REPORT OF THE SUPREME COURT OF SLOVAKIA

Alternative dispute resolutions in administrative matters – questionnaire for AIHJA/IASAJ

I. Introductory questions:

1. Slovak legislation doesn´t content legal definition of Alternative dispute resolution (ADR). Jurisprudence defines ADR as a „amicable dispute resolution“. ADR are characterized in that they seek to establish an optimal balance between the parties and create as much scope, the parties were free to decide not only what but also how they agree. If a solution to the conflict involved a third party, so try to choose those methods solutions enabling the parties to influence the course and method of making and content of the final agreement. Parties only monitor each other in the implementation of the agreement and if it turns out that with it they are not satisfied, try to improve the solution itself or through a third party. In the jurisdictional decides state power represented by an independent and impartial court in a civil trial and in the ADR that create space afterwards that the parties could freely decide, either by themselves, without using an intermediary decisive jurisdiction or by a third party, which has the power to decide given voluntarily litigants. The arbitration is one of the ADR according to Slovakian jurisprudence.
2. There are two types of ADR established by Slovakia law: mediation and arbitration. The other dispute resolutions states Civil procedure code and criminal procedure code, but state play important role within them. There is established “Conciliation proceedings“ in Civil procedure code. The civil procedure code doesn´t allow using of “Conciliation proceedings“ in administrative judiciary. The court shall use appropriate methods to exert its educational influence in conciliation proceedings. We know also conditional stay of criminal prosecution, conciliation and Plea bargaining in criminal proceeding.
   We think that role of ADR should increase. Using of ADR should decrease backlogs on courts and make court proceedings faster.

II. The goals and the scope of alternative procedures

1. The main objective is to relieve court courts out of matters which the court proceeding is not needed to resolve. Using of ADR should decrease backlogs on courts and make court proceedings faster.

2. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
3. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
4. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
5. Mediation mechanisms are described in Act No 420/2004 on mediation and amending certain laws, as amended. It can be used only in civil and commercial matters.

The stakeholders in alternative procedures

1. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
2. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
3. The standards are mentioned in Act No 420/2004 on mediation. The ministry of judiciary register list of mediators, list of mediation centres and mediation educational institutions. Educational institutions provide initial and further training of mediators and regular examination.
4. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
5. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.

III. The procedures of administrative procedures

1. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
2. Even though in some cases the appellate administrative authority reviews a first-instance administrative decision without a subsequent court review (only because the relevant party, for a variety of reasons, does not use the opportunity to appeal to court), the constitutional right (Article 46 (2) of the Constitution of the Slovak Republic) of anyone who claims to have been deprived of his rights by a decision of a public administration authority to appeal to the court for it to re-examine the lawfulness of that decision. An administrative decision can be challenged already in the process of administrative proceedings by way of: ordinary remedies (appeal, remonstrance, objections, protest, complaint etc.), or extraordinary remedies (re-opening of the case and review outside the appeal proceedings). Court review of a decision of an administrative authority can be conducted on the basis of an appeal lodged during administrative proceedings, when proceedings at a first-instance administrative authority stopped without reaching a final decision (exceptional case), or it can be initiated in the usual manner, by filing an administrative complaint against the final decision of an administrative authority. In the latter case, remedy can be claimed at court by filing an action. For filing an action, it is sufficient to exhaust ordinary remedies offered by the process of the administrative proceedings and be represented by a counsel, and the action must be filed within the two month or other period for filing the action by an eligible person. In the case of remedies filed against decisions of administrative authorities that are not final, the obligation to be

represented by a counsel is not compulsory and the original two-month period is shortened to 30 days, with exceptions defined by law. Since this is a cassation review of administrative decisions, the acting judge (or the threemember panel) can only cancel the challenged administrative act or reject the complaint (remedy). In principle, applicants do not present new evidence; they merely point to the evidence that was taken or omitted in administrative proceedings; this evidence is part of the administrative file. The proof of infringement of applicant's rights is a formal procedural precondition. In principle, the arguments as to the facts and points of law should be set out in the application and/or the legal remedy against the administrative decision. They also may be supplemented later on, but not after the time-limit for the submission of the application. The court does not consider objections or arguments brought up after the expiry of statutory time-limit (Section 250h of the Code of Civil Procedure). The same provisions govern the second-level judicial procedure – appeal proceedings. The concentration principle applies. Administrative courts examine the grounds for applications or lawfulness of the decisions of public administration authorities in the proceedings on legal remedies against the decisions of public administration authorities. First-instance courts also examine, besides the grounds for applications, the nullity of legal acts and other questions or reasons for the annulment of challenged decisions. They respect the principle of material truth. Their decisions are based on administrative files; where a court deems the evidence insufficient, it may either order the administrative authority in question to take additional evidence, or it may take the evidence itself. The court is not concerned with the adequacy or purpose of the decision; however, it evaluates the evidence by applying the principle of discretion in the evaluation of evidence, taking care to keep the discretion within the limits of law, and respecting the principle of logical thinking and the content of files. However, as a rule, the court applies the cassation principle, respecting the principle of the division of powers, and repeals the decisions which it finds unlawful. In the appeal procedure, the Supreme Court reviews the procedure and the decisions of regional courts within the scope of the appeal. In case of the decisions involving sanctions, the court may repeal the administrative decision and decide on merits.

3. Independence, impartiality, professional care, confidentiality, informality.
4. Only in arbitration
5. No

IV. The efficiency of alternative procedures

1. Yes. We haven´t such data.
2. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
3. On the basis of the agreement, the entitled party may apply for judicial enforcement of the decision or for distraint, providing that the agreement is:
   - drawn up in the form of a notarial act;
   - endorsed as conciliation in court by an arbitral body.

   The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
4. The alternatives procedures aren´t used in our country in administrative matters and administrative judiciary.
5. Yes, development of ADR should help Slovakian court very much, from above mentioned reasons (reducing backlogs, ...