

500/2004 Coll.
ACT
of 24th June 2004
Code of Administrative Procedure

The Parliament has resolved
on the Act of the Czech Republic hereunder:

PART ONE
INITIAL PROVISIONS

TITLE I
SUBJECT-MATTER OF REGULATION

Section I

(1) The Act herein regulates the practice of executive bodies, bodies of territorial self-governing units ¹⁾ and other bodies, legal entities and natural persons whilst performing their responsibilities within public administration (hereinafter referred to as "administrative body")

(2) The Act herein or its individual provisions shall be applicable except for where a special law determines different practice.

(3) The Act herein shall not apply to civil, business and employment acts carried out by administrative bodies, and to relations between bodies of the same territorial self-governing unit when they perform their autonomous powers.

¹⁾ Act No. 128/2000 Coll. on communities (community constitution), as amended.

Act No. 129/2000 Coll. on regions (regional constitution), as amended.

Act No. 131/2000 Coll. on the capital city of Prague, as amended.

Section 16

Language of proceedings

(1) The Czech language shall be the language of proceedings for both written filings and oral hearings. Participants in the proceedings may also use the Slovak language for oral hearings and filings in writing.

(2) Filings written in a foreign language must be submitted by a participant in their original along with their officially certified translation into the Czech language unless the administrative body informs the participant that such translation is not required. Such information may be posted by an administrative body with respect to future proceedings on the official notice board.

(3) Every person who declares that he does not speak the language of the proceeding shall have the right to an interpreter¹⁰⁾ entered in the official list of certified interpreters; he shall use the interpreter's services at his own expense. In proceedings to deal with an application an applicant who is not a citizen of the Czech Republic shall arrange by himself for the services of an interpreter at his own expense unless the law provides otherwise.¹¹⁾

(4) A citizen of the Czech Republic who belongs to a national minority traditionally and for a long time established in the territory of the Czech Republic¹²⁾ shall have the right to use the language of such minority in oral hearings and for written filings. Where the respective administrative body has no officials competent to speak the language of the minority, the citizen, shall by himself arrange for the services of an interpreter entered in the official list of certified interpreters. The costs of interpreting and costs of translation in such a case shall be borne by the administrative body.

(5) A sign language interpreter shall be appointed for deaf people by an administrative body pursuant to the special law¹³⁾. Should a deaf person be unable to use sign language the administrative body shall designate a mediator who is capable of communicating with the deaf person by means of lip-reading articulation. A deaf and blind person shall be assigned a mediator capable of communicating with that person by means of special sign language for the deaf and blind. Mediators shall be appointed under the same circumstances as a sign language interpreter shall be appointed. The administrative body shall issue a resolution on the appointment of an interpreter or mediator; the resolution shall be communicated only to the persons in question.

¹⁰⁾ Art. 37 (4) of the Charter of fundamental rights and freedoms.

¹¹⁾ Act No. 325/1999 Coll.

Section 33

Representation under the power of attorney

(1) A participant may choose his agent. Authorization to represent shall be proved by a written power of attorney. Power of attorney may also be granted orally and recorded as an official report thereon. A participant may have only one agent at one time.

(2) Authorization may be awarded

- a) with respect to a particular act, groups of acts or for a particular part of proceedings;
- b) for proceedings as a whole;
- c) with respect to an indeterminate number of proceedings on a particular subject-matter which will commence at a specified time or in the future generally; the signature attached to the power of attorney must always in such a case be officially verified and the power of attorney must be deposited, before the proceedings start, with the administrative body having subject-matter jurisdiction, or possibly awarded orally and recorded in the report; or
- d) in a different scope under a special law.

(3) An agent may award power of attorney to another person to act in his stead only if the power of attorney expressly states that he may do so unless the special law provides otherwise.²³⁾

(4) If delivery of written documents to an agent proves to be impossible, s. 32 (2) d) or s. 32 (3) shall apply and the participant shall be notified of such fact as well as of the content of the undeliverable written documents.

Section 34

(1) An agent under s. 32 and s. 33 shall act on behalf of the represented person. Acts carried out by an agent create rights of and impose duties directly on the represented person.

(2) Except for cases where the represented person should perform something personally in proceedings, written documents shall be delivered only to his agent. Delivery to the agent shall not have an effect on the running of time unless the law provides otherwise.

(3) Should any doubts occur with respect to the scope of representation the rule applies that an agent shall be authorized to act on behalf of the represented person during the whole course of proceedings.

(4) An administrative body may recognize acts carried out for the benefit of a participant by another person as acts carried out by an agent if the participant applies for such recognition and if no injury may be caused to another participant thereby. The administrative body shall decide by resolution on the recognition of such acts; if the filer is not satisfied only he, shall be notified of such decision.

²³⁾ For example, s. 26 of Act No. 85/1996 Coll. regulating the Bar, as amended by Act No. 210/1999 Coll.

Section 37

Filing

(1) A filing shall be an act carried out to reach an administrative body. A filing shall be considered with respect to its actual content regardless of the title or name marked on it.

(2) A filing shall be explicit in such a way that it shall be obvious who is submitting it, what subject-matter is at issue, and what is proposed. A natural person shall provide his name, surname, date of birth and place of his permanent residence or mailing address under s. 19 (3). A filing relating to the business activities of a natural person shall contain his name, surname, and/or a complement attached to his name distinguishing the businessperson or his type of business from his non-business status; the filing shall further contain the identification number and address registered as the place of business in the Commercial Register or in any other register determined by law, or a different mailing address. A filing by an artificial person shall contain its business name, company identification number or any other corresponding data, its registered office address or a mailing

address, if different. A filing shall contain the designation of the administrative body to which it is addressed, other elements stipulated by law and the signature of a person submitting the filing.

(3) Should a filing lack required elements or should it be defective in another manner, the administrative body shall assist the filer to correct the deficiencies, or the administrative body shall call on the filer to correct deficiencies and set a reasonable time for his so doing.

(4) A filing may be submitted in writing or orally recorded in the report, or electronically with a guaranteed electronic signature attached to it.¹⁶⁾ A filing may be submitted by any other technological means, in particular, by a cable, fax or a public data network without a guaranteed electronic signature, under the condition that the receipt of the filing is acknowledged within five days, or complemented in the way stipulated in the first sentence.

(5) Every person submitting his filing in an electronic way under subsection (4) (first sentence) shall supply the name of the provider of certification services who has issued his certificate¹⁶⁾ and kept records thereof, or shall attach the certificate to the filing.

(6) A filing shall be submitted to the administrative body having subject-matter and territorial jurisdiction. The filing shall be deemed to have been submitted on the date when it reaches the body.

(7) Where an administrative body is unable to ensure their receipt of filings electronically under subsection (4), the person stipulated in s. 160 (1), whose part is the respective administrative body, shall make a public contract (s. 160) with a municipality with extended powers, within whose administrative territory the respective administrative body has its seat; the contract shall provide for the operation of an electronic filing office²⁴⁾.

(8) Should no public contract be made under subsection (7) the special Law¹⁸⁾ shall apply to the administrative body; where another administrative body is concerned the regional authority shall decide that the duty shall be performed by a municipal authority with extended powers to whose administrative territory the administrative body belongs. The regional authority shall issue the decision within its delegated powers. The decision of the regional authority shall be published for at least 15 days on the official notice board of the administrative body which failed to execute the duty.

¹⁶⁾ Act No. 227/2000 Coll. regulating electronic signatures and amending some other laws (the Electronic Signature Act), as amended.

Section 45

Application

(1) An application shall contain elements stipulated in s. 37 (2) and it shall clearly show what an applicant is applying for and seeking. An applicant shall also be obliged to name other participants known to him.

(2) Where an application lacks required elements or should it suffer from other defects the administrative body shall assist the applicant to correct deficiencies on site or it shall call on him to correct the deficiencies; the administrative body shall provide the applicant with a reasonable time-limit to do so and shall advise him of the consequences of his failure to correct the deficiencies within the time-limit; at the same time, the administrative body may suspend the proceedings (s. 64).

(3) An application may not be prima facie legally impermissible. Should it be legally impermissible such application shall not be considered and the proceedings shall be discontinued (s. 66). The resolution shall be notified to participants who have been informed of the commencement of the proceedings.

(4) An applicant may reduce the subject-matter of his application, or withdraw his application; such right may not be exercised during the period starting at the moment of issuing the decision by an administrative body of the first instance until the moment of commencement of appellate proceedings.

Section 64

Suspension of proceedings

- (1) An administrative body may by resolution suspend proceedings
- a) along with a notice to correct the deficiencies of an application under s. 45 (2),
 - b) along with a notice to pay an administrative fee connected with a certain act in proceedings and along with the determination of a time-limit for the payment; the proceeding shall resume as soon as a receipt of the fee payment has been submitted;
 - c) I proceedings for a preliminary issue are in progress or the administrative body
 1. has initiated such proceedings under s. 57 (1) a),
 2. has made a call under s. 57 (1) b), or
 3. has carried out an act under s.57 (4);surrendering a written document for delivery under s. 19 and posting of the written document on an official notice board shall be considered to be an act of that administrative body;
 - d) until a special guardian is appointed for a procedurally incompetent participant;
 - e) due to other reasons established by the law.
- (2) An administrative body shall suspend proceedings dealing with an application upon the request of the applicant; should more than one applicant be involved the body may do so only with the consent of all of them.
- (3) If all participants under s. 27 (1) b) agree, an administrative body may, in proceedings by virtue of office and in the absence of any conflict with the public interest, suspend proceedings for serious reasons upon the request of a participant.

(4) Proceedings may be suspended for a necessary period of time. Determining the time of

suspension an administrative body shall take into account a participant's view where subsections {2} and (3) are applicable.

Section 65

(1) Once proceedings are suspended, an administrative body and participants shall carry out acts which are necessary to remove the grounds for the suspension. The administrative body may also carry out acts under s. 137 (1) and s. 138. Time-limits applicable to carrying out acts during proceedings shall not run. The time-limit for the issuance of a decision on the merits shall cease to run on the day when any of the grounds stipulated under s. 64 (1) arise and shall be resumed not earlier than 15 days after the date of termination of suspension.

(2) An administrative body shall continue proceedings as soon as the impediment which was the cause of suspension ceases to exist or the time-limit which was determined by the administrative body under s. 64 (2) or (3) expires. In the case of suspension under s. 64 (2) or (3) an administrative body may resume the proceedings upon the request of a participant who requested the suspension. The administrative body shall inform all participants of the resumption of proceedings and shall enter the notice in the file.

Discontinuance of proceedings

Section 66

(1) Proceedings to deal with an application shall be discontinued by a resolution of an administrative body if

- a) an applicant has withdrawn his application; where there is more than one applicant all of them must agree to withdraw; the administrative body shall not discontinue a contentious case where the respondent does not agree due to serious reasons;
- b) an application has been lodged which is prima facie legally impermissible;
- c) an applicant fails to have removed material defects from his application within the prescribed time-limit, such failure being an impediment to further proceedings;
- d) an applicant fails to pay, within the prescribed time-limit, an administrative fee due;
- e) the administrative body identifies an impediment to proceedings under s. 48 (1);
- f) an applicant died or ceases to exist, unless their successors resume the proceedings or more than one applicant exists, or the thing or right being the subject of proceedings ceases to exist; the proceeding shall be discontinued on the day when the respective administrative body becomes knowledgeable of the death or cessation of the applicant or of the termination of the thing or right;
- g) an application has apparently lost its cause;
- h) other reasons stipulated by law occur.

(2) The proceedings conducted by virtue of office shall be discontinued by an administrative body if it ascertains that proceedings to consider the same issue were commenced by another administrative body before the proceedings in question; it will also discontinue the proceedings where legal successors may not continue and the cause ceases to exist, particularly due to the death or cessation of the applicant or due to the termination of the respective thing or right. The resolution shall be noted in the file.

Section 71

Time-limits for the issuance of decision

- (1) An administrative body shall be obliged to issue its decision without unreasonable delay.
- (2) The issuance of a decision shall be understood as follows:
 - b) verbal declaration if such has the effect of a notification (s. 72 (1));
 - c) posting a public notice where delivery is under s. 25; or
 - d) noting the resolution in the file in the case that it should be only noted in the file.
- (3) If it is impossible to issue the decision immediately an administrative body shall be obliged to issue the decision not later than within 30 days of the commencement of proceedings, in addition to
 - a) up to 30 days where it is necessary to order an oral hearing or site inspection, or to summon a person, bring a person before the administrative body or to deliver by public notice to persons to whom personal delivery has been proved to be impossible, or in any other specially complex case;
 - b) the time necessary for a request under s. 13 (3), making an expert report, or the delivery of a written document abroad.
- (4) Time-limits for the issuance of a decision shall not run during the period required for obtaining data under s. 6 (2).
- (5) Failure to comply with time-limits may not be relied on by a participant who failed to comply with it.

Appeal

Section 81

- (1) A participant may lodge an appeal against a decision unless the law provides otherwise.
- (2) The right to appeal shall not be possessed by a participant who waives such right in writing or orally, which is officially recorded, as soon as he is notified of the decision.
- (3) Should an appellant withdraw his appeal he may not lodge it again.
- (4) The authorized representative of an artificial person shall have the right to appeal a decision whereby the competence of the artificial person to act autonomously before an administrative body is to be limited even if the decision is preliminarily enforceable.

Section 82

(1) An appeal may be directed against the holding of a decision, or its individual statement or ancillary provision. An appeal against only the reasoning of a decision shall not be permissible.

(2) An appeal must have those elements stipulated in s. 37 (2) and must contain information as to against which decision it is lodged, what the scope of challenge is and where the conflict with legal regulations is perceived or where the incorrectness of the decision or proceedings lies. If an appellant fails to specify the scope within which he challenges the decision he shall be considered to be challenging the whole decision. The appeal shall be lodged in the required number of counterparts so that one counterpart is for the administrative body and one for each participant. Should the participant fail to lodge a sufficient number of counterparts the administrative body shall arrange for the missing copies on account of the participant.

(3) Where the appeal lies only against an individual statement or ancillary provision in a statement, which does not create one whole with the others, the remaining part of the holding shall become legally effective if no harm may be caused to any participant thereby and the nature of the case allows for this.

(4) New facts and new evidence proposed in the appeal or in the course of appellate proceedings shall only be taken into consideration if these are facts and evidence which could not have been produced earlier by the participant. Should the participant claim that he was not permitted to carry out an act in the first-instance proceedings such act must be carried out along with the appeal.

Appellate time-limit

Section 83

(1) The time-limit within which an appeal may be lodged is 15 days after the notification of a decision unless a special law provides otherwise. The appeal may be lodged only after the decision has been issued. Where the appeal was lodged before the appellant having been notified it shall be construed as an appeal being lodged on the first day of the time-limit.

(2) In the case of a missing, incomplete or incorrect notice under s. 68 (5) an appeal may be lodged within 15 days after the day of notification of a amending resolution under s. 70 (first sentence) if such was issued, however, not later than within 90 days after notification of the decision.

Section 84

Appellate time-limit where the decision is not notified

(1) A person who was a participant but has not been notified of a decision by an administrative body may lodge an appeal within 30 days of the day when he becomes knowledgeable of the issuance of the decision and the solution of the issue being the subject-matter of the proceedings, however, not later than within 1 year of the day on which the last participant was notified of the decision by the administrative body; a time default with respect to carrying out an act may not be waived. The provisions of the subsection herein shall not apply to participants stipulated in s. 27 (1).

(2) An unnotified decision may not be relied upon by a person who is proved to have become familiar with it. Such participant shall be considered as if he has been notified of the decision by an administrative body with a missing notice under s. 83 (2).

(3) Conducting proceedings under subsection (1), it shall be extremely important to take into account the legitimate interests of participants in good faith. The suspensory effect of an appeal may be excluded for serious reasons (s. 85 (2)) even subsequently.

Section 151

Issuance of a document

(1) Where an administrative body fully satisfies an application for the creation of a right the existence of which is certified by a document stipulated by statute it shall be permissible to issue that document only instead of issuing a written decision.

(2) The issuance of a document shall be noted in the file containing elements stipulated in s. 67 (2). A list of documentary materials for the decision shall be entered in the file instead of its express reasoning.

(3) The day of the receipt of a document by a participant shall be the day when the decision becomes legally effective and has other legal effects.

(4) Should the decision be abolished after it becomes legally effective, the document issued thereby shall cease to be valid.

Section 175

Complaints

(1) Persons concerned shall have the right to file complaints with administrative bodies against the improper conduct of officials or actions of an administrative body should no other remedy be provided by the Act herein.

(2) Filing a complaint may not be prejudicial to the complainant; liability for an offence or administrative delict shall not be affected by this provision.

(3) The complaint may be filed in writing or orally; if in the latter case it is impossible to dispose of the complaint immediately the respective administrative body shall make a written record thereof.

(4) The complaint shall be filed with the administrative body conducting the proceedings. This administrative body shall be obliged to examine the facts described in the complaint. If the body thinks it proper it shall interview the complainant, persons against whom the complaint is directed, and/or other persons who may assist in clarifying the issue.

(5) The complaint must be disposed of within 60 days of its delivery to the administrative body having jurisdiction to handle it. The complainant shall be informed of the disposal of his complaint within this time-limit. The set time-limit may be exceeded if it is impossible to arrange for all documentary materials for the disposal during that time.

(6) If the complaint is found to be justified or partly justified the administrative body shall be obliged to immediately take necessary measures to amend the situation complained of. The results of examination and measures taken shall be noted in the file; the complainant shall be informed only if he so requested.

(7) If it appears to the complainant that the complaint he filed with the competent administrative body has not been properly disposed of he may request that a superior administrative body examine the manner in which the complaint was disposed of.