

Act no.71
from June 29, 1967
on Administrative Proceedings
(Administrative Code)

The National Assembly of the Czechoslovak Socialist Republic passed the
following Act:

Chapter I
Preliminary provisions

Part I
Scope of the Act

§ 1

(1) This Act shall govern the proceedings in which the rights, the legitimate interests and the duties of the citizens and organizations regarding the public administration are decided by the National Councils, Ministries and other central public administrative authorities, the Slovak National Council bodies and other public administration bodies.

(2) Furthermore this Act shall govern the practices of the public organizations bodies where the Act has authorized them to decide on the rights, the legitimate interests and the duties of the citizens and organizations regarding the public administration.

(3) The term "administrative authorities" used in the text that follows shall mean the authorities under subsection 1 and 2 above.

§ 2

The provisions of this Act shall not apply:

a) to the practices where the administrative authorities decide on legal relations of the organizations, employees and functionaries if these relations relate to their subordination to the authority which makes the decision and to the practices where the administrative authorities decide on legal relations in connection with the management of economic activities of the organizations,

b) to the examination and settling of complaints and motions lodged by the citizens and organizations subject to special regulations. However if it is clear from the complaint or from the motion that they represent, entirely or partially, a proposal pursuant to this Act, the provisions hereunder shall apply.

Part 2

Basic principles governing the proceedings

§ 3

(1) In the course of the proceedings the administrative authorities must respect the law and other legal regulations. They must protect the interests of the State and the society, the rights and the interests of the citizens and organizations and require, in a consistent manner, the fulfillment of their duties.

(2) In the course of the proceedings the administrative authorities must proceed in close collaboration with the citizens and the organizations and make them always possible to plead their rights and their interests in an efficient manner, in particular to give their view on the evidence and to make proposals. The administrative authorities must provide the citizens and the organizations with guidance and help in order not to prejudice their rights due to the lack of knowledge of law.

(3) The administrative authorities must deal with any matter subject to the proceedings in a diligent and responsible manner, to settle the matter in a timely manner and without undue delay and use the most suitable means which lead to the accurate settlement of the matter. If the nature of the matter allows its amicable settlement, the administrative authority must make all reasonable efforts to settle the matter amicably. The administrative authorities must ensure the administrative proceedings to be economic and without uselessly bothering the citizens and the organizations.

(4) The decisions of the administrative authorities must be based on the face of affairs which was reliably determined. The proceedings must be held in a way which would reinforce the confidence of the citizens in the justice, so that the decisions taken are persuasive and cause the citizens and the organizations to fulfill their duties of their own accord.

(5) The provisions of basic principles governing the proceedings shall apply also to the issue of certificates, opinions, viewpoints, recommendations and other similar acts.

§ 4

(1) The parties (§ 14) shall cooperate with the administrative authorities during the whole course of the proceedings.

(2) All the parties have the same rights and duties in the course of the proceedings.

Chapter II

Administrative authorities and parties

Part 1

Jurisdiction

§ 5

(1) The jurisdiction with regard to the nature of the matter is reserved to the administrative authorities specified by special legislation, otherwise the proceedings shall be held in front of National Councils.

(2) Unless otherwise provided by special legislation the proceedings in first instance shall be held in front of the District National Councils.

§ 6

(1) In case the competence for the proceedings is reserved to a National Council, the proceedings shall be held in front of the respective department, where there is no such a department established, the proceedings shall be held in front of the respective commission and where there is no such a commission established, proceedings shall be held in front of a board established at the National Council. The provisions of § 39 subsection 3 and § 54 subsection 3 of the National Councils Act shall hereby not be affected.

(3) The special legislation shall determine which matters shall be reserved to the authority of the Administrative Commissions at the National Councils.

§ 7

(1) In case of proceedings which involve an activity of a party the jurisdiction, with regard to the place of proceedings, shall be governed by the place where the activity was performed. In case the proceedings involve real estate, the jurisdiction shall be governed by the place where the real estate is located.

(2) In all the other cases the jurisdiction, with regard to the place of proceedings, shall be governed by the party's permanent residence. In case the party is an organisation, the seat of the organisation or its unit on a lower level shall be relevant. If the party's residence (seat) is outside the Czechoslovak Socialist Republic, the jurisdiction shall be governed by his last permanent residence (seat) in the Czechoslovak Socialist Republic.

(3) If there are more administrative authorities competent with regard to the place of proceedings and unless otherwise agreed by the competent authorities, the proceedings shall be held in front of the administrative authority which initiated the proceedings as first.

(4) If there are more administrative authorities competent with regard to the place of proceedings and if all of them refuse to carry out the proceedings, the administrative authority on a higher level which is immediately superior shall determine the authority which shall be charged with the proceedings.

(5) If the jurisdiction, with regard to the place of proceedings, may not be determined under the subsections above, the central body of public administration competent with regard to the nature of the matter, shall determine the authority which shall be charged with the proceedings.

§ 8

Upon the party's request or if approved by the party the administrative authority competent under § 7 subsection 2 may assign the matter for its settlement to another administrative authority competent with regard to the place of the proceedings at the same level, provided the party has its workplace or temporary residence within the jurisdiction of this administrative authority. The assignment must be approved by the other parties and by the authority to which the matter should be assigned.

Part 2

Exclusion of employees or members of the administrative authority

§ 9

(1) The exclusion of the employees of the administrative authority from the examination and the decision on the matter shall operate in all those cases in which there is a doubt concerning their own unbiased approach, with regard to their attitude towards the matter, the parties or their representatives.

(2) The exclusion from the examination and the decision on the matter in front of administrative authorities shall apply also to the person who took part on the proceedings as an employee of an administrative authority of a different level.

§ 10

The party shall notify the administrative authority on the facts suggesting to exclude an employee of the administrative authority (§ 9) as soon as it learns of their existence.

§ 11

(1) As soon as an employee the administrative authority learns the facts suggesting to exclude him from the proceedings (§ 9) he shall notify without delay his immediate superior, the head of the administrative authority shall communicate the fact to the head of the superior administrative authority and the head of the department at the National Council shall communicate the fact to the National Council Secretary.

(2) The biased administrative authority employee shall take only those actions which may not be delayed.

§ 12

(1) The decision on the exclusion of the administrative authority employee shall be taken by the authority to which the reasons for his exclusion were notified (§ 11 subsection 1). Where the decision on the administrative authority employee's exclusion was taken, the authority must take the

necessary measures to ensure the proceedings to be continued in a dull manner.

(2) The decision on the exclusion of the administrative authority employee is not subject to a separate appeal.

§ 13

(1) The causes of exclusion of the administrative authority employee from the examination and decision of the matter (§ 9) apply also to the member of a committee (administrative committee) at the National Council charged with the proceedings.

(2) As soon as the member of a committee (administrative committee) at the National Council learns the facts suggesting to exclude him from the proceedings he shall notify without delay the National Council board which shall take the decision in the matter of exclusion of the member of the committee (administrative committee) from the proceedings.

(3) Where the committee (administrative committee) may not constitute the quorum due to the exclusion of its members from the proceedings, the proceedings shall be held in front of the National Council board, unless the general assembly takes other measures to ensure the continuity of the proceedings.

(4) The provisions of § 10, § 11 subsection 2 and § 12 subsection 2 apply per analogiam.

Part 3

Parties

§ 14

(1) The person whose rights, legitimate interests and duties are the subject matter of the proceedings or whose rights, legitimate interests and duties may be directly affected by the decision shall be party to the proceedings. Furthermore any person claiming that his rights, legitimate interests and duties may be directly affected by the decision shall be party to the proceedings until the contrary is proved.

(2) The person whose status of the party to the proceedings is recognized by special legislation shall also be party to the proceedings.

§ 15

The party may act independently to the extent to which it is capable to assume rights and obligations through its own actions.

Part 4 Representation

§ 16

(1) The party which may not act independently shall be represented by its statutory representative; if there is no such a statutory representative and if it is necessary in order to plead his rights, the administrative authority shall appoint a curator.

(2) The administrative authority shall appoint a curator also to act on behalf of the person whose residence is unknown or to whom it was impossible to deliver the documents to his address abroad and who has not appointed a representative. The same applies to the party which suffers from mental disease or by a different perturbation which hinders his capacity to act and which has no statutory representative.

§ 17

(1) The parties, their statutory representatives and their custodians may be represented by an attorney-at-law or by another representative chosen by them.

(2) An organization shall act through its bodies or through its representative.

(3) A voluntary organization may represent its member upon his own request. An appointed member or employee of the organization shall then act on behalf of the organization.

(4) The authorization to represent the party must be proved by a power of attorney in written form or by a power of attorney in form of minutes. The administrative authority may not require to prove authorization to act on behalf of the party in undoubted cases.

(5) Where more participants have submitted a common proposal, they shall elect a common representative for the delivery of documents, otherwise the administrative authority shall appoint this representative.

Chapter III
Course of the Proceedings

Part 1
General Provisions

§ 18
Opening of the proceedings

- (1) The proceedings shall initiate upon the party's proposal or upon the administrative authority's motion.
- (2) The proceedings shall be deemed initiated upon receipt of the party's proposal by the administrative authority competent to take the relevant decision. In case of proceedings held upon the administrative authority's motion, the proceedings shall be deemed initiated on the date when the first action was taken towards the party.
- (3) The administrative authority shall inform all the known parties that the proceedings were opened. Where the parties or their residences are unknown or where required by special legislation, the information on the opening of the proceedings shall be published in form of a decree.

§ 19
Proposal

- (1) The proposal may be submitted either in written form or verbally in form of minutes. The proposal may also be submitted by cable, this proposal, containing the proposed decision must be integrated in writing or verbally (in form of minutes) within 3 days from its submission.
- (2) The contents of the proposal shall be examined. The proposal must determine clearly who is its author, what is its subject matter and what is the proposed decision. Special legislation may specify other requirements.
- (3) In case the proposal lacks some of the prescribed essentials, the administrative authority shall help the party to remove the deficiencies or it shall invite it to remove them within a stipulated period, advising it what the implications of the default are for the ulterior developments of the proceedings.

(4) The proposal shall be submitted to the authority competent with regard to the nature of the matter and to the place of the proceedings (§ 5 through to § 7). If the proceedings are held in front of a National Council, the proposal may be submitted to the Municipal (Sub-District) National Council, provided the party has its residence or his workplace in its jurisdiction.

(5) Upon the party's request the receipt of the proposal must be confirmed.

§ 20

Assignment

Where the administrative authority is not competent to take the decision, it must forward the proposal without undue delay to the competent administrative authority and notify the party thereof. Under the risk of delay the administrative authority must take all the necessary actions, in particular those which are susceptible to prevent the imminent damage.

§ 21

Verbal process

(1) The administrative authority shall order the verbal process to be held if the nature of the matter so requires, in particular if it would contribute to clear the matter up or if required by special legislation. If an inspection is to be part of the verbal process, the verbal process is usually held in the place of inspection.

(2) The administrative authority shall invite all the parties asking them to present their comments and make their proposals. Special legislation shall determine the cases in which the comments and objections made subsequently shall not be considered, the participants must be explicitly warned of this fact.

(3) Unless otherwise provided by special legislation or by the administrative authority the verbal process is closed to public.

§ 22

Minutes

(1) The verbal proposals and the important questions pertinent to the proceedings, in particular the evidence provided, the viewpoints of the

parties, the verbal process and the voting shall be recorded in minutes to be taken by the administrative authority.

(2) The minutes must clearly indicate the authority which held the proceedings, the place and the date of the proceedings, its subject matter, the participants and the course of the proceedings, the proposals which were submitted and the measures taken; the minutes on voting must include the resolution and the results of the voting.

(3) The minutes shall be signed by all the persons who took part on the proceedings after it is read to all the participants, as well as by the employee of the administrative authority charged with the proceedings. The minutes on voting shall be signed by all the members of the administrative authority present. The refusal to sign the minutes, the reasons of the refusal and the objections regarding the contents of the minutes shall also be recorded.

§ 23

Access to documentation

(1) The parties and their representatives are entitled to access the documentation other than voting minutes and make abstracts therefrom.

(2) The administrative authority may allow the access to the documentation also to other persons, who must justify their request.

(3) The administrative authority must ensure that the access to the documentation does not result in a disclosure of a State, business or service secret or violation of the reticence duty imposed or recognized by the law.

Personal delivery

§ 24

(1) The important documents, in particular the decisions, shall be delivered to the addressee's own hands.

(2) In case the addressee of the document to be delivered personally was not reached in spite of his presence at the address, the delivering authority shall advise him in an appropriate manner to be available on a specific day and hour when a new attempt to deliver shall be made. In case this new attempt to deliver the document is not successful, the delivering authority shall deposit the document at the post office or at the local National

Council notifying the address accordingly in an appropriate manner. Should the addressee fail to take delivery of the document within three days from its deposit, the last day of this period shall be deemed to be the delivery date, even if the addressee was not aware of the documents being deposited.

(3) Should the addressee refuse to take delivery of the documents without any reason, it shall be deemed delivered on the day when the delivery was refused, the delivering authority must warn the addressee thereof.

(4) If the party resident or having its seat abroad has a custodian or a representative in this country, the document shall be delivered to the custodian or the representative.

§ 25

(1) The documents addressed to the authorities or the organizations shall be delivered to the employees authorized to take delivery of the documents on behalf of the authority or the organization. If there are no such employees, the document to be delivered personally shall be delivered to the person authorized to act on behalf of the authority or the organization.

(2) The documents addressed to the attorneys-at-law shall be delivered to their office.

(3) If the party has appointed a representative for the whole proceedings, the documents shall be delivered only to the representative. However in case the party should carry out some tasks regarding the proceedings personally, the documents shall be delivered both to the representative and the party.

§ 26

Delivery by public notice

(1) The information shall be delivered in form of a public notice if the parties themselves or their residence are unknown or if so required by special legislation.

(2) The delivery by public notice shall be made by the exposure of the document for 15 days in the usual place. The last day of this period shall be deemed to be the date of delivery.

Time periods

§ 27

- (1) Unless a time period is determined by this Act or by special legislation and if necessary the administrative authority shall determine a reasonable period to carry out the tasks being part of the proceedings.
- (2) The day when the fact relevant for the start of the period occurred shall not be counted towards the period's duration. The time periods determined in weeks, months or years shall expire on the day which has the same name as the day when the fact relevant for the start of the period occurred. Where there is no such a date during that month, the period expires on the last day of the month. If the period should end on the day which is not a business day, the period shall expire on the first business day that follows.
- (3) The period shall be observed if the proposal is submitted personally at the address of the administrative authority under § 19 subsection 4 or if the proposal is handed over to the post office within the last day of the period.
- (4) In case of doubt the term shall be deemed respected unless proved otherwise.

§ 28

- (1) The administrative authority shall forgive the default if there are serious reasons and if so requested by the party within 15 days from the date on which the reason for the default ceased to exist and provided he recovers the default within this period. The administrative authority may recognize suspensive effect of the request.
- (2) The default may not be forgiven if one year has elapsed from the day when the act should have been carried out.
- (3) The decision regarding the request to forgive the default shall not be subject to appeal.

§ 29

Suspension of the proceedings

- (1) The administrative authority shall suspend the proceedings upon opening of the proceedings on the preliminary matter (§ 40) or if the party was asked to remedy the shortcomings of a proposal within a stipulated period (§ 19 subsection 3).

(2) Furthermore the administrative authority may suspend the proceedings for a maximum period of 30 days if the parties agree to ask for the suspension for serious reasons.

(3) The decision on the suspension of the proceedings shall not be subject to appeal.

(4) The administrative authority shall resume the proceedings in its own discretion or upon the motion of one of the parties immediately after the impediments causing the suspension cease to exist or immediately after the expiry of the period under subsection 2.

(5) The time periods hereunder shall be suspended for the duration of the proceedings suspension.

§ 30

Ceasing of the proceedings

The administrative authority shall cause the proceedings to cease in case the party withdraws its proposal to initiate the proceedings, provided the other parties agree therewith or in case the grounds for the proceedings initiated by the administrative authority ceased to exist.

§ 31

Proceedings expenses

(1) The proceedings expenses arisen to the administrative authority shall be borne by this authority. The expenses arisen to the party shall be born by the party.

(2) The administrative authority may cause the parties, the witnesses and the experts to reimburse the expenses arisen to the administrative authority by their fault, furthermore it may cause them to reimburse the expenses arisen to the other participants by their fault.

(3) The administrative authority shall reimburse the witness the expenses in cash and the salary which he proves to have lost. The claim must be made within 3 days from the examination, otherwise it shall expire.

(4) The expenses related to the presentation of a document or to the inspection arisen to a person other than a party shall be reimbursed by the administrative authority.

(5) The reimbursement of expenses in cash and the provision of remuneration to the experts and translators shall be governed by special legislation.¹⁾

Part 2

Establishment of the evidence necessary to take the decision

Evidence necessary for the decision

§ 32

(1) The administrative authority must determine, in an accurate and comprehensive manner, the face of affairs and therefore to provide the evidence necessary for the decision making. When providing the evidence the administrative authority shall not be bound by the suggestions of the parties.

(2) The evidence necessary to take the decision shall consist mainly in proposals, suggestions and opinions of the parties, proofs, statements under oath, as well as in facts generally known or known to the authority because of its activity. The extent and the methods for the establishment of the evidence shall be determined by the administrative authority.

(3) Upon the administrative authority request the public authorities and the socialist organizations must communicate the facts which are relevant for the proceedings and for the decision.

§ 33

(1) A party is entitled to suggest the evidence to be furnished, including the additional evidence and to inquire the witnesses and the experts during the verbal process and the inspection.

(2) The administrative authority must provide the parties with the opportunity to express their view regarding the supporting evidence and the methods of its establishment prior to the decision and, if appropriate, to suggest some additional evidence to be provided.

§ 34

Furnishing of proofs

(1) The proofs may be furnished using any mean suitable to determine and to clear up the actual face of affairs and which is in compliance with the law.

(2) The proofs shall mainly consist in examination of the witnesses, expert's opinions, documents and inspection.

(3) A party shall be bound to suggest the proofs which are known to it in order to support its propositions.

(4) The furnishing of proofs is reserved to the administrative authority.

(5) The administrative authority evaluates the proofs in its own discretion, each proof shall be evaluated separately and then all of them in their mutual context.

(6) The facts generally known or which are known to the administrative authority from its official activity must not be proved.

§ 35

Witnesses

(1) No citizen may refuse to be examined as a witness, he must state the truth and must not leave unrelated any of the facts.

(2) The person who would disclose State, business or service secret or violate the reticence duty imposed or recognized by the law may not be examined as a witness, unless the relevant authority or the person whose interest is protected by the reticence duty relieves the person off this duty.

(3) The person who would cause risk of penal prosecution for himself or for his close persons may refuse to be examined as a witness, the definition of close persons is set forth in the Civil Code.²⁾

(4) The administrative authority shall instruct the witness prior to his examination on his right to refuse to be examined, on his duty to state the truth and not leave unrelated any of the facts and also on legal implications of a false and incomplete statement.³⁾

§ 36

Experts

If an assessment made by an expert is necessary to evaluate the facts important for the decision, the administrative authority shall appoint an expert pursuant to the appropriate legal rules.⁴⁾

§ 37

Documents

(1) The administrative authority may impose to a party or to a citizen (organization) holding a document necessary for the evidence purposes, to deliver such a document.

(2) A document may be refused and may not be required for the same reasons for which a witness may refuse to give the statement or a statement may not be required from him.

§ 38

Inspection

(1) The owner of an asset or its user must deliver to the administrative authority the asset subject to inspection or he must make the asset available for an on-site inspection.

(2) The inspection may be refused and may not be required for the same reasons for which a witness may refuse to give the statement or a statement may not be required from him.

(3) In case of an on-site inspection the administrative authority shall invite a party and the person authorized to dispose of the asset subject to inspection.

§ 39

Statement under oath

(1) Unless otherwise provided by special legislation the administrative authority may replace the evidence by a statement under oath made by a party.

(2) The administrative authority shall not allow a statement under oath if contrary to public interest or if it would upset the equality of the parties. A statement under oath may not replace an expert's opinion.

(3) The party may not make a false statement under oath. The administrative authority must instruct the party on legal implications of a false statement under oath.⁵⁾

§ 40

Preliminary issues

(1) If an issue arises during the proceedings on which a final decision by the competent authority was pronounced, this decision shall be binding upon the administrative authority. Otherwise the administrative authority may come to its own conclusion on the issue or it initiates the proceedings in front of this competent authority.

(2) The administrative authority may not come to a conclusion, as part of the preliminary issues, on whether a criminal act, a trespass or a contravention was committed, by whom they were committed or on personal status of a person if the decision on this issue is reserved to the court.

Part 3

Organization of the proceedings and their course

§ 41

Summons

(1) The administrative authority shall summon those persons, whose personal presence is unavoidable during the discussions on the matter.

(2) The summons issued by the administrative authority must include a warning on legal implications if the person fails to show up.

§ 42

Forced summons

(1) A party or a witness which fails to show up in spite of repeated summons and whose absence causes the impossibility to continue the proceedings without any due excuse or without having serious reasons to do so, may be brought to the proceedings by force.

(2) The administrative authority shall ask the Police to bring the party or the witness to the proceedings by force. In case of members of Slovak Army or members of Public Armed Forces the request shall be addressed to their officer.

§ 43

Preliminary measures

(1) The administrative authority may order, prior to the termination of the proceedings and to the extent necessary to ensure the purpose of the proceedings is met:

a) that the parties perform an action or abstain from an action or suffer an action performed by others,

b) to provide for the matters which must be destroyed or which must be made unuseful or which are necessary for the furnishing of evidence.

(2) The administrative authority shall annul the preliminary measure as soon as the reasons for its implementation cease to exist, otherwise the measure shall cease to be effective from the effective date of the decision on the matter.

(3) The appeal against the decision ordering preliminary measures shall have no suspensive effects.

§ 44

Request to carry out a processual act

(1) The administrative authorities perform the processual acts within their own jurisdiction.

(2) In case the administrative authority may not perform an act within its own jurisdiction or if there are other reasons to do so, it may address a request to another administrative authority on the same level or on a lower level to carry the act for it.

(3) The addressee of the request must accommodate the request within the limits of its own powers within 15 days, unless the request specifies a longer period.

§ 45

Measures in case of violation of the order

(1) The person who complicates the course of the proceedings, mainly by failing to show up upon the administrative authority's request without any motivation to do so, by disturbing the course of the proceedings in spite of being reprimanded not to do so, by refusing to give the statement, deliver a document or enable the inspection, may be penalized by the administrative authority by a fine up to 200 Kčs. In case of members of the Slovak Army and members of the Public Armed Forces the matter shall be forwarded to be settled pursuant to disciplinary rules.

(2) The person who has seriously violated the order may be expelled from the place of discussion by the administrative authority. If the party was expelled the proceedings may be held in his absence.

(3) The administrative authority who inflicted the fine may also forgive it.

Part 4 Decision

§ 46

The decision must be in compliance with the law and other legal regulations, must be pronounced by the competent authority, must be based on the reliable determination of the face of affairs and must contain the required essentials.

§ 47 Essentials of a decision

(1) The decision must contain the verdict, its motivation and the instructions on the appeal. The instructions are not required if the claims of all the parties to the proceedings are fully accommodated.

(2) The verdict shall consist of the decision on the matter and the provision of the legal rule based on which the decision was taken and, if appropriate, also an order to refund the expenses incurred during the proceedings. If a decision imposes a duty to fulfill a certain obligation upon one of the parties, the administrative authority shall assign the party a period which may not be shorter than the period provided by special legislation.

(3) The motivation shall state what facts were relevant for the decision and what were the considerations which influenced the process of evaluation of the evidence and of using the legal rules based on which the decision was taken.

(4) The instructions on the appeal must indicate whether the decision is final or whether it is appealable, the time periods for the appeal, the authority and the place to which the appeal shall be addressed.

(5) The written copy of the decision must indicate the authority who issued the decision, the date of the decision, the names and the surnames of the parties. The decision must bear an official seal with the name, surname

and the position of the authorised person. Special legislation may specify other essentials of a decision.

(6) Writing, calculations and other apparent errors in the decision in written form may be corrected by the administrative authority in any moment at its own discretion and the parties to the proceedings shall be notified thereof.

§ 48

Amicable agreement

(1) If allowed by the nature of the matter and if approved by the administrative authority the parties may come to an amicable settlement of the dispute. The administrative authority shall refuse the approval if the conciliation is contrary to the legislation or to the public interest.

(2) The amicable agreement approved by the administrative authority shall be enforceable.

§ 49

Time periods for the decisions

(1) In simple matters, in particular if the decision may be based on the documents submitted by a party, the administrative authority shall decide immediately.

(2) In other cases and unless special legislation provides otherwise the administrative authority shall decide the matter within 30 days from the opening date of the proceedings. If the case is of a particularly complicated nature the decision must be pronounced within 60 days from the opening date. If, due to the nature of the matter, the decision may be reached neither within this time period, the period may be extended by the appealing authority (the authority who shall decide on the appeal). In case the administrative authority may not decide within 30 or within 60 days respectively, the authority must inform the party and state the reasons thereof.

§ 50

Measure against inaction

If allowed by the nature of the matter and if no other remedy is available, the administrative authority who would otherwise be competent to decide

on the appeal shall decide the matter on its own in case the administrative authority competent to pronounce the decision failed to open the proceedings in spite of being obliged to do so or if it failed to pronounce the decision within the time period specified in § 49 subsection 2.

§ 51

Promulgation of the decision

(1) The decision shall be notified to the party by delivering of its written copy. The date of receipt of the decision shall be deemed to be the promulgation date.

(2) The party personally present at the proceedings may be notified on the decision by a verbal statement. The date of the verbal statement shall be deemed to be the promulgation date only if the party waived his right to have the written copy of the decision delivered.

§ 52

Effectiveness and enforceability of the decision

(1) A decision which is not appealable shall be effective.

(2) A decision shall be enforceable if it is unappealable or if the appeal shall not have suspensive effects.

Chapter four

Examination of the decisions

Part 1

Appeal

§ 53

Unless otherwise provided by the law and unless a party has waived his right to appeal, either in writing or verbally including the waiver in the minutes the party may appeal against the decision of the administrative authority.

§ 54

(1) The appeal shall be lodged with the administrative authority which pronounced the decision being appealed.

(2) Unless other time period is specified by special legislation the appeal must be lodged within 15 days from the decision promulgation date.

(3) In case the party, based on an incorrect instruction or not being instructed at all, fails to apply for a remedy within the stipulated period, it is presumed that the period was complied with if the appeal was lodged within 3 months from the decision promulgation date.

§ 55

(1) Unless otherwise provided by special legislation the appeal lodged in due time shall have suspensive effects.

(2) If an urgent public interest so requires or if there is a risk that by suspending the enforcement of the decision a party to the proceedings or another person suffers an irreparable damage, the administrative authority may revoke the suspensive effects; the urgency must be duly motivated. The suspensive effects may not be revoked if so stipulated by special legislation.

(3) The decision revoking the suspensive effects shall be unappealable.

§ 56

The administrative authority which pronounced the decision appealed shall notify the other parties on the appeal that was lodged, shall ask them to give their statements and if necessary it shall complete the proceedings by providing new evidence.

§ 57

(1) The administrative authority which pronounced the appealed decision may settle the appeal on its own, provided it accommodates entirely the appeal lodged and provided the decision does not involve a party other than the appellant or if approved by other parties to the proceedings.

(2) If the appeal is not settled by the administrative authority which pronounced the appealed decision, it shall forward the appeal, together with the results of the completed proceedings and the files to the appellate authority within 30 days from the date of receipt of the appeal.

§ 58

(1) The appeal shall be settled by the authority on a higher level which is immediately superior to the authority which pronounced the appealed decision.

(2) In case of proceedings held in front of National Committees the appeal shall be settled by the respective Department at the National Committee on a higher level, unless the appeal is settled by the Administration Committee at the National Committee⁶⁾ on a higher level established under special legislation or a Commission at this National Committee.⁷⁾

(3) An appeal lodged against a decision pronounced by a body of the Regional National Committee shall be settled by the appropriate central body of public administration. In Slovakia this body shall be the appropriate body of the Slovak National Council within its own powers.

(4) If a state-owned organization pronounced a decision within the administration proceedings the appeal shall be settled by the administrative authority having control of the organization.

§ 59

(1) The appellate authority shall examine the appealed decision in its globality; if necessary the proceedings shall be completed and the shortcomings, if any, shall be removed.

(2) If reasons exist to do so the appellate authority shall amend the decision or declare it null and void, otherwise the appeal shall be rejected and the decision confirmed.

(3) The appellate authority shall declare the decision null and void and the matter shall be resubmitted to the administrative authority by which it was pronounced in order to open a new discussion and to make a new decision, if this procedure is more suitable with regard to the swiftness and economy of the proceedings. The administrative authority shall be bound by the opinion of the appellate authority.

§ 60

The appellate authority must examine also those appeals which are submitted after the due date or which are not allowed, in order to

determine whether there are any grounds for a renewal of the proceedings or amendment or annulment of the decision beyond the appeal proceedings; otherwise it shall be rejected.

§ 61

(1) A decision of a central body of public administration (the respective body of the Slovak National Council) pronounced in first instance is subject to appeal. The appeal must be lodged with the authority which pronounced the decision within 15 days from its promulgation date. The appeal lodged in due time shall have suspensive effects.

(2) The appeal shall be settled by the Chief Officer of the central body of public administration (the body of the Slovak National Council) based on the motion of a special Committee established by the Chief Officer. The decision shall be final and not subject to appeal.

(3) The provisions governing the appeal proceedings shall apply also on the appeal made against a decision of a central body of public administration.

Part II

Renewal of the proceedings

§ 62

(1) The proceedings held in front of the administrative authority concluded by a final decision shall be renewed upon the party's request in the following cases:

a) if new facts or evidence arose which could have had a significant impact on the decision and which could not be considered during the proceedings without the party's involvement,

b) the decision was dependent on the evaluation of a preliminary issue which was decided otherwise by the competent authority,

c) due to irregular practices of the administrative authority the party was denied the possibility to take part on the proceedings, provided the fact could have had a significant impact on the decision and the remedy could not have been done during the appeal proceedings,

d) the decision was pronounced by an authority excluded from the proceedings (§ 9 and § 13), provided the fact could have had a significant

impact on the decision and the remedy could not have been done during the appeal proceedings,

e) the decision is based on the evidence which turned out to be untrue or the decision was achieved through a criminal act.

(2) The administrative authority shall order the renewal of the proceedings for reasons specified under subsection 1 provided there is a general interest to reexamine the decision.

(3) The renewal of the proceedings is excluded if the decision included an approval in favor of the party to initiate civil action or labor action or if a decision was pronounced on the personal status of a party and the party acquired the rights in good faith.

§ 63

(1) The renewal shall be allowed (if requested by the party) or ordered by the administrative authority which decided the matter in the last instance.

(2) The application for the renewal of the proceedings must specify the reasons of the renewal and the facts proving that the application was submitted in due time.

(3) The application shall be filed with the administrative authority specified in subsection 1 within 3 months from the date the party learned the facts causing renewal, but not later than 3 years from the decision's effective date. The same time period applies to the renewal ordered by the administrative authority. The default from the time limits (§ 28) may not be forgiven.

(4) The renewal shall be allowed or ordered after three years have elapsed from the decision's effective date only if the decision was achieved through a criminal act.

(5) The decision allowing or ordering the renewal is subject to appeal. The decision has suspensive effects provided the appealed decision has not yet been executed.

§ 64

(1) The new proceedings on the matter shall be held in front of the administrative authority which pronounced the decision to which the reasons for the renewal relate. If the reason for the renewal relates both to the decision of administrative authority on the first and the second level,

new proceedings shall be held in front of the administrative authority on the first level.

(2) In case the reason for the renewal relates solely to the proceedings in front of the appellate authority, the decision on the renewal shall be joined to the new decision on the matter.

(3) A new decision on the matter shall result in an annulment of the original decision.

(4) An appeal may be lodged against the new decision on the matter.

Part III

Examination of the decision beyond the appeal proceedings

§ 65

(1) A decision which is final may be examined by the administrative authority on a higher level which is immediately superior to the authority which pronounced the decision, based upon its own or a someone else's motion (§ 58). In case of a decision of a central body of public administration (Slovak National Council body) the examination shall be carried out by its Chief Officer based on a motion of a Special Committee established by the latter (§ 61 subsection 2).

(2) The administrative authority competent to examine the decision shall amend the decision or declare it null and void if it is contrary to the law, generally binding legal rules or a generally binding decree, keeping in mind to prejudice the rights acquired in good faith as little as possible.

(3) When examining the decision the administrative authority must base its assumptions on the face of affairs and circumstances existing when the decision was pronounced. Therefore it may not amend or declare null and void a decision if following the date of its pronouncement a change occurred with regard to the relevant circumstances on which the original decision was based.

§ 66

A motion by a party to carry out an examination of the decision may be fully accommodated also by the administrative authority which pronounced the decision (in case of proceedings in front of National Committees the examination may be entrusted to the superior body of the National

Committee at the same level), provided the decision does not involve another party to the proceedings or if so approved by the other parties.

§ 67

(1) The decision which included an approval in favor of the party to initiate civil action or labor action or a decision which was pronounced on the personal status of a party may not be amended or declared null and void beyond the appeal proceedings if the party acquired the rights in good faith.

(2) If pursuant to the valid legislation a court has made a motion to examine a decision pronounced by an administrative authority, the administrative authority may not amend the decision or declare it null and void beyond the appeal proceedings, unless it fully accommodates all the parties to the proceedings.

§ 68

(1) An administrative authority may not amend the decision or declare it null and void beyond the appeal proceedings if three years have elapsed from the appealed decision's effective date.

(2) The decision which amends a decision or declares it null and void beyond the appeal proceedings is subject to appeal.

Part IV

Proceedings on the Attorney General's Protest

§ 69

(1) If a protest was lodged by the Attorney General with the administrative authority which pronounced the decision, the authority may declare the protested decision null and void or replace it by a decision which is in compliance with the law.

(2) If the administrative authority does not fully accommodate the protest on its own, it must submit the protest, together with the files, to the administrative authority on a higher level which is immediately superior to the authority in question for its decision (§ 58). The protest and the files must be submitted within the time period stipulated in the protest or within

30 days if no period was assigned. If the decision was made by a central body of public administration (Slovak National Council body) the protest shall be submitted to the Council Chief Officer who shall decide on the basis of a proposal made by a special committee established by the latter (§ 61 subsection 2).

(3) The decision on the Attorney General's protest shall be delivered to the Attorney General and to the parties.

(4) The parties may appeal against the decision on the Attorney General's protest.

Part V

Examination of the decisions pronounced by the administrative authorities
by a Court

§ 70

Special legislation stipulates in which cases the Courts shall examine the decisions made by the administrative authorities.

Chapter five

Enforcement of the decisions

Part I

Common provisions

§ 71

(1) In case a party fails to fulfill, within the stipulated period, an obligation imposed upon it by a decision which is enforceable (§ 52 subsection 2) or by an amicable agreement approved by the administrative authority or by a list of defaulted payments prepared by the administrative authority (hereinafter referred to only as "the decision"), the fulfillment shall be enforced. If no time period for the fulfillment was specified in the decision, it shall be determined by the authority charged with enforcement. This period may not be shorter than the one specified by special legislation.

(2) The list of defaulted payments is enforceable if it was prepared on the basis of a decision which is enforceable or on the basis of the debtor's

payment obligation with no specific decision taken under special legislation.

(3) The decision may be enforced within 3 years from the end of the time period relevant for the fulfillment of the obligation that was imposed (subsection 1).

§ 72

(1) The enforcement takes place upon the motion of a party to the proceedings or upon the motion of the administrative authority which pronounced the decision, approved the amicable agreement or prepared the list of defaulted payments in the first instance (administrative authority enforcing the fulfillment). If this authority does not have the powers to enforce the decision on its own, it shall forward the matter to the authority competent under § 73.

(2) A party or the administrative authority enforcing the fulfillment may apply for an enforcement of the decision with a Court.

§ 73

(1) The decision pronounced by a National Committee shall be enforced by a Department at the District National Committee competent with regard to the nature of the matter in question. If the decision was taken by a Sub-District National Committee, it shall be enforced by a Department at this National Committee. The Municipal National Committee shall enforce the decision only if authorized by the competent Department at the District National Committee.

(2) Unless the special legislation provides that the enforcement is reserved to the administrative authority which pronounced the decision, the decisions of the administrative authority other than National Committees shall be enforced by a Department at the District National Committee competent with regard to the nature of the matter in question.

§ 74

The authority charged with the enforcement of the decision must notify the party involved that the enforcement was initiated. If a time period is

assigned for the fulfillment of the obligations (§ 71 subsection 1) it shall be indicated in the notice.

§ 75

(1) The administrative authority charged with enforcement may suspend the enforcement upon the motion of the party, a third party or at its own discretion. If the National Committee is charged with enforcement of a decision taken by another administrative authority, it must first ask for the viewpoint of the administrative authority.

(1) The administrative authority charged with enforcement may desist from enforcement upon the motion of the party or at its own discretion, if the following occurs:

- a) the enforced claim expired or its enforcement became unfounded,
- b) the decision on which the enforcement is based (§ 71 subsection 1) was declared null and void,
- c) the fulfillment of the obligation is enforced by a Court,
- d) the enforcement of the decision is inadmissible,
- e) a right was successfully enforced on the asset concerned which makes the enforcement of the decision impossible.

(3) The suspension in the enforcement of a decision protested by the Attorney General shall be governed by the provisions of the Act on Attorney General.⁸⁾

§ 76

(1) The single actions and measures pertinent to the enforcement may be objected.

(2) The objections have suspensive effects only if:

- a) they are aimed to object the extension of the time period or the decision to desist from the enforcement,
- b) they are aimed to object against the enforcement in case of enforcement by dismantlement,
- c) they object that the enforced claim has already been settled or that the period for fulfillment has not yet expired,
- d) if they object a right on the asset concerned and the right makes the enforcement impossible.

(3) The objections are settled by the authority charged with enforcement. The decision of the authority is unappealable.

§ 77

When enforcing a decision only those means which are specified by law may be used. The enforcement shall be based on those means which aggrieve the party the least possible and which can still lead to the objective.

Part II

Enforcement of a monetary performance

§ 78

(1) The enforcement of a decision imposing a monetary performance shall either occur by withholding of an amount from the salary or by an order to settle the claim.

(2) The administrative authority shall order to withhold a certain amount from the salary to the institution which is paying salary to the debtor or another form of remuneration or a compensation in stead of the income.

(3) The administrative authority shall order to settle the claim by ordering the person obliged to the debtor to pay the sum to the administrative authority, up to the amount due.

(4) The enforcement of a decision by an order to settle the claim using the funds deposited on an account held with a financial institution shall be carried out by debiting the account of the debtor by the sum due. In cases where both the debtor and the creditor are socialist organizations, the decision shall be enforced pursuant to regulations governing payment system based on a collection order⁹⁾ issued by the creditor. In all the other cases the enforcement of the decision shall be based on an order of the administrative authority issued pursuant to subsection 3.

(5) When enforcing the decision by withholding of an amount from the salary or by an order to settle the claim the provisions of the Code of Civil Action shall apply per analogiam.

Part III

Enforcement of a non-monetary performance

§ 79

(1) A decision imposing a non-monetary performance shall be enforced by an alternate performance, by inflicting of fines and by direct enforcement of the obligation that was imposed.

(2) The alternate performance consists in carrying out the work and the operations imposed at the obligated party's risk and expense, provided the work or the operations may be carried out by another person.

(3) If the alternate performance is not possible or suitable with regard to the nature of the matter, the obligation imposed shall be enforced by inflicting of fines. The total of the fines inflicted may not exceed 500 Kčs in case of a person and 20.000 Kčs in case of an organization.

(4) A direct enforcement of the claim shall be carried out mainly by vacating of the apartment, nonresidential premises, real estate or its part, by sequestration of an asset or a document or by bringing the person in front of the authority by force.

(5) When enforcing the claim by vacating premises the provisions of the Code of Civil Actions shall apply per analogiam.¹¹⁾ The enforcement of the claim by sequestration of an asset or a document requires the presence of a Municipal National Council representative or of another major person. The administrative authority enforcing a claim may ask the Police to bring the person in front of the authority by force. In case of members of Slovak Army or members of Public Armed Forces the request shall be addressed to their officer.

§ 80

(1) The employee charged with enforcement of a decision shall carry out the single tasks according to a written order issued by the authority specified under § 73 subsections 1 and 2. He must always prove his entitlement by such an order.

(2) If the party to the proceedings proves that the enforced claim has already been settled or that the authority does not insist in enforcement or that the enforcement was suspended or interrupted or that objections with suspensive effects were lodged, the employee charged with enforcement shall refrain from the action.

Chapter VI
Transitory and final provisions

§ 81

When administering the proceedings the administrative authority must respect the immunities and the privileges recognized by international treaties signed by the Czechoslovak Socialist Republic or by Czechoslovak legislation.¹²⁾

§ 82

(1) The provisions hereunder apply also to the pending proceedings opened prior to the effective date of this Act.

(2) In case a decision became effective prior to the effective date of this Act the renewal of the proceedings may be allowed if the decision was not achieved through a criminal act. The decision may also be subject to examination beyond the appeal proceedings only if less than three years have elapsed from the decision's effective date.

(3) If an administrative execution was initiated prior to the effective date of this Act, it shall continue pursuant to the hitherto existing legislation.

§ 83

The following legislation shall be rescinded:

1. Decree of the Government n° 91/1960 on administrative proceedings;
2. § 28 subsection 1 of the Act n° 60/1961 on the tasks of National Committees when ensuring the socialist order;
3. § 15 subsection 4 sentence 2 of the Act n° 60/1965 on Attorney General.

§ 84

The provisions of special legislation valid on the effective date of this Act governing administrative proceedings shall not be affected, with the exception of the provisions stipulating that the appeals against the decisions of National Committees shall be settled by the bodies of this

National Committee. The same applies to the jurisdiction, with regard to the nature of the matter, reserved to the Municipal National Committees specified by special legislation prior to the effective date of this Act.

§ 85

This Act comes into effect on January 1, 1968.

Notes:

- 1) Act on experts and translators (Act n° 36/1967 Coll.) and Decree implementing the Act on experts and translators (Decree n° 37/1967 Coll.)
- 2) § 116 of the Civil Code
- 3) § 6 of the Act on the tasks of National Committees when ensuring the socialist order (Act n° 60/1961 Coll.)
- 4) Act on experts and translators (Act n° 36/1967 Coll.) and Decree implementing the Act on experts and translators (Decree n° 37/1967 Coll.)
- 5) § 6 of the Act on the tasks of National Committees when ensuring the socialist order (Act n° 60/1961 Coll.)
- 6) § 57 of the Act on National Committees (Act n° 69/1967 Coll.)
- 7) § 54 subsection 3 of the Act on National Committees (Act n° 69/1967 Coll.)
- 8) § 16 subsection 1 of the Act on Attorney General (Act n° 60/1965 Coll.)
- 9) Decree on payment system and settlement of claims through the accounts held by organizations (Decree n° 85/1966 Coll.)
- 10) § 276 through to § 320 of the Code of Civil Action
- 11) § 340 through to § 344 of the Code of Civil Action
- 12) Decree on Vienna Convention on Diplomatic Relations (Decree n° 157/1964 Coll.)