

29 January 2014

### **Uniform 'reasonable time' of four years in administrative law proceedings**

A uniform period of four years has been set as the reasonable time for the disposal of disputes under administrative law involving an objection procedure and court proceedings at two separate instances. This period includes two years for the objection procedure and the application for judicial review (based on six months for the objection to the administrative authority and 18 months for review by a district court) and two years for the appeal. If these time limits are not adhered to, the state must pay €500 in compensation for non-pecuniary damage for every six months by which a time limit is exceeded.

This stems from a judgment given by the Administrative Jurisdiction Division of the Council of State today (29 January 2014): the first judgment given by a grand chamber in an administrative law case. The five-member grand chamber comprised the President of the Administrative Jurisdiction Division, the Presidents of the Central Appeals Court for Public Service and Social Security Matters and the Administrative Court for Trade and Industry and a justice of the Supreme Court (the latter three being Extraordinary Councillors), and a State Councillor from the Administrative Jurisdiction Division.

### **Reasonable time**

The judgment follows the case law of the Central Appeals Court for Public Service and Social Security Matters and the Supreme Court, both of which currently observe a reasonable time of four years. The judgment referred to society's interest in the speedy settlement of disputes and to the importance of legal uniformity. Until today, the Administrative Jurisdiction Division and the Administrative Court for Trade and Industry observed a reasonable time of five years.

### **Transitional arrangement**

The four-year time limit will apply to objection procedures and judicial review proceedings relating to decisions published from 1 February 2014 onwards. The Administrative Jurisdiction Division and the Administrative Court for Trade and Industry will still observe a period of five years in respect of decisions published before that date, namely one year for the objection procedure, two years for the judicial review and two years for the appeal proceedings.

### **Justification for exceeding the reasonable time**

The complexity of a case, the way in which the administrative authority and the courts dealt with the case, or the conduct of the aggrieved parties in the proceedings may constitute justification for exceeding the reasonable time limit. For example, if the administrative authority or the courts call in an expert witness, this may mean, in certain circumstances, that the proceedings take longer than four years. Settled case law in this regard is not affected by today's judgment.

### **Preliminary ruling procedure disregarded**

When determining whether the reasonable time guarantee has been breached in domestic proceedings, the courts will disregard the duration of any preliminary ruling procedure before the European Court of Justice (ECJ) in Luxembourg. This applies both to cases in which a question is actually referred to the ECJ for a preliminary ruling and to those where proceedings are stayed pending a preliminary ruling in another case. In the latter, the stay of proceedings must be 'reasonable'. If proceedings are stayed, the period that can be disregarded does not start until the parties, once the question has been referred for a preliminary ruling, receive a letter from the court notifying them of the stay of proceedings, and ends on the date of publication of the ECJ's judgment. The Administrative Jurisdiction Division recommends that the parties be given six weeks in which to respond; if the court fails to do so, or if parties object to the stay of proceedings, it must be assessed whether the stay was reasonable.

**Advisory opinion of the Advocate General**

Before giving judgment, the Administrative Jurisdiction Division had asked Advocate General Widdershoven for an advisory opinion on the divergent case law of the four highest administrative courts on the 'reasonable time' guarantee in article 6 of the European Convention on Human Rights. The Advocate General delivered his advisory opinion on 23 October 2013.

See the full text (in Dutch) of the judgment in case no. 201302106/1.