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THE JUDICIAL CONTROL OF THE WORK OF ADMINISTRATION

France is considered to be the cradle of administrative justice. The truth be told, the French legal practice has created the first forms of administrative justice and administrative conflict (le contentieux administratif). In this way, France served as a "model" and "example" for the administrative justice, which was later followed by other European countries as well.

The administrative justice is considered as one of the "perfect forms" of the control upon the legality of the acts of administrative organs. The first experiences with administrative justice show us that it was installed in three manners, regarding its holders: administrative justice through the organs of administration, administrative justice through regular courts, administrative justice through special administrative courts.

The request for the installation of administrative justice through administrative courts is based in a number of facts, among which we especially emphasize the one that administrative justice through administrative courts represents "a very adequate form and manner of judicial protection, because of the professionalism, or their organizational independence." Administrative justice is widespread throughout the countries of the European Union. As for the scaling of judicial proceedings, we encounter two organizational models: the two-level model and the three-level model; the two-level model is encountered in 11 countries, while the three-level model in 15 countries.

The "Europeanization" of administrative justice is an identification symbol of the standards that are embraced by a large number of European Union countries and that have taken place in their legislation. The states that have embraced the standards of administrative justice are in the "wake" of its reforms. They are taking and plan to take determined steps towards the reformation of administrative justice in their countries.

A detached priority of administrative justice is an "increased trust" of citizens and public opinion in the legal work of administration. In the end, a priority of administrative justice is also protection of citizens from the "arbitrariness of administration".

Among the important functions of administrative justice, two of them are essential: the preventive function and the repressive function. Administrative courts protect, preventively, the rights of individuals. This kind of protection "prevents the excess of authorizations by executive and administrative powers" to the detriment of citizens. This function of administrative justice is simultaneously expressed with the "impact in the administrative procedure".

The repressive function of administrative justice is expressed in the application of sanctions, when the "concrete violation of legal order" appears. The public prosecutor has a specific authorization to take measures that have to do with administrative and judicial actions in the administrative context.

In this context, the organs of administration are obliged to present all their documents to the Ombudsperson, to cooperate and be present during the process of dispute settlement and administrative procedure. The Ombudsperson has the position of a party in the administrative procedure. As a rule, the organs of state administration cooperate with other organs and mechanisms of state.

Key words: administrative justice, administrative organs, regular courts, special administrative courts, "Europeanization" of administrative justice, organizational models, report of justice, "Europeanism" of judiciary, reform of administrative justice, judicial control, violation of legal order, legality, transparence, responsibility, professional impartiality, political independence.

Administrative justice presents a kind of control upon the administration, respectively upon the administrative act, first upon the special and individual administrative act. This kind of control is realized in a field of administrative activity through which the most important form of its function is developed. It reveals as "a construction of legal theory and practice from the beginning of the 19th century, built under the slogan of the need to protect the objective legality and especially the subjective rights of citizens. France is considered to be the cradle of administrative justice. The truth be told, the French legal practice has created the first forms of administrative justice and administrative conflict (*le contentieux administratif*). At the beginning of the 19th century, the settlement of administrative conflicts between the public administration and citizens was entrusted to special councils and the State Council (Conseil d'Etat). In this way, France served as a "model" and "example" for the administrative justice, which was later followed by other European countries as well[1].

Since the introductory reviews it is worth mentioning that the State Council in France, from an 'administrative organ' was transformed in a 'special administrative court', with the competence to solve administrative conflicts. This had a huge impact in the position of the French theory, according to which special administrative courts were considered as 'part of the administrative power', and not 'part of the judicial power'. In fact, the French doctrine always 'refused' to treat the State Council and other administrative courts as parts of 'the unique judicial system', but presented them as 'special organizations', born in side of the administration[2].

Administrative justice is considered as one of the 'perfect forms' of the control upon the legality of the acts of administrative organs. The judicial control of administration was not seen the same by all. In fact, this kind of control, for a long time was almost forbidden in many European countries. Those countries supported the idea that judges 'should not interfere' in the so-called 'executive duties'. The reason could be found in the principle of 'separation of powers'. Another reason was also emphasized. It was though that the judges were 'not prepared' to effectively 'interfere in administrative issues'[3]. The biggest reservations appeared in the countries of East Block, part of which was Albania as well. The non establishment of administrative courts in the Eastern countries, as well as in Albania, in 'the formal meaning' was seen as a consequence of the 'special view' of the doctrine of that time, be it political or juridical, in those countries regarding the role of state in general and the position of administration in particular. In fact, according to this doctrine, the institution of administrative conflict was considered as 'an institution of the bourgeois right'. Thus, being such, that institution 'did not correspond' with the role of state and the position of administration[4].

1. Manners of the organizational installation of administrative justice

The first experiences with administrative justice, show us that it was installed in three manners, regarding its holders:

- Administrative justice through the organs of administration
- Administrative justice through regular courts
- Administrative justice through special administrative courts

These three manners of the installation of administrative justice installed three systems of settling administrative conflicts[5]. Administrative justice, through the administrative organs itself, was not seen as a good opportunity in principle, because by exercising this kind of control, it became 'a judge in its own dispute', and as a consequence, the independence and objectivity were questioned. Therefore, regular courts and special administrative courts remain the best manners of the organizational installation of administrative justice. The second manner of the organizational installation of administrative justice, the one through regular courts, in literature is generally known as the Anglo-Saxon system, because its origin is related to Great Britain, but also with its former colonies, especially in USA, although the administrative justice through regular courts was also spread in the Scandinavian countries, firstly in Denmark and Norway. The initial component of establishing administrative justice through regular courts was British law

[1] Borkovic, Ivo (1997). Upravno pravo (Administrative Law). *Informator*. Zagreb, 448.
[2] Borkovic, Ivo (1997). Upravno pravo (Administrative Law). *Informator*. Zagreb, 449.
[3] Mr.sc. Kujundzic, Ivica (2007). *Europeizacija upravnog sudstva - predstojece reforme, internet page:.upravni sudovi.* <http://www.upravnisudrh.hr/dogadanja/opatija_2007/europ_uprav_sud_kujundzic.htm>.
[4] Mr.sc. Kujundzic, Ivica (2007). *Europeizacija upravnog sudstva - predstojece reforme, internet page:.upravni sudovi.* <http://www.upravnisudrh.hr/dogadanja/opatija_2007/europ_uprav_sud_kujundzic.htm>.
[5] More broadly: Stavileci, Esat (1997). Hyrje në shkencat administrative. *The Entity of Textbooks and Teaching Tools of Kosovo*. Pristina.

itself, 'inspired by the idea of general law' (Common Law) that represents 'a common (unique) system of norms and legal principles according to which behaves not only the individual, but the public power as well'[1]. It is worth mentioning that the British system and the American one do not differ in principle, and it is also worth mentioning that except regular courts, the legal protection is also realized through *'administrative tribunals'* which, as a rule, are established *ad hoc*, as for education, health etc.

a. **Administrative justice:** The development of state and law raised the immediate need for establishing the model of administrative supervision, which was expected to ensure a broad legal protection in the field of administrative activity. It was though that this mission could be accomplished if the supervising would be carried by a special body, the independence and authority of which would ensure that the administration in its activity, would be done within legal norms of the positive law.

b. **Administrative courts:** The request for the installation of administrative justice through administrative courts was supported in a number of facts, among which it was especially emphasized that administrative justice through administrative courts presents a 'very adequate form and manner of legal protection, whether due to professionalism, whether due to their organizational independence'. Naturally that about this and a number of other facts, the European Union gave a huge importance to administrative justice in general. It seems like two moments have influenced the importance that is given by the European Union to administrative justice. First, the fact that 'the largest part of law is generally under the competence of administrative courts'. Second, the fact that the European Union itself gives special importance to the protection of human rights and the protection of public interest.

c. **Administrative justice in the countries of European Union**. Administrative justice is widespread in European Union countries. According to the situation in 2007, in 16 countries of the European Union, from 27 of its members, such as Germany, Austria, Belgium, Finland, France, Greece, Italy, Latvia, Luxembourg, Holland, Poland, Portugal, Czech Republic, Sweden, Romania and Bulgaria, administrative courts operate as specialized courts[2]. How is the situation in other countries of the European Union? In the other 11 states of the European Union, such as Cyprus, Estonia, Denmark, Ireland, Lithuania, Hungary, Malta, Spain, Slovenia, Slovakia and Great Britain, specialized branches or chambers for administrative law operate within regular high (supreme) courts.

As for the scaling of judicial proceedings, we encounter two organizational models:

- The two-level model
- The three-level model

The two-level model is encountered in 11 countries, while the three-level model in 15 countries.

2. The relation between constitutional justice and administrative justice

The control exercised by constitutional courts and the control exercised by administrative courts differ in form and content. However, in some countries, constitutional courts are also allowed to judge the legality of the acts of administrative powers and they become "part of administrative justice". Thus, for example, in Spain, Italy and Estonia, constitutional courts have 'additional authorizations' in the field of administrative justice[3]. Regarding this category, it is enough to mention the constitutional dispositions which clearly define that "the Constitutional Court guarantees the compliance with the Constitution and makes its final interpretation'[4], that the decisions of the Constitutional Court have binding force on the state administration organs, and that the decisions of the Constitutional Court are binding for all of the other relevant organs.

2.1. What do we understand with the "Europeanization" of administrative justice?

The increasing spread of administrative justice in the countries of Europe has become a reason for scientific conferences to discuss the so-called "Europeanization" of administrative justice[5].

The "Europeanization" of administrative justice is an 'identification symbol of the standards that are embraced by a large number of European Union countries' and that have taken place in their legislation. However, the "Europeanization" of administrative justice doesn't mean that administrative courts in those

[1] Borkovic, Ivo (1997). Upravno pravo (Administrative Law). *Informator*. Zagreb.

[2] *European Law 33* (2008) 437-450; See also: Tunheim, John (2008). Rule of Law Symposium Rule of Law and the Kosovo Constitution. *Minnesota Journal of International Law*.

[3] Themes, N. (2000). *Debates in Public Security Reform, External controls*. Washington, DC; WOLA, 6.

[4] Article 124 and 132 of the Constitution of the Republic of Albania 1998.

[5] See more broadly: Mr.sc. Kujundzic, Ivica (2007). *Europeizacija upravnog sudstva - predstojece reforme, internet page:.upravni sudovi.* <http://www.upravnisudrh.hr/dogadanja/opatija_2007/europ_uprav_sud_kujundzic.htm>.

countries are 'wearing the same clothes', and it also doesn't mean the 'identification of administrative justice with any of the mentioned organizational regulations'. In this context, Albania as well will have the opportunity to adjust the administrative justice with its specific terms and conditions, without having to 'blindly follow a model'.

3. The reform of administrative justice

The states that have embraced the standards of administrative justice are in the "wake" of its reforms. They are taking and plan to take determined steps towards the reformation of administrative justice in their countries. In what direction can the reform of administrative justice be developed? This is the question that lies before them. First, in most of the countries there is a need to analyze the previous path and the experiences in the field of administrative justice. Second, they are reviewing the legislation which refers to the administrative procedures in those countries. Third, they are reviewing the possibility of changing and supplementing the legislation of administrative procedures, and some countries are also considering drafting a new legislation. Fourth, they are following the innovations that are being applied in this field in some of the European Union countries and "common denominators" are being searched. The European Convention on Human Rights contains some requirements that have to be considered by countries going though reforms in administrative justice. On top of the Convention's requirements is the drafting of a new legislation, then the request for the 'education' of judges and judicial advisers, and the request for the advancement of informative technology in this field which means the creation and development of the possibilities in applying new technology of the 'management of court cases'.

4. The importance of administrative justice

First, the 'increasing impact' of judicial control of public organs is seen as very important in administrative justice. Second, the creation of a special model of judicial control in general, the main principle of which is to expand and strengthen it. Third, expanding the impact of the principle of the separation of powers in the volume of judicial control which is seen as very important in the processes of the democratization of society in general. Fourth, guaranteeing the impartiality and independence of the judges, with the main principle of ensuring and strengthening the principle of legality in administrative justice.

5. The advantages of administrative justice

From a number of administrative justice principles, we will mention only some of them, again without claiming any detailed analysis, also having in mind the limited time for presentation in this conference. Primarily and above all, I would like to emphasize the advantages of administrative justice in 'the democratization of the judicial system'. Another advantage of administrative justice is 'its functional separation from the system of the courts of general competence'. Another advantage of administrative justice is 'increasing the trust' of citizens and public opinion in the legal work of administration. In the end, a priority of administrative justice is also the protection of the citizens from the "arbitrariness of administration". Of course that we could also mention other favors of administrative justice[1]. Without ranking them based on their importance, these favors of administrative justice should be seen more as possibilities for:

- Specialization
- A better settlement of disputes
- The creative role of administrative justice in the development of administrative law

Administrative judiciary through administrative courts has another special advantage. It is expressed in the competencies of administrative court. Truth be told, 'administrative courts have full competences, not only in law enforcement, but also in authentication of facts'. The practice of administrative courts is different. In some countries with developed administrative justice, the control of courts is focused in whether the taken decision is fair. In other countries, the focus of judicial control is done in the material truth and its finding.

6. The institutional relation between administrative justice and administrative procedure

We encounter two points of view regarding this relation. According to one point of view, judicial procedure is considered as a continuation of the administrative procedure. According to another point of view, we talk about two special procedures, one that takes place in administration and that ends there with the issuance of the administrative act, and the other one that takes place in the court, where the legality of

[1] Dr. M. Dimitrijeviq (1986). *Uvod u pravo*. Belgrade, 220.

the administrative act issued by the administration is contested. Even though there is a close connection between the rules that define the administrative procedure and the judicial control, we can hardly accept the view that judicial control is 'a higher level' of the 'administrative procedure', having in mind the fact that the administrative procedure actually develops and ends inside the administration itself. It is not contested at all that judicial control presents a higher institution in settling 'administrative issues'. In administrative justice there is a number of 'sensitive issues' that were presented or can be presented in the future. Those sensitive issues are presented due to the volume or due to the control mode[1]. A question regarding 'sensitive issues' that requires a direct answer is: how is it possible to 'ensure' an effective judicial protection on one side, and on the other side, at the same time, 'to respect' the needs for the efficient issuance of decisions in administrative procedures? There a number of instruments that can help in this viewpoint for which talks the theory of administrative justice.

First, it is required to give 'clear competences' to administrative courts and this fact is seen with huge interests for the courts and for the application of the separation of powers principle. The theory talks about another instrument as well: for the 'possibility of applying consultation procedures' in the relation between administration and courts. Actually, it is though for the possibility of public organs to ask administrative courts for the interpretation of laws and dispositions that can avoid taking illegal decisions. But, this possibility may be associated with two remarks that should be considered. First, we have to be careful because the 'consultation given by the courts for public organs can be considered as a 'preliminary judgment' and second, it can be considered as a 'privilege' for public organs. Among these instruments, in literature we also talk about the delay of the effects of the judgment, the delay of the effects of judicial practice etc. How should these instruments be understood? They should be understood as nothing more than a 'common purpose' of public bodies and administrative courts in 'issuing the best legal decisions'. Regarding to this, administrative justice has to be understood as 'a phase' in the process of issuing the decision and as 'an instrument for justifying administration's actions'. Thus, the conclusion is clear: separate actions should not be seen as opposites, but as complementary. The judicial control should be understood as 'a measure for improving the rationality and quality of the administrative decision'. When a court finds an administrative decision as 'legal', this fact spontaneously increases the 'legitimacy of the administration organ'. The opposite can happen as well. If the opposite happens, the public organ has 'to be thankful' that the bad decision has been canceled.

7. Main functions of administrative justice

Among the important functions of administrative justice, two are essential: the preventive function and the repressive function. Administrative courts protect, preventively, the rights of individuals. This kind of protection "prevents the excess of authorizations by executive and administrative powers" to the detriment of citizens. This function of administrative justice is simultaneously expressed with the "impact in the administrative procedure". The repressive function of administrative justice is expressed in the application of sanctions, when the "concrete violation of the legal order" appears. There are a number of problems that can appear in the practice of administrative courts. Among the most emphasized problems we mention the one of juridical-legal protection, which doesn't happen 'in time'. A number of cases wait for adjudication, the procedures are delayed and postponed and the citizens generally lose their faith in courts. The other problem is related to the inability to appeal the decisions of administrative courts[2].

The cases when the appeal of administrative courts decisions is excluded have to be reviewed, although the latest practices are favorable and, in principle, ensure the appeal of administrative courts decisions. As a third problem we can mention the one that is expressed in the efforts of some countries to harmonize their legislation with the dispositions of the Convention for the Protection of Human Rights and Freedoms.

During these efforts, we encounter an insufficient level of harmonizing administrative conflicts with this general document. Regarding the administrative conflicts themselves, special problems may appear. If we tried to 'summarize' them, we would mention these three problems: one, the institutional non-regulation of the administrative conflict; two, the non-definition of administrative conflict and three, the insufficient enlargement of supervising the legality of all individual acts of state and public power. It is of interests to

[1] See: Elster, J., Slagstad, R. (1988). *Constitucionalism and Democracy*. Cambridge Universitets forlaget.
[2] Sadushi, S. (2005). *Administrative Law*. Tirana, 254.

take a look in the regional practices, where administrative courts in Croatia and Slovenia stand out[1].

8. The role of judicial control

The functioning of administration in the courts of the Republic of Kosovo is one of the interesting topics of nowadays and at the same time, the proper functioning of courts is a challenge for the entire judicial system of a country. Thus, the administration may not feel well aside the judicial control[2].

The first thing we can say is that it 'may not feel well' by simply knowing the fact that it is located 'under a judicial control'. Second, the possibility that the procedure it has developed in issuing the administrative act will lead to the court, creates some kind of 'legal uncertainty' until the end of the process, regarding the legality of the contested administrative act. If we rely in the legislation, organization and functioning of administrative courts in Albania, there are yet no administrative courts established and functioning there. If we said the last sentence first, even though I like aphorism a lot: the more courts, the less justice, I answer to the conference's question that the administrative justice in Albania should not be seen as an alternative anymore, but as a necessity.

9. Albanian legislation in the field of administrative justice

Our legislation finds itself closer to the viewpoint argued by the third group. The ascertainment for every concrete case of the violated legal disposition and the regulation of legal consequences unduly violated, by returning the parties in the previous condition, determined the type and nature of the conflict that has to be solved by the court according to our procedural legislation. In order to support this opinion, it is enough if we refer to Articles 324 (three hundred and twenty-four) and 331 (three hundred and thirty-one) of the Code of Civil Procedure. The third group, as a criterion for defining the administrative conflict takes the 'nature of the legal disposition, the violation of which causes the conflict'. Thus, 'the conflict arises with the rise of the legal-administrative relation'. A terminological explanation is also needed. In Albania's civil procedural legislation, the administrative conflict is known with the term 'administrative dispute'. In the Code of Administrative Procedures there is a 'special chapter' which is named 'the adjudication of administrative disputes'. Otherwise, regarding the meaning of administrative conflict, Sadushi emphasized in his book that 'in the elaboration of this issue, the author was mostly based in the text of Professor Esat Stavileci "Introduction to administrative sciences"'[3].

This is a very appropriate occasion to appeal for the need of unifying the vocabulary and to reiterate what was said in the scientific conference regarding terminology, organized by the Academies of Science in Tirana and Prishtina[4].

10. The situation in Albania in the field of administrative adjudication

By the way of how they are structured, the bodies that 'adjudicate administrative disputes' in Albania, it looks like Albania is 'closer to the Anglo-Saxon system', because it has 'not accepted the existence of administrative courts'. The disputes are settled by the 'courts of the regular system'. However, if the object and manner of adjudication was took as a criterion for defining the system, then we could say that the legislation in Albania 'is close to the mode of adjudging cases by administrative courts'[5]. All this shows that administrative justice in Albania will not find it difficult to adopt the system of adjudging administrative disputes by administrative courts. Based on the current legislation in Albania, each of its citizens can file a lawsuit in court, if he/she considers that the illegal act 'has violated one of his/her rights

[1] See: Upravni spor u praksi Upravnog Suda Hrvatske, në 'Zbornik radova Pravnog Fakulteta u Splitu', 1/1987; Pero, Krijan, Zigic, Krijan, Lidija (2006). *Komentar Zakona o upravnim sporovima, Novi Informator*; Androjna, V. U. (1977). pravni spor (Komentar, Ljubljana) Uradni list.

[2] For more information about the international administration in Kosovo, see: Ford, Christian E., Oppenheim, Ben A. (2008). Neotrusteeship or Mistrusteeship? the "Authority Creep" Dilemma in United Nations Transitional Administration. *Vanderbilt Journal of Transnational Law,* 55-105; Yannis, A. (2004). The UN as Government in Kosovo. *10 Global Governance*, 67-81; Stahn, Carsten (2001). Constitution without a State? Kosovo under the United Nations Constitutional Framework for Self-Government. *14 Leiden Journal of International Law,* 531-561; Stahn, Carsten (2001). The United Nations Transitional Administrations in Kosovo and East Timor: A first Analysis. *5 Max Planck Yearbook of United Nations Law*, 105-183; Marshall, David, Inglis, Shelley (2003). The Disempowerment of Human Rights-Based Justice in the United Nations Mission in Kosovo. 16 *Harvard Human Rights Journal*, 96-145.

[3] Sadushi, S. (2005). *Administrative Law*. Tirana, 253.

[4] *Scientific Conference 'The situation and development of Albanian terminology, problems and tasks*" (2009). Tirana.

[5] Sadushi, S. (2005). *Administrative Law*. Tirana, 258.

or lawful interest'.[1] Two moments are important for a citizen to file a lawsuit before the court. First, the claimant has to argue before the court the unlawfulness of the contested administrative act. Second, the violation must have a connection with the direct or indirect personal interests of the claimant, and his/her interest must have a basis in law. First, in Albania there were efforts to 'get closer' with Europe in the field of legislation. Second, the possibilities of institutional adjustment with the experiences of member states of European Union have been studied. Third, the process of reforms has opened in the field of judiciary in general and there was the need to review the possibility of installing administrative justice by establishing administrative courts, as specialized courts. Even a bill was drafted but the procedure of its approval has been stopped because of the objection made by the opposition. Meanwhile, there have been changes in the perception of administrative justice in countries of Europe in general. First of all, the understanding towards the principle of separation of powers, through excluding a number of acts from the judicial control, because of their alleged 'political nature'.

11. The advantages of administrative justice for Albania

From many advantages of administrative justice in Albania, we will mention some of them as the most important. First, in the efforts to built a state of law, the role of administrative justice has a particular importance in strengthening the protection of the rights and interests of citizens. Second, in the efforts to institutionalize legal protection in general, administrative justice could be seen as very powerful in protecting and providing objective legality which was violated in the past and continues to be violated even nowadays. Third, in the efforts to ensure that the compliance of administrative acts with the law or any other higher legal norm is reviewed in the same organs, administrative courts can be seen as a strong instrument of guaranteeing that review. Nothing more and nothing less then what is actually offered by the judicial control. First, judicial control in Albania requires a decision (judgment) in the most optimal time and not only a broad volume of control. Second, effective measures of legal protection. Third, 'an adequate level of intensity' in the control of public decisions, including the full review of facts and the full respect of fundamental principles.

Administrative justice presents a type of control upon the administration, respectively upon the administrative act. France is considered as the 'cradle' of administrative justice and was used as a 'model' and as an 'example' for administrative justice, that was later followed by other countries of Europe. Even though it was 'propagated' wherever it was installed, as one of the 'perfect forms' of control upon the legality of administrative organs' acts, judicial control of administration was not seen with the same view. The biggest reserves appeared in the countries of East Block, part of which was Albania as well.

The first experiences with administrative justice show us that it was installed in three manners, regarding its holders:

- Administrative justice through the organs of administration
- Administrative justice through regular courts
- Administrative justice through special administrative courts

Administrative justice is widespread in European Union countries. According to the situation in 2007, in 16 countries of the European Union, from 27 of its members, such as Germany, Austria, Belgium, Finland, France, Greece, Italy, Latvia, Luxembourg, Holland, Poland, Portugal, Czech Republic, Sweden, Romania and Bulgaria, administrative courts operate as specialized courts. Among the important functions of administrative justice, two of them are essential: the preventive function and the repressive function. Administrative courts protect, preventively, the rights of individuals. This kind of protection "prevents the excess of authorizations by executive and administrative powers" to the detriment of citizens. This function of administrative justice is simultaneously expressed with the "impact in the administrative procedure". The repressive function of administrative justice is expressed in the application of sanctions, when the "concrete violation of the legal order" appears.

12. The relation of administration organs with the prosecution

Public prosecution is not an administrative organ, it is an independent state organ, which undertakes measures for tracking criminal offenders. The public prosecutor has a special authorization for undertaking measures that have to do with both administrative and judicial actions in the administrative contest. He can use legal measures as a result of the violation of law or international agreements and because of the judicial decision, the request of the public protocol terminates, respectively forces the performance and raise of requests for the protection of legality. Also, the public protocol cooperates with administrative organs, and

[1] See the Code of Civil Procedure of Albania, Article 325.

it has the rights and obligations of the party.

13. The relations of administrative organs with the Ombudsperson

The Ombudsperson is obliged to protect human rights, freedoms and dignity which are guaranteed by the Constitution. Because of this, administrative organs are obliged to help the Ombudsperson, who requires to examine without restraint administrative work and activity, or the employees of administrative organs who have violated human rights and freedoms. In this context, administration organs are obliged to present all their documents to the Ombudsperson, to cooperate and appear in during the process of settling administrative disputes. The Ombudsperson has the position of a party in the administrative procedure.

14. The relation between administration organs with enterprises and other juridical persons

In relation to enterprises and other juridical persons, administrative organs enjoy only those rights that are defined by law or its dispositions; this has to do particularly with executing two forms of administrative supervision:

a) Supervising the legality of the subjective work conducted

b) Inspectorial supervising

15. The relation between administrative organs and political parties

Political parties are obliged to present their establishment to the competent administrative organ (usually, this organ is the Ministry of Justice) because by registration in the relevant registry, the party enjoys the attributions of the juridical person.

16. The relations of administrative organs and citizens

The organs of social regulation are obliged to ensure the realization of human rights and freedoms that are sanctioned with constitution and international legal documents in this field which the state has accepted as its own (for example peaceful agreements of Bosnia and Herzegovina, respectively annex 1 additional agreements for human rights that are apply in Bosnia and Herzegovina), European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocol, have priority in relation to any other law.

In this agreement, the following principles are applied:

1. The principle of efficiency, which means the solution of citizens' requests without delay and within the deadlines.

2. The principle of the right to present a submission, according to which administration organs are obliged to examine the presented submissions and respond by writing within 10 days.

3. The principle of nationality, which means that the leader of the procedure provides the subsequent data for legal procedure ex officio, wherever this is possible.

17. The legal position of administrative organs staff

Among others, an element of the organization of administrative organs are people too, which are known as the staff. The optimal quality of the composition of people in administrative organs is defined by the qualification structure, while the qualitative structure is defined by the number of employees of different qualifications. The specifics of the legal position of administrative organs staff, within the meaning of the development of this position present the skills which are expressed while conducting professional work, in the conditions of the work place in which they are positioned, in their moral values and others, within the state administration organs there are:

1. Political officials (leaders of representative bodies, members of the Parliament)

2. Public officials (the employees of administration organs, which are official persons of career)

3. Participants of honor in the work of administrative organs (these persons are temporary and usually work on voluntary basis and without payment, but they can receive compensation for their work)

4. The obliged participants in the work of administrative organs (these are employees who temporary or time after time and they work in the administrative organ up to 60 days)

5. The supervision of the implementation of necessary national representation of all members of national minorities in the organs that perform state services is done by the government. The government is obliged to ensure that employment and professional advancement in career of state officials is based on the conditions set by the public competition and in the professional skills of the officials in this meaning, legal principles for the work of state services in which state officials perform regulatory activities, which are fundamental obligations. These are:

a) Legality

b) Transparency
c) Responsibility
d) Efficiency and economization
e) Professional impartiality
f) Political impartiality

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