

Notions and Institutions of Administrative Law¹

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Abstract:

The need for the notions – institutions of administrative law was present for a very long time. With the intention to fulfill this need I have drafted and systemized relevant categories of public administration, in that way that are dedicated to the standards of relevant texts from the field of law in general and of public administration in particular. In one way or another, these categories are unique, adapted to reformed educational programs.

By having in mind the legal terminology in this field, the purpose is to unbuckle and study general notions and categories, in relevant fields of the law. Therefore, because of the mentioned reasons above, this educational treatise is defined to be used up to the issuance of new legislations of countries that have passed or still are in the transition phase, for example the Republic of Kosovo, the Republic of Albania, the Republic of Macedonia, of students of these countries, to whom the study of these categories is dedicated, in relevant universities where the law in general is studied. In this case I have special thanks to the honored professors: Prof.Dr. AGUR SOKOLI, Prof.Dr. Mirlinda BATALLI and Prof.Dr. Evis ALIMEHMETI, who are specialized in this field and that have motivated and suggested me to make this

¹ For the notions and institution of administrative law, I was served by the books and vocabularies of experts of law, in this context we are talking about these authors: academic Esat STAVILECI, Explaining Vocabulary of Administrative Terms, The Academy of Science and Arts of Kosovo, Pristine, 2010; Skender GOJANI, Vocabulary of Legal Terminology, Pristine, 2013; Prof.Ass.Dr. Fejzulla BERISHA, Entrance in the right, fq.314, Pristine, 2011 etc.

treatise as complete as possible. I address special thanks to academic ESAT STAVILECI, who supported me morally in the structure of this treatise. I will accept every professional remarks and honest suggestion that will help me in further increasing my professional level with the occasion of restating this treatise.

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I. Administration

The central notion in which administrative law is based is defined by the character of the political – social regulation of a country – administration. In the legal administrative literature today it is defined based on the empirical content of the relevant social occurrence, so that later, based on that definition, to be able to implement rigorous measures of formal derivative disciplines, especially of law, and even though law may be able to give perfect formal definitions of administration, the impression that definitions can't respond to the requests of a formal discipline still remains. Etymologically, the word 'administration' originates from old Latin ("ad minister") which was used by the Romans to show the activity that was developed under someone's subjection, under someone's direction. The theoretical definition of administration is based on the character of a certain political-social system, within which it executes its function. The word 'administration' has several meanings. By defining the main meaning of administration we take a look at the context in which the notion is given. In the everyday vocabulary, administration means an organizational unit of a sector, the governing body of a unit, offices of an enterprise or institution etc. The word 'administration' is linked with the verb 'administrate'. The administration extends in the public and private works and is based in the force with which someone limits an unlawful will

or behavior. Depending on if we talk about administration as a type of organization or administration as some kind of activity, in the theory of administrative law we encounter two definitions of administration: the organizational or subjective definitions, and the functional or objective definitions of administration, which define the administration by the activities that are executed from a certain organization. In the theory of administrative law, two main meanings of administration dominate: according to the organizational or formal meaning, the administration presents the entirety of bodies, an apparatus that carries certain functions, while according to the functional or material sense, the administration presents the entirety of functions, a certain activity. In the organizational or formal meaning, the administration is an entirety of bodies with authority, having a variety of general interest tasks that belong to the state. In the functional or material meaning, the administration is the entirety of functions that belong to the administrative activity. The notion of administration, seen from these two viewpoints, is defined in a positive and negative way; defined as negative, this notion entails that activity which is not legislative nor juridical, but what is left from them, while defines as positive, this notion entails legal acts, the means of administrative activities, the function of administration that is expressed through legal acts issued by them and through its administrative activities.

Remark: the efforts to define the administration as an expression of its form, organization and function have been more successful, in the basis of seeing the administration separate from other state bodies' organization and function.

II. Administration

An organizational unit of a sector in a “certain branch”, “leading body” of an organizational unit of a sector “along with the relevant apparatus”, the offices of an institution or service,

the building of a body or institution, the entirety of employees that perform in an organizational unit.

Municipal administration

A label for the form and organization of the administration in municipalities, as the basic unit of the local self-government; according to the Law for Self-Governing of Kosovo (2008), the municipal administration is organized in directorates, every municipal administration has a staff leader, and every municipal directorate is managed by the director.

Public administration

A notion that is given with special terminological difficulties; there are differences in defining the public administration. Traditionally, the label 'public' sends us to the difference between the 'public' and 'private' sphere, even of 'public law' and 'private law' even though it doesn't have reasonability – at least not absolute. The definition of the notion of public administration, similar to defining the notion of administrative activity, is done in different ways and by different authors. Public administration belongs to notions that are used in a variety of cases, by different theoretical viewpoints that put its meaning to question. It has a more general meaning than the one of administration, by lying not only in the bodies of state administration, but in other bodies and organizations that exercises administrative work. The most general definition of public administration could be the one that would present the public administration as an entirety of public administrative work and institutions of public administration. According to the Political Vocabulary of Oxford, public administration has to do with the institutions of state bureaucracy, organizational structures that built the basis of implementing decisions, and rules, based on which public services are done. Public administration is built by two essential elements: 'public body' and 'general interest'; according to Bertrand and Lang, public administration is different from other governing forms because

of its competence and because of the fact that its last purpose is the general interest; the Code of Administrative Procedures of Albania, considers these as bodies of public administration: the bodies of state power that execute administrative functions, the bodies of armed forces, and every other structure, whose employees enjoy the military status, for as long as they execute administrative functions.

State administration

In a more general sense, state administration presents the entirety of employees that work in the state apparatus or in organizational units of state, the system of state bodies that execute the state power in the form of state activity. The state administration is considered as one of the instruments of state apparatus through which the state executes its activities, broad and versatile, an activity that lies in different social spheres, political and economic, and which cannot be exercised in a single form but in a variety of special forms, by which as more important are: first, the state administration in the form of a state instrument and the state administration and second, the state administration in the form of state activity. The first term is known as a formal or organizational meaning of state administration, while the second term is known as material or functional meaning of state administration. Despite the existence of these two special meanings of state administration, first as a certain system of administrative organizations and second as a certain system of functions, the two meaning cannot be separated from each-other and be independently treated. Those two meanings of state administration fulfill each-other because they appear as plaited and inseparable. The science of administrative law studies them beside each-other.

Administration

The direction and leading of work according to rules and laws, the care for a property or value that is well-used based on rules or needs, governance, management, usage.

Public administration

The study of public administration through institutional description and political evaluation, and of the analyze of inter-governmental relations; a theory of public sector's organization; a branch of political sciences. To understand the nature and the purpose of the administration of public sector, we have to explain and unbuckle its content. In this case, a number of questions arise: Is the science of public administration a static or dynamic concept?, Where lies this science?, Is the public administration a serious field for studies?, How can it be summarized in such a way that includes its variety of structures? etc. The reviews about the relations political science and public administration are important. It is worth mentioning that the organization of public administration came as a result of the awareness of political researchers. Later, some kind of retreat happened, while today, many political researchers seem to be bringing it back in the political sciences by talking about the problems and issues of public administration.

The act

1. A simultaneous action of people which is done for a certain purpose; 2. A legal decision with state and social validity, official letter, a document that represents a decision of a judicial body which proves that a certain action was officially done; 3. A term which is used in international relations for multilateral agreements concluded in international congresses or conferences.

I. Administrative act

From many meanings, first we emphasize: the administrative act as an essential concept of administrative law, the origin of which is related to the French term "acte administratif"; secondly, as an act that regulates in details the activity of the subjects in the relations they create; thirdly, as an act that has legal consequences; fourthly, as a legal act. The administrative

act is expressed with different names: decision, order, regulation, ordinance, permission, license, diploma etc. The constituent elements of the administrative act are: authority, its legal nature and its concreteness. For the full understanding of the administrative act it is important to mention the reviews about the form and content, the purpose, reason, and its characteristics in general: first, the administrative act is a legal act; second, the administrative act is a unilateral act; third, it is an administrative activity, and fourth, the administrative act is a subordinate law.

II. Administrative act

It is a formal expression of state will for the regulation of a certain legal relation, which are issued by state administration bodies, defined with constitution and laws. They are also acts that are issued by the organizations and communions that are charged with administrative legal relations in exercising public authorizations. It is mostly defined as a legal act by the help of which decisions are taken related to concrete cases. The administrative act covers the majority of the activities of administrative authorities by which they impact the legal interests of the subjects of law. Every order, decision or other activity executed by administrative authorities for the regulation of a concrete case or general ones in the sphere of public law is called an administrative act. They can create rights, privileges, responsibilities and duties, or they can change and terminate them. The terms that qualify the administrative act as a source of law receive different designations, such as: decision, order, ordinance, regulation, to the terms that are usually used by the bodies of administration, such as: permission, protocol, letter, testimony, license. The administrative act must be defined as a declaration of the clear will of state power in the activity of public administration, issued in full compliance with the constitution and laws in general, to create, change or terminate relevant legal consequences, implemented by the free will of subjects to which

it is directed, or by the coercive power of state. We can say that the administrative act is one of the main forms in the executive and decision-making activity of public administration. The entire executive activity of every public administration body is finally materialized in the moment of the issuance of the act, because it is the administrative act the one that created new legal relations for the subjects it is directed to, that changes former relations by making them more perfect or by terminating them.

Relatively invalid administrative act

It is the kind of act issued against the law; an act that is not entirely invalid, that produces the effects of a valid and regular administrative act for as long as it is not an object of administrative or judicial appeal within the deadlines set by the law, or if it is not revoked nor repealed by the competent administrative body; unlike the absolute invalidity, which is a condition that procures nullity from the moment of its issuance, the relative invalidity brings legal consequences. In reality, the relatively invalid administrative act causes the legal consequences that are required by the interested subject. It represents the legal power of a valid act up to the moment that the administrative body or court declare its invalidity. From this moment, the administrative act ceases to exist. An act can be considered relatively invalid in a variety of cases: if its content does not comply with the content of the law; if its content does not comply with the purpose of law; if the will of the body is partial (when there is a lack of will due to the error or deception of the administrative body); if there is a lack of will as a result of fraud by the interested party; if there is a lack of will due to the incapacity of the administrative body etc. (Sokol Sadushi, *ibid*).

Legal act

Human action, a decision by which law is created; an action, the purpose of which is to create legal norms and to regulate

social relations. Legal acts can be: general legal acts and individual legal acts. The first ones create general legal norms that regulate certain social relations, for example a general legal norm is a norm that obliges all citizens that realize revenues to pay taxes. The second ones create individual legal norms. The individual act is issued based on a general norm and with the purpose to implement it. With the same example, the individual legal norm defines precisely the amount of the tax for every person.

Binding administrative acts

They are types of administrative acts, characterized by the effects they bring to the subjects to whom they are directed to, with the obligation that is usually prescribed in the form of performing certain actions that require the realization of the purpose they were created for, an obligation that in the meantime can be presented in the opposite direction, i.e. by not doing those actions. In case the requests of the subjects are not accepted, in the administrative act there exists the binding element. In the practice of Albania, giving a fine to a vehicle driver is an administrative act, that obliges you to perform the concrete action – to pay the fine. If you fail to perform the order, more serious measures are taken, while, for example, the order for the suspension of constructions of an object without permission, expects for the subject to stop the constructions, otherwise sanctions will be applied against them.

Declarative act

An act that verifies certain facts or circumstances that are essential for a legal relation or condition.

Discretionary act

Constitutive act the content and initiative of which depends by the will of bodies.

Executive act

1. An act that is issued pursuant to a law and concretizes the manners for implementing this law. 2. An adopted act by the institutions of EU by a simple decision unlike legislative acts, during the performance of their executive functions where the Council of the Union itself can perform such functions or give them to the European Commission.

General legal acts

Presents the act which contains the general legal norm and from which individual legal act derive, respectively individual legal norms. For example the constitution, law, subordinate acts, decree, ordinance, instructions, statute, regulation etc.

Subordinate acts

Presents the acts with lower legal power than the law which is issued by executive-administrative state bodies. It is more presented in the form of general acts, such as: the decree, decisions, general instructions, recommendation and conclusions. While the bodies of state administration as usually issue regulations, administrative ordinances and instructions, these acts have normative character and are binding for everyone.

Normative acts

The legal act that defines the rules of behavior in a general – abstract sense, that are valid for an indefinite number of people and cases. Every law, decree, resolution, regulation, administrative ordinance, instruction, rule, or another known act and represented with legal power within the set territory by the public authorities of that territory.

Decisions

Presents a concrete legal act, by which concrete administrative cases are solved authoritatively. Subordinate decision, a written official letter that presents a decision that creates,

fulfills, changes or terminates a legal action. The constitutive parts of the decision are: entrance, subjects, the case, date and the issuing place of the decision, the clause – the normative part of the decision, the content of the decision, the justification of the clause, legal advices for the possibility of using legal means (appeal). The decision must also contain the name and sign of the official person of the state authority that has issued the relevant act.

Autocracy

Autocracy is a type of regime by which the power is concentrated to a single person or individual. This term is also used to show a variety of state structures and political regimes, by including totalitarianism, fascism etc.

Authority

The right and ability to make proposals, or to give advices that are accepted without conviction, reasoning or force. Based on the system of certain legal rules, those in duty have the rights to take decisions or to issue instructions, i.e. these persons have the authority by the rules and practices that compile the relevant activity.

Authorization

It is a legal act for representation, which the authorizer through legal work, with its own will, gives it to the relevant representative, where the authorized one acts in the name and account of the authorizer. The decisions of the representative have the same force as given by the party itself.

Ombudsman

A public functionary that examines the complaints of citizens for maladministration in different fields of public administration. It is the institution that protects constitutional and legal rights of the citizens, violated by the bodies of state administration or the bodies of other organizations that have

public authorizations. For the first time, this type of institution was applied in Sweden, while today it exists in many countries of the world, that contributes in a more efficient limitation and control of state administration in the interest of the protection of human rights. Ombudsman's have control over the activity of administrative bodies while in some countries like Sweden and France, they can also have control over the activity of courts. The ombudsman can give critics to the competent body or give proposals for the improvement of someone's activity, to propose the implementation of relevant procedures to authoritative state bodies that are competent to issue acts, but it cannot undertake binding measures against the same bodies. i.e. the power of Ombudsman is moral, and he impacts with the force of his authority and not by binding measures.

Constructive administrative acts

Types of administrative acts, characteristic for the legal effects that they bring; types of administrative acts that support or confirm an important legal advantage for the concrete subject; types of administrative acts that contain the constructive element, that is expressed with gaining a benefit or a right, of course if that is the way it is settled by the law; for example when a subject is given the right by a competent body, for a construction, or for a license etc. In these cases the administrative body is obliged to recognize the right of the subject within its competences.

Written and verbal administrative acts

Types of administrative acts, clearly defined by each other by the form of their issuance. Administrative acts, as a rule, are issued in written form and that form defines their format; exceptionally administrative acts are also issued verbally and in that case the body that issues the act also takes the responsibility to release the administrative act in a written form within the deadline.

Administrative acts issued with the request of interested subjects

Concrete initiatives of a subject for the issuance of an administrative act; a request of a subject towards competent bodies to give them a certain right through an act by a procedure that is set by law. The Code of Administrative Procedures of Albania considers the protection of public interests as an obligation of administrative bodies, and the protection of constitutional rights of private persons; those bodies, by helping the citizens, have the obligation to fulfill their legal requests (for example the permission to carry firearms, giving the license to open a radio or television, the issuance of permits to exercise a particular activity etc.); in the administrative practice, the administrative body is obliged to consider the request of the interested subject within the deadline set by law, but the submission of the request by the interested subject doesn't mean that the administrative body has to necessarily take his request into consideration. The administrative body can consider the request lawful, but can refuse it as unacceptable. According to the Code of Administrative Procedures of Albania, the failure to consider the request within the time period set by law, or the failure to give a response, even in the form of a negative legal act, allows the subject to ask for an administrative or judicial review of the act, and ask for legal responsibility from the respective body that has legal liability to not stay indifferent towards the request.

Individual acts

Types of administrative acts, characteristic for the character of their content; administrative acts that regulate concrete relations for a certain case and towards an identifiable subject or group of subjects; administrative acts that are issued based on a general norm to solve a concrete case; the individual character of administrative act is issued by analyzing its content; the individuality of the administrative act is

understood by the legal relation that is regulated by it; its individual character remains even if the administrative act extends its effects not for a single person, but for a wider group of category of verified and identifiable subjects, like in the administrative practice in Albania, where the decision of the Council of Ministers for the expropriation of some families in a village for the construction of a highway, contains elements of an individual administrative act, because the legal relation that it want to regulate and the consequence it brings, is special and individualized, for a certain problem and for something concrete.

Legally connected acts and acts based on free choice

Categories of administrative acts; administrative acts legally connected which are previously defined about when will they be issued and what content will they have, because, same as initiative, the content of administrative acts are set by law, for example the decision to give the permission for constructing. While administrative acts based on free choice are those administrative acts where the competent organ can decide, based on its obedience and the evaluation of the general interest, for the concrete case, for example the decision about giving citizenship, about giving providing aid for certain persons etc.

Constitutive and declarative acts

Categories of administrative acts; a subdivision of administrative acts based on the fact whether they create, change or terminate legal relations or if they only verify the existence of a certain legal relation. Constitutive acts are the acts by the help of which legal relations are created, changes or terminated, for example the decision that allows the construction of a certain building in someone's property or the permission to carry firearms. Declarative administrative acts are the acts that only verify the existence of a certain administrative legal relation, for example the cessation of

military service for a certain person with the force of law. The effect of the first administrative act is *ex nunc*, respectively from the moment of its issuance, while the effect of the second administrative law is *ex tunc*, respectively from the moment that the relation is created.

Negative acts

Types of administrative acts, characteristic for not changing certain legal relations. Different from positive administrative acts, they don't accept the change of a relation, nor the creation of a new one.

Positive acts

Types of administrative acts, characteristic for changing certain legal relations. Administrative acts that create, change or terminate a legal relation. Different from negative acts, they accept the change of a relation and the creation of a new one.

Municipal Assembly acts

Acts that are issued by the assembly of the municipality within their competences; acts that are valid for the territory of the municipality that has approved them. According to the Law for Local Self-Governance of Kosovo, some municipal assembly acts are: the rules of procedure of the Municipal Assembly, municipal regulations and other necessary acts for the efficient functioning of the municipality.

Acts issued by the initiative of the body

Administrative acts issued when the body believes that they have to interfere for the solution of legal disputes, by setting the form and manner about the appearance of state will. It is a right, but also an obligation of the body to put an administrative proceeding in motion, to issue, by its own initiative, an administrative act, mostly in order to determine a certain obligation.

General (normative) acts

Types of administrative acts, characteristic for their content; administrative acts that set different behavior rules for a certain legal relation or for a complex of legal relations; administrative acts that regulate legal relations as a whole and for a wide category of subjects; administrative acts that do not refer to a concrete act, but to a number of possible or hypothetical cases; administrative acts that regulate general relations. A general administrative act is, for example, according to the practice in Albania, the administrative act that requires vehicle drivers not to drive when there is a risk of collapse, or when the citizens of a country are forbidden to sell agriculture or livestock products in a certain area, where there is an infection by a product etc. According to J. Corno (*The administrative law of RPSH, Tirana, 1974*), “general administrative (normative) acts are the acts that are addressed to a large number of people that regulate a certain relation or a complex of relations in general.”

State administration acts

All kinds of acts issued by the administration in the execution of their administrative activity; acts of state administration bodies are not only the administrative acts which in fact are only a kind of acts that are issued by the state administration bodies in the execution of the functions set by the constitution and law, same as the fact that administrative acts are not only acts that are issued by the bodies of state administration, because other bodies and institutions issue administrative acts as well in exercising their public authorizations. The acts issued by the bodies of administration are classified in legal acts (general or normative and individual acts) and in material acts.

Acts of giving and taking statements

Category of material acts that summarize the data of administrative bodies for a variety of cases, for example the

data that present the economic and personal situation of different subjects; acts that are similar to declarative acts, but unlike them, the acts of giving and taking statements do not produce legal effects.

Acts of identification or documentation

Category of material acts, which contain the evidence and documentation of different cases and data, such as: files, records, protocols as public documents, statements that are considered as true until proven otherwise.

Notification acts

Category of material acts: announcements, commentaries and other indicators about certain data for different people; act that, unlike administrative acts, don't produce legal effects.

Acts of one body and composed acts

Category of administrative acts, clearly distinct from each-other, depending on the number of organs that take part in their issuance; administrative acts of one body are characterized by the fact that they are issued by a single body, while composed administrative acts are the acts issued by two or more bodies, by cooperating with each-other, expressed by issuing mutual administrative acts or by approving, validating or giving permission for the issuance of an act by another body.

Individual acts and general acts

Categories of administrative acts; a subdivision of administrative acts based on who they belong to: individually specified and unspecified people. An individual administrative act is, for example, the administrative act for the permission to open a craft activity, while the general administrative act belongs to more persons that are not written by name in the administrative act which orders the residents of a neighbor to take part in extinguishing the fire; we observe that the general administrative act is different from the general normative act

that doesn't have its attributes, because the first one doesn't contain the general norm, but contains a specific norm for a specific case (for example extinguishing the fire, the avoidance of floods etc.), therefore it is considered as an administrative act.

Legal acts of administration

An expression of the will of administration bodies by exercising the work they have been entrusted and with the intention to make changes in certain legal relations. The legal acts of administration are classified in general (normative) acts and in individual (concrete) acts. General (normative) acts are issued by the activity of the state administration bodies and which regulate norms of behavior abstractly and in general; these norms of behavior belong to an uncertain number of people and cases. Individual (concrete) acts belong to individually specific persons.

Material acts of the administration

Types of not legal acts, which, by being so, don't produce legal effects; acts which keep different records about different phenomena; act by which the authority of the bodies is not expressed; simple administrative and professional acts (See: administrative actions). As material acts we mention: acts of identification and documentation, acts of giving and taking statements, notification acts etc.

Positive and negative acts

Categories of administrative acts, clearly distinguished between each-other based on the criteria of whether they change or not a legal relation. Positive administrative acts are those that change the existing legal relations, by creating a new one or by changing the existing one, for example the decision that sets the amount of the tax for a certain person. Negative administrative acts are the ones that refuse to change the existing legal relations. they are issued by the initiative of the

party, for example the administrative act that refuses the request for the permission to carry a fire gun or that refuses the request for opening a craft workshop. If the body doesn't declare at all, we have to deal with the so-called administration silence, for example when the body doesn't issue the administrative act within the time period set by law. If the competent body doesn't issue it within the set period, then the party has the right to directly appeal to a higher body than the one that has refused it. Remark: we must separately talk about positive and negative acts.

Acts that are issued by the official duty of the body and acts that are issued with the request of a party

A subdivision of administrative acts, distinguished from each other based on who takes the initiative for their issuance – the bodies itself or parties. In administrative acts that are issued by the official duty of bodies the initiative is on the side of the bodies, and, as a rule, they set obligations for the parties. When the administrative acts are issued with the request of the parties, the bodies recognize them certain rights.

Absolutely invalid administrative act

A type of administrative act, which, because of the fundamental violation of law doesn't have the legal power of a valid administrative act and it is objectively considered that it has never existed (See: invalidity, as a condition where there is complete absent of the legal action of the act). The Code of Administrative Procedures of Albania: "absolutely invalid administrative acts do not produce legal consequences, despite the fact if they have been declared as such or not" (Article 117, item 1). The cases when an administrative act could be considered as absolutely invalid are: when the administrative act is unidentified as in known as such; when the administrative act is issued by an administrative body that has gone beyond its competences and if the form and procedure for the issue of the administrative act has been violated flagrantly

(See: the Code of Administrative Procedures of Albania, article 116, letters ‘a’, ‘b’ and ‘c’); the invalidity that is defined through revocation by the body that has issued the act, with repeal by a higher administrative body or court. Every public or private subject that faces this kind of act is not subjected to its rules. In fact, the absolute invalid administrative act can be totally ignored by the interested people or by other administrative authorities.

Appeal

The expression of the dissatisfaction of a party with the decision of a relevant body of the first level about the administrative procedure; a right of parties for the protection of their legal rights in administrative procedures; a regular legal measure in the administrative procedure, that serves for the protection of the legal rights and interests of the party, and for the protection of legality in general; a measure which intends to correct the injustice of the first level. This right may be excluded only if it is expressly prohibited by law (See: administrative appeal, as an alternative denomination).

Administrative appeal

An important legal measure for the realization and protection of the constitutional rights of individuals and other subjects of law; a legal measure of the subject, through which it requires the repeal or the change of an administrative act; an important constitutional principle.

Public authorization

The exercise of an administrative activity by legal authorization; a delegated power by law in non-governmental bodies and organizations that don't exercise the administrative activity as a “source power” previously given by law, but as a delegated power by state bodies and with that case they are given the ability to present themselves in certain legal relations as carriers of rights and obligations with administrative

character. The public authorization doesn't present the administrative activity nor the administrative function in their full meanings. The public authorization, is in fact a delegated activity by the administration, a 'delegated' function from the administrate to non-governmental subjects, which are differently named in different constitutional system of states. Two main elements define the core content of the legal situation of these non-governmental subjects: firstly, the legal administrative capacity, i.e. the entirety of rights and obligations, provided and charged by the state in the field of administrative activity, and secondly, the capacity to represent themselves in certain legal relations as carriers of administrative rights and obligations. The volume of administrative functions that are given to these non-governmental subjects is set by normative acts of relevant state bodies and it is not the same for everyone. Their legal administrative situation is set by the constitution, while in details it is set by legal administrative norms with legal acts of relevant state bodies.

The sources of administrative law

The administrative law, has no self sources in principle; sources of administrative law are general sources of law, in the material and formal meaning. By law sources in the material sense, the theory of state and law presents the force that creates the law, a force that is conditioned by the rise and development of the economic structure itself, by the type of certain relations, of life conditions that are spontaneously presented in those relations etc., while with law sources in the formal sense, the same theory means the form of legal norms, the ones that are in force. The constitution is the legal basis for the entire administrative legislation of a country. In reality, it contains a number of legal norms that regulate social relations in the field of state administration of that country. A part of laws also contain norms with normative character, thus they are formal sources of administrative law. The administrative

law of a country can be summarized in a special code. The issue of understanding the sources is a general theoretical issue for all special branches of law, including the administrative law. In this way, understanding administrative sources cannot be done separately from the meaning of law sources in general.

Bureaucracy

Despite numerous efforts to define the notion of bureaucracy, because of the complexity of the phenomenon itself, in theory there is no 'generally acceptable' definition. However, bureaucracy in the most general sense is defined as a governance of people from the office (a meaning that originates from the etymology of the word); a negative phenomenon in the system of governance, social class which mainly consists of professional leaders; a social class that is separated from society and out of its control; a form of exercising the power in which individuals, groups or classes are put upon the society; a special class that mainly consists of employees and administrative functionaries; an executive apparatus of state, which functions despite from the institutions of the political system etc. This term, as a rule, expresses a corpus of administrative officials, and the procedures and duties that include a certain term of administration, for example a state body. The term is mentioned in France from the start of the XIX century. Although Max Webber is not the one who invented the concept of bureaucracy, he is known as the author of original contributions in the study of this phenomenon.

Bureaucratization

A certain way of exercising the power with consequences for the administrative apparatus and for the society as a whole, that is expressed with the increasing number of administrative organizations and the growth of the administrative apparatus in general, with tendencies of social isolation and the immobilization of the leading class, by forcing the citizens to be passive in the political life with the tendency of 'individuals

alienation from the political power', bureaucratic power; a manner which expresses and the bureaucracy; the bureaucratic regime, bureaucratic apparatus, bureaucratic mentality and the bureaucratic way of thinking are characteristic features of bureaucracy. It can occur for the notion of bureaucratization to be mixed with the one of bureaucracy, even though they are different from each other, they have the same origin. In reality, bureaucratization is presented as a way in which bureaucracy is manifested. Therefore, bureaucratization entails a manner of behavior, which can be qualified as an irresponsible behavior with people (See: bureaucracy).

Centralism

The territorial principle of governance; a situation where a state or organization is governed by a center; the regulation of essential issues from the top of the organizational pyramid of a state; a manner of governance in a certain hierarchy.

Centralization

Marks the concentration of the power in a mutual state center (central power). during the existence of centralization, the functional independence of lower territorial bodies or the local administration bodies was minimal or inexistent. Although in the centralist system there can be different organizational or territorial similarities (regional, provinces etc.), they don't present initial expressions of citizens' requests for an independent governance of local work. The bodies that conduct administrative functions in these territorial units are appointed by the central power, which has hierarchical control over them. In systems with strong centralization these territorial administrative units have no rights for independent decisions. Centralization also means the concentration of financial means, respectively there is no financial autonomy of lower bodies.

Administrative issues

Every administrative matter or case by the appliance of which a state body creates certain rights and obligations for the party in the administrative procedure; in defining the administrative issue we have to start from the administrative field, by administrative matters that are regulated with relevant material – legal dispositions. Every individual case from the relevant administrative field is an individual administrative issue, while the purpose of every administrative case is the issuance of the relevant administrative act. The concrete administrative case is always defined by the concrete case.

Certificate

A certificate is an official document that provides data on a person. Depending on the content of data we distinguish several kinds of certificates: birth certificates, death certificates, marital certificates and certificates that prove the performing of an activity. A sample of certificates of activities is the certificate of educational courses which includes every document that is given after the successful termination of a course, program or after passing the exams in educational institutes, regularly registered and licensed.

Decentralism

A type of governing system, a principle of political, economic and judicial leadership and organization; a system that is based in dividing the responsibility from the central bodies in the local ones. As a notion and as a concept, decentralism is related to the territorial system of governance. Territorial governance is a very complex process, which has more functions that are exercised based on two principles: centralism and decentralism. Although the national definition of each principle is different in theory, however their content complies with the notions that define those contents. Decentralism, in a wide sense, entails every weakening of the center's impact in its parts; transfer of certain authorizations from the 'top of the pyramid' in other

functional carriers, which at the mean time also transfers the responsibility, in proportion with the authorizations. Decentralism is expressed as delegation, which means transferring the duties from the center to lower levels, as an organizational decentralization, as a transfer of duties and in the same time as an organization of new units; as a political decentralization, as a transfer of duties, organizational growth of lower levels. The practice shows us many advantages of decentralization, but disadvantages as well. From the theoretical and empirical studies, the need to built a model of decentralization arises that would be socially acceptable, politically suitable, professionally rational, organizationally functional and ethnically opened. The issue of decentralization in Kosovo is very controversial, because of its ethnic attributes.

II. Decentralization

The delegation of central bodies' power to lower levels of the hierarchy or from the central bodies to the local ones and the recognition of the autonomy of local bodies in the political, normative and administrative sense. 2. A system of governance, of political and economic leadership that presents the process of the transfer of power from central political and administrative bodies in the chosen local bodies and the existence of an administrative, political, normative and financial autonomy of lower bodies.

III. Decentralization

Unlike centralization, this is a process where the power is transferred from the political and administrative central bodies, in the chosen local bodies that are interested in implementing policies in certain regions, as a response to the constant change of local requests. With the decentralization of local bodies the law defines special competences with local character according to which they govern independently, by even having a financial autonomy. In this case local governing bodies are not appointed

by the central power, but by the local communion itself, respectively the representative bodies of that communion. II. The delegation of central bodies' power to lower levels of the hierarchy or from the central bodies to the local ones and the recognition of the autonomy of local bodies in the political, normative and administrative sense.

Branch

A form of internal organization of administrative activity which includes a group of administrative duties that are similar to each other that compose an entirety. In principle, for a branch or a couple of branches, independent administrative bodies are formed.

I. Decree

A written act by a higher state body or by the head of the state, that has legal power; the decree of the Presidium of the National Assembly; royal decree; legal act with individual character which is issued by the president to give legal power to something.

II. Decree

Legal act with normative character which is issued by the president and that has the force of law.

III. Prohibitory decree

An act of a high body of state power which expressly prohibits the conduction of certain activities; prohibitory measures; prohibitory law etc.

IV. Enactment

The act of issuing the decree; decide something through a decree; give legal power to. Removing tax decree, election decree etc.

V. Decree

Legal act that has to do with the administrative nature depending on the issue it solves, for example an act with which the President of the Republic appoints an ambassador, as a representative of the state in another state.

I. Delegation of competence

A right of higher administrative bodies to transfer the attributes of exercising their executive powers to lower bodies of the hierarchy. The delegation of competence is done by the superior authorities to subordinate bodies. The delegation is not done in every body and case of public administration. In reality, it is the law who predicts the type of organ that conducts the delegation, along with the concrete action that has to be done. The organ that delegates a competence cannot authorize the delegated organ to re-delegate this competence to another body, except in cases when the law itself allows this. If we have in mind that the competence is the right and obligation of the body to conduct a certain duty. The delegation is an exception, therefore it is allowed and in practice they try to avoid the delegation of competences, only in cases when it is necessary.

II. Delegation of competences

The transfer of competences from one person, body or branch to another one, according to constitutional and legal rules. It is a right of higher administrative bodies to transfer the attributes of exercising executive power to other state bodies. The delegation entails a form of decentralization.

The clause of administrative act

The most substantial element of the administrative act, a clear expression of the will of the authority that issued the administrative act which recognizes a right or duty of a subject in a certain administrative procedure; the decision about the case of the administrative act; there is no administrative act without a clause.

Resignation

An act with which a holder of a public function expresses its decision to terminate the relations with a certain body in order to stop exercising his duty, the way the body has required; a measure to solve internal conflicts between the holder of a function and the body he worked for; a sanction for the political responsibility of the holder in case he fails to act in accordance with the trust he was given, that can be voluntary (because of the different points of view and concepts of the holder and the body he was working for), or imposed by the body itself (as a dictated action before the body fires or revokes him from his function).

Departments

A central institution of state administration; ministry etc.

Directorate

Organizational unit of municipal administration; the municipal administration of the Republic of Kosovo is organized in directorates; the head of the directorate is called the director of the directorate.

Giving legal aid

Certain activities of a body of administration that are done for another body of administration, no matter if we talk about the organs of the same unit or different territorial units; mandatory legal aid (when the body has to execute some actions in procedure outside the territory of its competence) and optional legal aid (when the body entrusts the conduct of some activities in procedure to another authorized body); the territorial limit of competence is seen as the main cause for the existence of the legal aid institution.

I. Administrative law

A branch of the legal system and science. Administrative law represents an entirety of legal norms which regulate certain

social relations; as a branch of the judicial science, administrative law studies the legal norms that regulate certain social relations; the entirety of certain social relations that are created in the field of administrative activity, that distinguishes the administrative law from other branches of law; the features that distinguish the administrative law from other branches of the legal system of a state, as a rule are its special objects and a special concrete character of social relations, that refer to this object; the objects of study for administration law of a country are only those social relations that are created in the field of administrative activity of that country; the special object of administrative law distinguishes it from the other branches of the legal system, but doesn't depart it from them.

II. Administrative law

An integral part of the legal system that includes the entirety of legal norms that regulate the public administration and the relations that arise from them; a scientific discipline that includes the entirety of studies that refer to the legal regulation of state administration.

Public law

Presents the entirety of legal norms that have to do with the status (position – situation) of the state and its citizens and the norms that regulate the relations between the governors and citizens.

I. Executive

A branch of state power that is responsible to issue and implement laws; the branch of state power that doesn't include the judiciary and the legislature; a branch of state power that has to do with implementing policies.

II. The executive

A part of state power formed and implemented by the government and administration. It is called executive power because in the state that is based in the principle of checks and balances, its duty is to implement, respectively execute the essential political decisions of the legislative branch. The government is obliged to take political decisions and to lead the state in the frames of the constitution and laws. The function of the administration is the implementation of these decisions in the political reality.

The effects of administrative appeal

Its effect is suspension of the administrative act, which means that the administrative appeal suspends the implementation of an administrative act, thus the administrative act cannot be implemented for as long as there is an administrative appeal against it. The suspension of implementing an administrative act does not create the superstitious effect about the decision that is going to be taken by the body that review the administrative appeal. (Remark: the law predicts exception from the law above, where the administrative act can be implemented although there are administrative appeals against it and with that case, the administrative body that carries the execution of the administrative body, and the subject that is interested in its implementation are not stopped by any suspensive effect of the administrative appeal).

The execution of administrative acts

An action of the competent body of the public administration that has issued the administrative act after it was put into force, an action that is related with the execution of the predicted obligations in the administrative act, when the law entrusts that body to execute them. The law stipulates administrative acts that cannot be executed, the actions of which are suspended (LPAK, Article 117).

The execution of the act

The final phase of an administrative process; a defining moment for showing the legal consequences of the administrative act, that is related with the moment when it comes into force, because administrative acts can only be executed after they come into force (Article 130 of the Code of Administrative Procedures of Albania). The execution of the administrative act is inevitably connected with its legal power.

The constitutional elements of administrative act

A number of elements that define the form and content of the administrative act; as a concretization of the matter and subject of the administrative act, the clause, excuse and instruction for the legal measure. The administrative act may have other additional elements. The essence of the content of an administrative act is the clause, i.e. the decision that decides the case. The clause contains the expression of the will of administration's body by setting a certain case, the certain relation that is regulated with it. The excuse shows the reason why the body came to the final decision; the clause expresses the principle of legality by presenting the factual situation and material clauses to the party, based on which came the decision. In the instruction for the legal measure the party is informed about the possibility to use a certain legal measure. If this opportunity is offered to the party, then the instruction shows them in front of which body they can use that right and until when can they do it. The decision also contains the signs, date and seal of the body.

Employees' ethic

An entirety of social rules that have been alienated by the employees as their personal criteria of behavior in accordance with their quality as public employees; a form of expressing the social reality in the consciousness of individuals. Ethical rules are extended in: the relation of employees with citizens as individuals; the relation of employees and the society as a

whole; the relation of employees and the administrative organization and the relation of employees with their job.

The form of the administrative act

The form through which an administrative act is expressed and published; the administrative act, as a rule has a written form. Even if the act is verbal, it has to be confirmed in writing, of course if for this kind of confirmation there is a legal interest and the interested person requires it immediately. The form of the administrative act expresses the authority of the administrative act, the legal basis, the description of the case, the clause, excuse, instruction for the possibility of appealing it, the signs, date and seal of the body etc.

Administration fields

Separated branches of administration; a narrow entirety of administration, for example a branch of administration is the industry, while its fields are the construction industry, the metal industry etc.

Legal power

The ability (possibility) of an act after it is promulgated in the Official Journal, as a binding legal act for recognition and implementation. The act comes into force, repeals etc.; the hierarchy of an act against other acts.

I. The entry into force of the act

An administrative act comes into force in the moment of its issuance by an administrative body and continues to be so until it is annulled by the administrative authority or by the court; the entry into force of an administrative act is depended from the moment when the act starts its activity and lies its effects, up to the moment when this activity is terminated, thus until the moment he has legal power. An invalid administrative act never comes into force.

II. The entry into force of the administrative act

The approval day of the administrative act, except cases when the law or the act itself gives it retroactive power. Article 88 of LPAK emphasizes cases when an administrative act has retroactive power.

Interpellation

Presents a constitutional institute through which the deputies exercise their external control of the government, respectively of state administration and of all carriers of public functions that are appointed by the Assembly.

Incompetence of the body of administration

An activity of the administration beyond its authorization, without certain rights and obligations, which can be expressed as matter incompetence and territorial incompetence. Incompetence is different from the usurpation of competence, which appears when the individual or the group of individuals are not even close to having the quality of the holder, while issuing an administrative act (inexistent act), which has to be ignored by the party.

Inspector

An authorized person by law to supervise a person that owns a booklet that proves his official quality, his identity and authorizations.

The classification of administrative acts

A subdivision of administrative acts, the basis of which is the subdivision of the powers itself. Administrative acts are all the legal acts that are not part of legislative or judicial acts. They are numerous and varied, with various criteria for their classification. According to the importance of the subject, they are classified to: declarative administrative acts (which don't create new relations, only verify the existing ones), structural (which create and change a concrete legal relation, but they

only declare the existing legal position and don't change the essential legal position), and commanding acts (which are compiled by orders or prohibitions and obligate the performance of a certain behavior). Based on the fact whether a new legal relation is formed or its existence is verified, they are classified in declarative administrative acts which create, change or terminate a legal relation, thus a new legal relation rises; based on the number of bodies that take part in the issuance of the administrative act, they are classified in administrative acts of a single body (which are issued by individual or collegial bodies) and composed administrative acts (where two or more bodies are included) and based on whether they are issued by the authority of state power or by agreement, consensus or the initiative of subjects, they are classified in authoritative or unilateral administrative acts (which are issued by the authority of state power) and consensual administrative acts (which are issued by agreement, consensus or the initiative of the subjects that take part in the administrative act).

Substantive competence

A right and duty of public administration bodies in the administrative procedure about a certain case. As a criteria for the definition of substantive competence in the administrative procedure we mention the content or the nature of the cases that are solved by the bodies of state administration. The bodies of state administration have the rights to exercise their functions within their recognized competences by law, without interfering in the competences of other executive, legislative or judicial bodies.

Competence

A right and duty of a public administration body to exercise its activity based on and for the implementation of law; an essential element that determines the legality of an administrative act. For the administrative body, the competence constitutes not only the legal right to execute a

concrete administrative action, but the obligation to execute this action as well. The competence limits the field of activity of the administrative body, not allowing it to interfere in the rights and attributes which the law gave to another body. The conflict of competences may happen between the administration bodies themselves and between them and other subjects.

Municipality

Territorial administrative unit; historically known from the period of the French Revolution that extended to a rebel phenomenon, for example, the municipality of Paris in 1987. This term names a group of people that work and live together; a community; an essential unit of local governing that consists of the citizens of different communities in a certain territory defined by law.

I. Conflict of competences

Conflicts that arise between state bodies in exercising their activities, because one organ interferes in the competences of another state body, or when the body charged by law doesn't know or doesn't accept to do its job.

II. Conflict of competences

A conflict that arises between administrative bodies themselves, and between them and other subjects. In the administrative law, the conflict of competences can be seen as a positive and negative conflict for competences: the positive conflict happens when two or more bodies are declared as competent for the solution of the same administrative case, unlike the negative conflict, which appears when two or more administrative bodies refuse to solve the same administrative case. There are two principles that determine which body is competent to solve conflicts of competences: if the conflict of competences arises between bodies that belong to the competences of the same administration, that conflict is solved by the body that stands upon the involved bodies and that has

controlling competences, while if the conflict of competences arises between bodies that belong to different administrations, the competent body to solve this case, is the court.

The concreteness of the administrative act

One of the features of the administrative act, a feature which determines the regulation of special cases by administrative acts.

The conclusion of competence

The conclusion of the public administration's body in the administrative procedure whether the substantial and territorial competence exists or not, to define it based on the request of a physical or legal person; every factual or legal change, that can happen after the request is sent, doesn't change the competence of the body of public administration about the request waiting for its response (Article 12 of LPAK).

Administrative contest

The form of an organized, systematical, judicial control about the legality of administrative acts with the purpose of judicial control, of the principle of legality by the bringer of administrative acts, respectively controlling if these acts were brought in accordance with the material and procedural norms.

Administrative control

A form of impact from the higher administrative body upon the lower one, related to their official tasks, with the purpose of regular implementation of norms by the depended body. The determination of the types of control is depended by the criterion that serves as a basis for the division, while the object of control depends on the type and content of control, and the instruments of control depend on the type and content of the object of control.

The judicial control of the administration

One of the external controls of the public administration that is noticed in the authorizations that are given to an independent body by state administration in order to solve the conflicts in the functioning of public administration (See: administrative conflict).

The internal control of administration

The control of higher bodies of public administration against lower ones that is exercised as institutional and hierarchic control; the first one as an expression of the dissatisfaction of the party, by its appeal through administrative procedure and the second one as an expression of hierarchic power, according to which higher bodies of the administration have the right, but also the obligation to supervise the job of lower bodies.

The external control of administration

A kind of control that is executed by different subjects, in the first place by the parliament about the work public administration bodies, with the intention to ensure the regular functioning of the public administration; guaranteeing legality and supervising administrative activity; a control that doesn't only extend in legality, but in the opportunity of the administration's work as well. Regarding to the parliamentary control, different states have different mechanisms of control; the parliamentary control in countries with developed democracy and in the countries that have embraced the parliamentary system, presents one of the most important manners of the external control of administration.

Judicial control for the activity of state administration bodies

A control which is exercised by the court in the cases when it reviews the appeals against administrative acts; indirect control of act's legality; the realization of civil and criminal responsibility for not fulfilling the legal – administrative

obligations; a limited control about the legality of administrative acts and of some other actions with administrative character. Objects of control are administrative acts with individual character.

The control of administration by the Ombudsman

A type of control of administration's work that is executed by a special institution, known as Ombudsperson – an institution with Swedish origin ('mediator' or 'representative'); a body whose task is to protect the citizens in rapport with the administration, with the prerogative of its work. The interference of Ombudsman is done by the request or appeal of citizens for the behavior of the administration. The control of Ombudsman is wide-spreaded, by looking after cases of legal violations, in order to be able to talk about the weakness of laws and the gaps of administration, and based on this to propose changes to overcome these gaps of the administration.

Legal administrative relations

Social relations that are regulated with legal administrative norms that are created through administrative acts or administrative silence in the field of state administrations' activity.

The macroorganization of administration

A general organization of administration, which, as a rule, is done by founding bodies of the administration themselves; an organization that is defined with the founding of administration bodies.

Administrative supervision

One of the main functions of administration that is expressed with the right of administration bodies to supervise the legality of other administration bodies' work (internal supervision) and towards other bodies and institutions (external supervision).

The microorganization of the administration

An internal organization of state administration, that belongs to the administration itself based on the general organization (see: microorganization), the purpose of which is to increase the level of efficiency and rationality in the work of state administration bodies; a right of internal organization, that belong to the employees themselves, but that is limited by the necessity of the formerly set general principles related to their internal organization.

The ministry

A central body of state administration; a body that leads the activity in a certain field of social life. The head of the ministry is the minister.

The minister

A member of the government, as an executive body of a country; individual body that directs a certain ministry; a plenipotentiary minister is the special envoy in the government of another state, of course, one level lower than the ambassador.

Measures of political control of administration

Measures whose intention is to impact in administrative organizations regarding to their role in the mechanism of power. they have in mind the existence of the state as a fact that cannot be put into doubt. Qualitatively from this, there are points of view that start by denying the state as a special institution. They are classified in organizational measures of political control such as decentralization, the separation of functions and collegiality, and in functional measures of political control, such as the decision of citizens (the consultation of citizens), the representation of citizens, the participation of citizens etc.

The separation of powers

A constitutional principle which is the base of a state's governing system that entails the separation of state power in branches, each of them having different tasks and features.

Civil employee

The employee of public administration bodies of central or local level, who exercises his public authority in tasks of leading, organizational, supervising or executive nature.

Binding norm

A norm that directly orders the subjects to perform certain activities.

Legal norm

A general rule of behavior that is important for all people that are part of a certain collective.

Prohibiting norm

A norm that clearly and precisely expresses the rule of behavior. Most of legal norms are part of this group.

Body

An individual or group of individuals that execute certain tasks in an organization; the volume of the individuals or their groups' tasks.

A state administration body

A state body that expresses its rights and duties to issue legal administrative acts that manifest the will of state power, and that protects and implements the laws with the help of coercive measures.

Supervising body

A high body of administration; a body that has the competences to supervise the work of a lower administration body.

State body

A person or group of persons that execute state-character jobs; a circle of authorized people that execute state work; holders of state tasks and obligations.

Municipal bodies of administration

An essential body of local self-governing set by law, the competence of which is regulated by the statute of the municipality.

General and special administration bodies

The separation of administration's work according to the volume of different work, in general bodies (equipped with full competence to execute their tasks) and special bodies of administration (with limited competence to execute their tasks).

High level and low level administration bodies

The separation of administration bodies depending on the level of political territorial units, that are founded according to levels of state bodies in general and administration bodies in particular.

Active and advisory bodies of administration

The separation of administration bodies based on the kind of work they execute, in active (bodies that take decisions) and advisory bodies (bodies that don't take decisions, but give certain advices and professional opinions for other bodies).

Public administration bodies

The central public administration bodies and other bodies that depend from them, and local public administration bodies and other bodies that depend from them.

Individual and collegial administration bodies

The separation of administration bodies based on the criteria of their placement in the bodies where the individual's will is expressed, and in bodies where the right to decide belongs to a group of people, an institutionalized group of people, where the decisions are taken by the majority of the votes from its members (collegial bodies).

Central and regional administration bodies

The classification of administration bodies based on the scope of their activity, within a state territory (central bodies) or with limited scope (regional bodies).

Centralized and decentralized organizations

Types of administrative organizations based on the competences, rights and obligations of the head of organization in relation with lower units and of the authorizations of lower units in relation with higher units or the head of organization.

Organization

I.e. a social phenomena which appeared with the separation of social work in the human society; a group of people, reciprocally interconnected for achieving a mutual goal; a manner, in which parts of the entirety are harmonized and directed for achieving the mutual goal and to realize the given tasks. The organization entails the concentration of these elements: people, certain purpose, means (material and legal), organizational structure and independence in work.

Administrative organization

A real social phenomena; a type of organization that perform general social activities that consist in exercising the power or certain services for law subjects and the opportunity to use public authorization. An administrative organization is an organization that deals has continuity, the professionalism of employees, authorizations, state tasks etc. Administrative

organization consists in exercising state power on one side and exercising certain services of the users of public authorizations on the other side.

The illegality of administrations' work

An action of the administration contrary to the law, such as: incompetence, violation of rights in procedure, violation of material-legal rights, erroneous verification of the factual situation and illegality in the purpose of the act.

The principle of hierarchy

One of the main principles that entails the right of higher bodies to undertake control of lower bodies of state administration, and the obligation of the last ones to implement the order of the superior body.

I. The principle of legality

A principle that means 'compliance with the law', an action of the competent bodies of state power, within the competences that the law gives to a body.

II. The principle of legality

From the aspect of public administration, it essentially means that the public administration performs its competences in compliance with the law. This general formulation contains three essential aspects: material legality, procedural (formal) legality and the aspect of legal competence. The public administration takes their decisions by independently implementing general legal rules. Administrative bodies take their authorizations from legal sources that are given by law. By this, the principle of legal competence is closely related to the implementation of law.

The principle of independence

A principle of state administration, a worthy implementation of the principle of legality, which means that the administration

can only work for what it is authorized by the law and cannot interfere in the work of any other body. The independence has to be looked at by the aspect of competences of state administration bodies, bodies that conduct state activities and delegated transferred power by responding to the requests of citizens. But the independence entails the rights, obligations and responsibilities of the relevant state body.

The principle of state administration's efficiency

One of the principles of the work of administration that expresses the optimal relation between the set requirements and the achieved results of the administration's body in its work; the fulfillment of administration's tasks regarding to the work goals and results. There are certain factors that impact the efficiency of the administration: the legality of administration's work, functional organization, a clear definition of competences, the modernization of work, professional growth, the information and communication in administration.

The principle of the open-work of the administration

It is one of the essential principles of administration, which expresses the administrative-openness in front of the society and its citizens, especially the information about its work that can be done in different manners, a principle that can only be limited in certain cases in the legislation of every state.

Official person

An individual, authorized person that executes a certain function in the administration; an authorized person for taking the decisions in the administrative procedure; a subject that is charged by the law to execute, individually or collegially, a certain administrative activity, a different notion from the administrative body that expresses an organizational formation inside of which administration activities are done.

Administrative work

The performance of activities that altogether comply the organization of implementing essential decisions or creating certain conditions that are necessary for those decisions to be implemented; a work that is realized through these activities; the insurance of staff; the leading of individual and group activities and the evaluation of work in implementing essential decisions.

State administration work

Are expressed as administrative work and professional, social work etc. The first ones are known as authoritative work and consist in issuing normative acts and administrative acts and performing administrative supervision; the second ones are known as non-authoritative work and consist in professional work that are done for the needs of other state bodies, in the first place for the executive and legislative bodies.

Power

A relation between two subjects, in which one subject orders the other one, while the last one performs and respects that order; giving order regarding to the behavior of someone else, who respects and abides those orders; the impose of the will of a subject to another.

Discretionary power

A right of a body of public administration to perform public authority for the fulfillment of a legal purpose, even without a written authorization by the law.

Hierarchical power

A relation between administration's bodies, that relies on the right of giving orders which have to be respected by lower bodies and in the right of controlling the act about its legality or opportunity, and the right of solving conflicts between depended bodies.

State power

A power that owns an apparatus of violence; giving orders regarding to the behavior of people in society, that have to respect them otherwise the apparatus of violence will come to use. State power is expressed in its forms such as: legislative, executive and judicial power.

The political responsibility of administration

A specific type of legal responsibility, the basis of which consist the non-opportune work, that is not in accordance with the viewpoints and interests of the forum or body, in front of which the responsibility is given, non-opportunity is included in the sphere of discretion, therefore, as a rule, it hasn't been legally regulated, unlike the basis of other forms of responsibility; the political responsibility of state apparatus employees is a special kind of responsibility, because it is not similar with other kinds of responsibility; the realization of political responsibility is done in cases when administrative functionaries don't justify the trust they have been given, for example ministers by their voters.

Individual and collegial responsibility of ministers

A category of political responsibility of ministers for being entrusted in front of the forum or the body that has chosen them in that function. The individual responsibility includes the action and activity of the minister and its cabinet; it presents the responsibility of the government in front of the body that has voted it. In practice, it is possible to transform individual responsibility in collegial one, whilst the opposite is not possible in legal viewpoints. The political responsibility of the government is done by the vote of confidence.

The content of the administrative act

An expression of the clarity of the decision in the clause of the act that expresses the will of the body that issues the act, the excuse and the instruction that informs the interested person

about the legal measure he/she can use, the authority where they can send it and the deadline. These essential elements define the form of the administrative act with an individual nature, a sufficient concept to distinguish them from normative (general) acts that have no similar form or content.

Legal principle

Abstract norms that are issued by less abstract norms, that are valid for all included cases of lower norms.

Official person

The head of the official body who is authorized to undertake actions in the administrative process before the decisions are made. A civil employee of the administration body who has been given the authorization to undertake actions in the administrative process by the head of the body, until the decision is taken.

Petition

It is a collective request (in the definition given by the vocabulary of Albanian), for requiring a service from the public administration. It may also be an individual request in the meaning of the dispositions of the code of administrative procedures.

Administrative procedure

By administrative procedure we understand the entirety of actions from the acceptance of an individual request until the final decision from the state administration.

State power

The apparatus of violence by the help of which the state ensures the functioning of a certain legal order. A relation between the state and individuals' will, by defining their behavior and secondly they abide its orders by using the monopoly of physical force. State power is manifested in three

main forms: constitutional, legislative, executive and judicial power.

Executive power

If a form of state power that consists in the direct implementation of laws and other legal acts, of a certain state policy. The role of the administration consists in the implementation of laws, individual and general acts. The administrative power is executed by administrative bodies and organizations, ministries, secretariats, directorates, entities and different institutions that exercise delegated, respectively authorized power.

The government

1. The highest body of state administration that performs executive activities and that consists of the president, vice presidents and the ministers. The Albanian government; democratic governments (popular, revolutionary); legal governments; anti-popular governments; permanent governments. The head of the government is the prime minister. Members of the government are the ministers. 2. The well organizing of duties in the family, there is good governance in family.

De-jure government

A government that is created in compliance with the constitutional law, which is fully legal even though another government may have the de-facto control.

The exile government

An executive body of a state which is placed outside its territory and has the right to execute political functions according to the constitutional dispositions of that state, with the help of government in the territory of which it stands and operates.

The government of coalition

A parliamentary government the cabinet of which is composed by the members of more than one political party.

Provisional government

A government that operates during transition from a former government towards a new one.

The government

It is the carrier of the executive power. The government as a body is also known with other names: ministerial council, state council. Some countries distinguish the government as the highest body and the cabinet as a lower one, but there may also be differences between the ministerial council (when the head of state leads it) and the council of the cabinet (when the president of the ministerial council leads it). In our country, there is no difference between the government and the cabinet. Both terms are used to express the idea that in United Kingdom is called the cabinet. Based on this idea, we will further use the term 'government' (as a synonym of cabinet). The government has its ministers (state secretaries) that are on top of a certain ministry (administrative body) while the head of the government is the prime minister.

Governance

The action according to the meaning of the verbs GOVERN, GOVERNED. Internal governance, state governance, house governance, the art of governance, the form of governance. II. The political and administrative lead of a state by performing the executive power; the governance through government's bodies.

Requisition of competence

The authorization of a body of a wider territorial administrative unit to transfer the performance of some procedural cases in a more narrow unit, while the decisions for the administrative

case remains in the competence of the body that develops the procedure. The requisition of competence can appear when a body requires from another body outside the territory of its competence to undertake an action by trusting the other authorized body to perform a certain action in a procedure (known from the practice in former Yugoslavia).

Legal order

The expression of the will of legal norms and the behavior of people based on those norms. It is different for every society in a certain phase of its development, a part of social order regulated by law, with the main purpose to realize legal norms. Legal order, based on its structure is separated in the normative part that contains norms and the factual part that contains the concrete behavior of people according to those norms.

Reform

A deep and wide change that is done in a field of social activity, reorganization of something; an entirety of changes with political character that is done by those in power to extend their dominance without touching the roots of the existing social order. A deep reform, economic reform (monetary, educational), agricultural reform, judicial reform, bourgeois (democratic) reform, writing reforms, the implementation of reform. II. The agricultural reform that was implemented in Albania after the release. The reform gave land and livestock to poor villagers. III. An important change in state and law, that includes an important field of state and that deeply changes the existing situation. IV. A term that historically expresses the wide social and political change in the XVI century in the West Europe, with anti-feudal character that was directed against the Catholic Church and that was favored by the decomposition of feudal relations, by the rise of new capitalist relations.

Revocation

The withdrawal of an issued act by the administrative body that formerly issued it.

Regulations

The entirety of rules and norms that serves to ensure the progress of the work in a certain field, that explain in details how should the laws be implemented. Subordinate act with normative nature that presents the internal organization and function of state administration bodies. This kind of act is binding only for the administrative unit it is dedicated to.

Legal system

A plot of general legal norms, systemized based on certain rules. A group of legal norms.

Political system

Legal discipline that studies the system of governance, the leading and administration of a state.

Sovereignty

A supreme political power, which is unrestricted and unconditional from other powers. The sovereignty presents the highest political authority that is not subjected to any other power regarding to taking decisions.

Statute

A set of principles or norms that create the base of the activity of political organizations, associations etc. an essential act that determines the legal capacity of the legal person.

The statute of municipality

A communion of citizens of a certain circle approved by law, which through the bodies of administration and the services of their public organizations supports the performance of lawfully competences.

Administrative section

Judicial structure created in courts of appeal and courts of first level, that serves for the judgment of administrative conflicts in law issues (from the practice of Albania).

Sectors

A form of internal organization of administrative activity, which, as a rule, includes the administrative work of a branch of state administration.

Subdelegation of competence

The delegation of the 'formerly delegated' competence from a body to another body in procedure that is possible in the same conditions. In order for the subdelegation of competence to exist, we must have the possibility for it to be used only if it is regulated by law and not by subordinate norms. If the possibility of delegating and subdelegating the competence exists, then the possibility of their revocation exists as well.

The subjects of administration's control

The carriers of the control, the organ in which the control is performed; subjects that are authorized by legal norm to perform a certain control upon the administration and sometimes to use their authorizations of control.

Subordination

The obligation of subordinate bodies to act according to concrete orders of higher bodies of state administration.

The substitution of competence

Receiving the competence to perform a certain action by the written authorization of law; for example, the body of central power can't take a certain administrative case from the competence of the municipal body and decide for it unless that is authorized by law, therefore we can say that the substitution of competence is not allowed, only if the law authorizes it.

Citizenship

A specific legal relation or a special condition of the relation between state and an individual; a permanent relation, based on a person and the sovereign state, based on which a number of rights and obligations appear. There are differences in the points of view about the citizenship because of different practices that are implemented in different countries.

Administrative service

Specialized administrative work, which usually are organized in independent bodies and in their content.

The head of government

A body of external representation of the state, that takes part in international conferences, negotiates, signs international agreements without special authorizations.

The head of state

The highest body set by the constitution for the international representation of the state which can be an individual body (president, king, sultan etc.) or a collegial body (here we are talking about countries with federal state regulation – former-Yugoslavia etc.)

Civil service

An administrative branch of governance; a group of people employed in government's departments. An independent body-institution charged with supervising the civil service of all institutions.

Public service

A service that directly intends to fulfill the requests of individuals. A service offered by public institutions (educational, health, cultural etc.) which derives from the public authority in national, regional and local level.

The state

A political organization of the governing class of a state, which intends to protect the interests of the political class and existing order, from the opposing forces inside the country and from external enemies. A political, economic and legal organization of a country, with its population, territory and sovereignty. A political structure that has legal jurisdiction and effective control over a certain territory. The criteria that this structure has to fulfill are: the existence of a permanent population, a defined territory, a government and the capacity to enter in international relations with other states.

The lawful state

Some of the characteristics of the legal state are: the supremacy of law as an expression of the popular sovereignty through the principle of representation; 2. A hierarchical system of legal norms, on top of which is the constitution; 3. The separation of public powers, each in a different sphere of competences, to guarantee the democracy; 4. A guaranteeing system of the freedoms expressed with the constitution; 5. The principle of legality (the compliance with the constitution and laws). Also, the legal state requires guarantees about possible abuses of the legislative by the control of the constitutionality of laws.

Legal state

The state where law and justice dominates. Its principles are: the priority of constitution and laws, the separation of powers, the essential rights of citizens, the legal protection from the judicial power and the guarantee of a lawful judicial process and the legality of administration bodies. It is a legal doctrine according to which the governance has to be based on law.

Simple state

A form of state regulation as a form of organization in which the state power belongs to central bodies.

Unitary state

A state based on the unique function of state in the whole territory of state. A state-nation where the sovereignty is not vertically separated with other units such as states or provinces, non-federal state.

Citizen

A person who by birth or naturalization belongs to a political communion and stays loyal to it by having the right to enjoy all legal and civil rights, economic and social ones, the privileges and protections of that country; a member of a state that has the right to enjoy all of his privileges; a person that has the citizenship of a certain state.

Citizenship

An entirety of norm of a legal state system, that determines the ways of taking and losing the citizenship and also the conflicts of citizenship. 2. The legal relation of a person with a certain state based on which he gains the widest status in the relevant state. 3. A relation with legal-public character between the physical person and sovereign state based in which that person has the status, according to which in the formal legal viewpoint he enjoys all civil, political and economic-social rights, no matter if he is inside his territory or in a foreign one. 4. A term that in the context of tax means that the tax obligation about international incomes is based on the residence of the person. The citizenship is exceptionally used only for these purposes.

Nationalization

A form of socialization of enterprises where the whole assets or a part of them passes in the property of state or public institutions. 2. A form of taking the property from private subjects and passing it in public property under the administration of state.

Public service

The performance of different work with which a variety of social interests are fulfilled. As a notion and as a legal social institution it was first born and developed in France where Leon Digi developed the theory that public law is, in fact, a right of public services and according to him, public service presents each activity the performance of which should be provided, regulated and controlled from the ones who govern. There are also other points of view for public services. The difficulties arise when the definition is done in different periods and spaces. The French legal science also leads in the classification of public services. Thus, Riviero classifies public services based on the object and the way of how general interest is provided.

Guidance

A legal act that is issued for the implementation of laws; an act with normative character that details, suggests and advises about all orders given by the law; an act with explanatory character, but with binding effects for the subjects of the administrative law, that are obliged to abide the rules it sets for the concrete relation; it is issued with the intention of directing, advising or giving instructions about the implementation of law and other dispositions of general acts; the dispositions of guidances are binding for the subjects it is directed to, but they are not as binding as regulations; the guidance, as a rule, is issued by higher bodies and is directed to lower ones, with the intention of easier implementation of legal dispositions; except the binding guidance (administrative guidance) with which a higher body guides a lower one about how to implement the law, there also exists the facultative guidance, a non-binding guidance as a professional instruction, through which a higher body guides a lower one about how to perform a professional work; guidances are acts.

II. The guidance

The advice that is given to someone to perform a work, about how he should act; clarifications, rules, technical instructions. Subordinate acts if we have to deal with general administrative acts, when higher bodies of state power issue the general administrative act, in this context the ordinance towards lower bodies; a way of implementing the law. A guidance, way, instruction about how to implement the law in the general social practice.

I. Order

A legal act with subordinate character which is issued based on and for the implementation of law, with which the administrative body regulates certain concrete relations in the field of administration, relations of a special nature; an act that has internal character and is binding for the administrative units that depend from it.

II. Order

A task which the higher state body gives to the lower one; an order of the minister – ministry; waiting for an order, issue and order, abide the administrative order, I have an order and I am ordered; I am ready to abide every order; abides the order.

I. Ordinance

A legal act with normative nature which sets binding behavior rules for the subjects of law; act that predicts administrative sanctions in cases its orders are not implemented; act that orders for an action to be done or not done; an act that implements legal dispositions and other general acts; the dispositions of ordinances has a more narrow character than the ones of regulation; with ordinance it is ordered for an action to be done or not done.

Administrative ordinance

Subordinate act, legal act with normative nature that predicts general and binding rules – an order that regulates the behavior of law subjects.

The unity of power

A form of governance where the state power is concentrated in one single supreme body, from which other state bodies derive, organs which are chosen and controlled by the supreme body. A form of state regulation between powers: legislative, executive-administrative and the judicial one, according to which, the three powers perform their activities separately, but the representative power has the supremacy against the two powers.

Administrative activity

A special form of performing state power, a part of a wide activity; an administrative activity that is always performed based on law; in this context we have to with administrative and executive activity.

Executive order-giving activities

An activity of power which shows in two aspects in the same time – in the executive aspect and in the order-giving aspect, both aspects presents two sides of the same state activity executed by the same system of bodies.

Repressive administrative activity

An activity that is expressed by giving punishments and by taking protective measures for offenses, based on special procedure; the repressive activity is not exercised by all bodies of state administration; this activity is not used at all by non-governmental bodies. In different systems this activity is performed by different bodies | based on the practices in former-Yugoslavia, it was entrusted to certain bodies of administration, special bodies for offenses, bodies of internal

duties, customary bodies etc.). The repressive activity includes many fields of social life and of administration and its branches.

The activities of governance

The process of governance sums up three main activities: legislative, executive (within which the administrative activity is included) and the judicial activity. The legislative activity is expressed with its political function and legislative function (the issuance of laws and other general acts); the executive activity is expressed with the implementation of the policy set by the legislative body, the implementation of laws and other general legal acts; determining and leading the work of administrative bodies. The judicial activity is expressed by putting justice and interpreting laws and by solving conflicts that can appear during the implementation of law, an activity which is entrusted to specialized bodies.

Office

An official person that works in an office, employee; a high official, bureaucrat.

A high official

A high official presents the President of state, the prime minister, the deputies of the Assembly, the holders of state administration, in this context the ministers, the secretaries of the government, office directors within relevant ministries, with other words high officials.

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