**INTERNSHIP REPORT**

for the Exchange Program organized by the International Association of High Administrative Jurisdictions (2023)

on the internship in the Supreme Administrative Court of the Czech Republic (October 2-13, 2023)

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*Programme of the exchange*

The Supreme Administrative Court of the Czech Republic prepared an excellent exchange programme. For two weeks I had the opportunity to be at the Supreme Administrative Court of the Czech Republic and meet with several judges of this court almost every day. In addition, a meeting was also organized with the employees of the court's Documentation and Research Department and clerks of the judges. On 4th October, I had the opportunity to participate in the deliberations of one of the chambers of the Supreme Administrative Court of the Czech Republic. In addition, the Supreme Administrative Court of the Czech Republic had also organized visits to the Constitutional Court of the Czech Republic, the Supreme Court of the Czech Republic, the Regional Court of Brno, the Office of the Public Dender of Rights and the Faculty of Law of the Masaryk University.

Since at the same time there was also a judge from the German Federal Social Court in the Supreme Administrative Court of the Czech Republic as part of another exchange program, it also gave the opportunity to learn a little more about the work of this court and the German judicial system.

*About the Czech judicial system*

The Czech Republic has:

1. more than 80 district courts, which are courts of first instance in civil and criminal cases;
2. 8 regional courts, which are the court of appeal in those civil cases and criminal cases that have been examined in the first instance in the district courts; this court is also the court of first instance in certain categories of civil cases and criminal cases and in all administrative cases;
3. 2 high courts, which are the court of appeal in those civil cases and criminal cases which have been examined in the first instance in the regional courts;
4. 2 supreme courts: the Supreme Administrative Court basically as a court of cassation in administrative cases and the Supreme Court as an instance of cassation in civil and criminal cases.

Since in the Czech Republic a constitutional complaint can also be filed against court rulings, the Constitutional Court of the Czech Republic plays an important role in the work of all courts. The Constitutional Court of the Czech Republic has also heard several cases that have affected the structure of the judicial system and procedural laws. For example, on [June 27, 2001 ,](https://www.usoud.cz/en/decisions/2001-06-27-pl-us-16-99-administrative-judiciary) the Constitutional Court of the Czech Republic declared the section of the Civil Procedure Code to be unconstitutional. This section of the Civil Procedure Code regulated the court procedures for the administrative cases. The Constitutional Court found that the competence of the courts in administrative cases had not been defined sufficiently broad, as the courts could only annul the challenged decision. There were no other types of action. Although the Constitution of the Czech Republic provided for the Supreme Administrative Court, the Constitutional Court found that Civil Procedure Code did not provide an appeal against the decisions of the regional court and as a result the regional courts were the first and only level of jurisdiction in all administrative cases.

*About the Czech administrative court system*

In the Czech Republic, administrative cases are mostly heard in two levels of jurisdiction - regional courts as courts of first instance and the Supreme Administrative Court as the court of cassation. However, for a long time there was just one level of jurisdiction for administrative cases – regional courts. Although the establishment of the Supreme Administrative Court was foreseen in the Czech constitution as early as 1993, it was actually established only in 2003 after the aforementioned judgment of the Czech Constitutional Court.

For comparison, in Germany there are three levels of jurisdiction in social cases.

In the Czech Republic, administrative cases in regional court are heard by panel or chamber of three judges, but there are some types of cases which are decided by a single judge (social cases, asylum cases etc.). At the Supreme Administrative Court, the cases usually are also decided by three judges. However, the Supreme Administrative Court has also special chambers for certain types of cases with different number of judges. For example, the Supreme Administrative Court is the court of first instance in all national level election cases, and a special chamber consisting of seven judges has been established to hear these cases. There are also special chambers for the consideration of disputes between institutions and between courts, as well as the Grand Chamber consisting of seven or nine judges, to which the ordinary chamber submits legal issues for decision in cases where it wants to deviate from the jurisprudence or it has found contradictory decisions of the Supreme Administrative Court. The Grand Chamber does not decide the whole case, as it is in Latvia, but decides only the issue of rights referred to it. The Supreme Administrative Court also has several chambers for examining disciplinary cases of judges and prosecutors. The chairman of this chamber is a judge of the Supreme Administrative Court, but it also includes other persons, such as a judge of the Supreme Court. In the Supreme Administrative Court of the Czech Republic, unlike in Latvia, neither the judges nor the ordinary chambers have specialization. Also, unlike in Latvia, the composition of the chambers is not periodically changed periodically.

In Germany, at all levels of jurisdiction, social cases are dealt by the panel of judges which includes two lay judges who are usually nominated by trade unions and employers' organizations. In the German Federal Social Court, judges are divided into Senates, and each Senate has its own specialization. The composition of Senates is not changed periodically.

The Supreme Administrative Court of the Czech Republic has a relatively high number of cases per judge – about 130 cases per year. In order to reduce the workload, it is planned to increase both the number of judges by 6 judges (currently there are 32 judges), as well as the number of clerks (currently there are at least two clerks per judge, it is planned that each judge will have three clerks).

*About the administrative court procedures*

In the Czech Republic, there is a separate law governing administrative proceedings of the institution and a separate law governing administrative court procedure. Unlike in Latvia, administrative courts in the Czech Republic have jurisdiction over cases of administrative offences, but not over compensation for damage caused by the actions of public authorities.

The Czech administrative court procedure is based on adversarial system, not on inquisitorial system, as it is a case in Latvia and Germany.

There are four main types of actions or four main types of judicial protection in the Czech Republic:

1. action against a decision of an administrative authority;
2. protection against a failure to act;
3. judicial review of measures of a general nature;
4. protection against unlawful interference.

The action against a decision of an administrative authority is similar to the application for annulment of an administrative act in Latvia. The concept of a decision in the Czech Republic is similar to the concept of an administrative act in Latvia, however, it is narrower because there is an additional feature. Notion of decision can be applied only if the legal norms provide for a special, formal procedure for making a decision. It is not important whether this procedure has actually been implemented, what is important is whether the legal norms provide for such a procedure.

Protection against a failure to act is a type of action which is used in situations where the institution has not made a decision within the statutory period or within a reasonable period of time. If the action is granted, the court simply orders administrative authority to make a decision, without specifying the content of the decision.

Judicial review of measures of a general nature is used in situations where the applicant requests the cancellation of all or part of the decision of general nature (*Algemeinverfugung – in German*).

The last type of action - protection against unlawful interference - is intended for all situations that are not covered by the previous types of actions. Therefore this type of action covers situations in which in Latvia one could use 1) an actions against real action (material act), 2) an actions against an administrative act in cases where the legal norms do not provide for a special, formal procedure for decision-making, or other situations in which there is no similar type of action in Latvia. For example, administrative courts of Czech Republic had a case with this last type of actions where several associations and individuals complained that several ministries did not do enough to mitigate climate change.

The most significant difference from Latvia is that in the Czech Republic there is no action with which plaintiff could ask the court to oblige the administrative authority to issue a favourable decision with a specific content. It means that in Czech Republic, if the administrative authority has refused to issue a favourable decision, the court can only annul the refusal decision. If the refusal is cancelled, the administrative authority must re-examine the case, but the court cannot order the administrative authority to issue a new decision of a specific content. It is interesting to note, that the court, when deciding an action for protection against unlawful interference, can order the administrative authority to take specific actions to prevent the violation of rights of the person.

In Germany, the types of actions is similar to Latvia, and social courts can order the administrative authority to issue an administrative act of specific content.

Unlike in Latvia and Germany, in the Czech Republic, there are no cassation filters (inadmissibility criteria, which allow to reject case for all categories of cases if the case does not rise serious legal issues). Cassation filters are provided by law only for certain categories of cases (social rights, immigration, etc.). However, the Czech judges admitted that the possibility of rejecting a case based on cassation filters does not save a lot of time, as these decisions also have a quite detailed reasoning (3-6 pages). The judges explained the writing of an extended reasoning by the fact that in the Czech Republic there is a full constitutional complaint and a person can also complain to the Constitutional Court about a court ruling. Consequently, the decisions rejecting a case based on cassation filters must have a sufficiently broad reasoning so that the Constitutional Court can examine these decisions in accordance with its competence.

In Germany, a person must obtain permission to file a cassation complaint with the Federal Social Court. In this court as well, the decision on refusal to provide a permission for cassation has detailed reasons and can be 3-6 pages long. The need for reasoning is also explained by the possibility for a person to complain to the Constitutional Court about court rulings.

In the Czech Republic, litigants in the Supreme Administrative Court must be represented by an attorney. In the German Federal Social Court, the participants in the proceedings must be represented either by an attorney or by trade unions or employers' organizations.

*Conclusions*

The exchange program provided an excellent opportunity to get to know the Czech legal and judicial system, as well as to compare it with the Latvian legal and judicial system, especially with regard to administrative justice. The system of administrative courts and administrative proceedings in the Czech Republic is not identical, but nevertheless sufficiently similar to Latvia's, therefore cooperation with the Supreme Administrative Court of the Czech Republic can be developed. For example, the Supreme Administrative Court of the Czech Republic has a wealth of experience in dealing with election disputes and may be an area for the experience exchange.

The Czech Supreme Administrative Court had brilliantly planned an extremely interesting programme, which was implemented flawlessly. All the people I met were very kind and nice and genuinely interested in the discussions. Throughout my stay in Brno I felt very welcome at the Supreme Administrative Court of the Czech Republic. High quality support was also continuously provided to solve any problems and questions. I can therefore wholeheartedly recommend the Czech Supreme Administrative Court as an excellent place for an exchange of experience.

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