will return the matter to the defendant administrative body for further procedure. The court will invalidate the contested decisions also in cases if it would be found out during the trial that the contested decisions cannot be investigated because they are incomprehensible or because of the lack of causes.

(3) The administrative bodies are bound by the legal opinion of the court.

(4) There is no legal remedy permeable against the decision of the court.

Article 250k

(1) If the plaintiff was successful on the whole or only partially, the court will award him the right to the complete or partial compensation of the law costs (expenses) of the procedure. The court can also make a decision that the right for the compensation of law costs (expenses) of the procedure will not be awarded if some reasons exist which deserve special attention.

(2) If after the invalidation of the decision of the administrative body a new decision was taken which was also invalidated on the basis of a new action (suit) which was filed because the administrative body deviated from the legal opinion expressed in the first declaratory judgment of the court, although there were no changes of the facts or legal status of the matter, the court will order the administrative body to compensate all law costs (expenses) of the procedure to the plaintiff.

CHAPTER THREE DECISION-MAKING CONCERNING LEGAL REMEDIES AGAINST DECISIONS TAKEN BY ADMINISTRATIVE BODIES

Article 250l

(1) The provisions of this Chapter are followed in cases when the courts are entrusted by law with the decision-making process concerning legal remedies against unlawful decisions of the administrative bodies.

(2) If it is not set otherwise in this Chapter, the provision of the Chapter Two except Art. 250a will be applied adequately.

Article 250m

(1) The procedure begins on the basis of a proposal which is represented by a legal remedy against the decision of the administrative body.[1]35).

(2) The proposal is lodged at the competent court within the thirty-day period since the delivery of the decision, as far as it is not set otherwise by a special law. The proposal is filed in time also in the case if it was lodged within the set period at the body by which the decision was taken. If the decision does not contain any instructions on the legal remedy, it can be contested within 60 days since its delivery.

(3) The participants of the procedure are the same as were in the procedure carried out by the administrative body and the administrative body the decision of which is investigated.

Article 250n

If it is not excluded by the nature of the matter, the person or the entity, pledging the legal remedy, can propose the postponement of enforceability of the contested decision. The court can meet the proposal of such a requirement in the case if the enforceability of the contested decision would defeat (nullify) the purpose of its investigation.

Article 250o

If the administrative body whose decision is investigated by the court will take a new decision which will be in consent with the proposal, the court will terminate the procedure.

Article 250p

If the proposal was not lodged within the set time-period or was lodged by a person who is unauthorized, or if the contested decision cannot be investigated (is not the subject of investigation), or if the proposer (plaintiff) did not removed shortcomings which were ordered by the court to be removed and which obstruct the material (objective) settlement of the proposal, the court will reject the proposal by an order of the court (court ruling).

Article 250q

(1) If the legal remedy is not settled in the way mentioned in Art. 250f or 250o, the court will order a trial. The court can prove the facts (give evidence) necessary for the investigation of the contested decision.

(2) The decision taken by the court on the legal remedy will be in a form of a declaratory judgment by which the investigated decision will be either confirmed or invalidated and returned back for the further procedure.

Article 250r

If the court invalidates the decision of the administrative body, the legal opinion of the court is binding for that administrative body within the new procedure.

Article 250s

(1) No legal remedies, except cases in accordance with Par. 2, are admissible against the decision of the court.

(2) An appeal against the decision of the regional court can be lodged concerning matters which relate to the pension schemes, the decision on such appeal will be taken by the Supreme Court of the republic; another appeal is admissible.

[135) At present it concerns especially the following cases: Art 57b of Act on Health Insurance of Employees No. 54/1956 Coll. of Laws in the wording of the Act No. 180/1990 Coll. of Laws, if it concerns decisions on the obligation of an employee or other remittee of the health insurance allowances or family allowances to return the allowances which were paid out wrongfully, as well as decisions on matters relating to the health insurance other than matters concerning health insurance allowances, Art. 122 Par. 1 of Act No. 103/1964 Coll. of Laws, on assurance an income for members of cooperatives in case of illness and on assurance an income for mothers with babies, in the wording of Act No. 180/1990 Coll. of Laws, if it concerns decisions on the obligation of remittee of sick payments/benefits or benefits for mothers and babies to return any overpayments which were paid out wrongfully, as well as decisions on matters related to the members of cooperatives or mothers and babies other than the matters concerning sick payments/benefits and benefits for mothers and babies, Art. 112 Par. 3 of Customs Act No. 44/1974 Coll. of Laws in the wording of Act No. 117/1983 Coll. of Laws and Act No. 5/1991 Coll of Laws, Arts. 7, 8 and Art. 61 Par. 2 of Act No. 147/1983 Coll. of Laws, on weapons and ammunition, in the wording of Act No. 49/1990 Coll. of Laws, Arts. 122 and 145a of Act No. 100/1988 Coll. of Laws, on the social security, in the wording of Act No. 110/1990 Coll. of Laws and Act No. 180/1990 Coll. of Laws, if it concerns decisions on the statutory benefits of the pension scheme mentioned in Art. 7 Let. a) No. 1 to 7, Lets. b) and c) of the cited Act. Art. 9 Pars 4 and 7 of Act of the Czech Parliament No.37/1989 Coll. of Laws, on the protection against alcoholism and other addictions, Art. 8 Par. 3 Art. 11 Par. 2 and Art 12 Par. 3 Let. c) of Act No. 83/1990 Coll. of Laws, on the grouping of citizens, Art. 11 Par. 3 and Art. 13 of Act No. 84/1990 Coll. of Laws, on the right of gathering, Art. 28 Par. 3 of Act of the Czech Parliament No. 128/1990 Coll. of Laws, on the advocacy (legal professions), Art. 27 Par. 3 of Act of the Slovak Parliament No. 132/1990 Coll. of Laws, on the advocacy (legal professions), Art. 28 Par. 3 of Act No. 132/1990 Coll. of Laws. on the universities, Art. 25 of Act of the Czech Parliament No. 209/1990 Coll. of Laws, on the commercial lawyers and legal aid provided by them, Art. 11 Par. 2 of Act No. 382/1990 Coll. of Laws, on the family allowances (maternity benefits), if it concerns decisions which order to return the family allowances (maternity benefits), Art. 28 of Act of the Slovak Parliament No. 129/1990 Coll. of Laws, on the commercial lawyers Art. 9 Pars. 3 and 6 of Act No. 229/1991, on the settlement of ownership relations to the land and other agricultural property, Art 18 Par 1 of Act No. 451/1991 Coll. of Laws, by which some other presuppositions for the performance of some functions in state authorities and organizations of the Czech and Slovak Federative Republic, the Czech Republic, and the Slovak Republic are enacted, Art. 15 of Act No. 308/1991 Coll. of Laws, on the freedom of religion and on the position of the Church and religious communities, Art. 34 of Act No. 237/1991 Coll. of Laws, on the patent agents, Art. 8 Par. 5 of Act No. 424/1991 Coll. of Laws

Comments: This is an unofficial translated consolidation. The original Code was enforced by Act of 4 December 1963 No. 99 Coll. of Laws. Amendments included here are Act No. 36 Coll. of Laws of 6 April 1967, Act No. 158 Coll. of Laws of 18 December 1969, Act No. 49 Coll. of Laws of 26 April 1973, Act No. 20 Coll. of Laws of 26 March 1975, Act No. 133 Coll. of Laws of 10 November 1982, Act No. 180 Coll. of Laws of 4 May 1990, Act No. 328 Coll. of Laws of 11 July 1991 and Act No. 519 Coll. of Laws of 5 November 1991. Only selected provisions are included here.

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