

Law No. 02/L-28

ON THE ADMINISTRATIVE PROCEDURE

The Kosovo Assembly,

Based on Chapters 9.1.26 (a) and 5.1 (m) of the Constitutional Framework for Provisional Self-Government of Kosovo (UNMIK/REG/2001/9), date 15 May 2001, and with the purpose of regulating administrative proceedings and delivery of effective services of public administration to all the citizens indiscriminately,

Hereby adopts the following:

THE LAW ON ADMINISTRATIVE PROCEDURE

PART I

DEFINITIONS AND GENERAL PRINCIPLES

CHAPTER I

THE SCOPE AND DEFINITIONS

Article 1

The Scope of the Law

1.1 The provisions of this Law shall be implemented by all bodies of public administration, along exercising their functions through individual or collective administrative acts.

1.2. The provisions of this Law shall be implemented by natural and legal persons who by law or by-law, or contract have been vested the power to exercise duties and competences of importance to the public.

1.3. The general principles of this Law shall also apply to the activities of natural and legal persons when such activities affect the public interests.

1.4. The provisions of this Law shall not apply to the following forms of activities of the public administration bodies:

- a) administrative acts of regulatory character;
- b) administrative acts pertaining the internal organization of the public administration bodies;
- c) administrative acts issued by the public administration bodies within private transactions, to which the public administration is a party.

Article 2

Definitions

For the purposes of this Law, the following terms shall have the meanings assigned as follows:

Individual administrative act - shall be considered any decisions of public administration bodies which produce legal consequences per individual cases.

Collective administrative act - shall be considered any decisions of public administration bodies which produce legal consequences for two or more natural or legal persons.

Administrative activity - is a set of individual or collective administrative acts issued by the public administration bodies during the exercising their competences as well any actions undertaken by the administration for implementation of such acts.

Administrative competences - is a set of competences over cases or territory of the public administration body envisaged by Law or by-law.

1. Public administration bodies are:

- a) Central public administration bodies and other subordinate bodies;
- b) Local public administration bodies and their subordinate bodies.

2. Individual public administration bodies are public authorities vested with legal competences exercised by one person.

3. Collective public administration bodies are public authorities vested with legal competences exercised by two or more persons.

Interested party - is any of persons whose legal rights have the right of participating during administrative proceeding personally or represented.

Discretionary power - of a public administrative body is its right to exercise public authority in fulfilling a legal goal, even without explicit authorization by law.

Revocation and abolishment - are administrative acts, which abolish the legal effect of other administrative acts.

Extraordinary situation- means natural disasters such as: floods, earthquakes, droughts, fires, thunderstorms and epidemic.

CHAPTER II

GENERAL PRINCIPLES

Article 3

The principle of legality

3.1. Public administration bodies shall exercise their administrative activity in compliance with the applicable legislation in Kosovo, within the scope of competences vested in them, and for the purposes that such competences were vested for.

3.2. Public administrative bodies shall ensure the implementation of their administrative acts.

3.3. The administrative acts issued in extraordinary situations, in contradiction to the provisions of this Law, shall prevail insofar as the results required under the conditions of such extraordinary situation may not be otherwise attained.

3.4. Natural and legal persons affected by administrative acts from the paragraph 3 herein, are entitled to compensation in accordance with the legal provisions regulating the responsibilities of public administration.

Article 4

The principle of balancing the public and private interests

The public administration bodies, in exercising their administrative activity, shall establish a fair balance between the public and private interests involved, in order to avoid unnecessary infringement of rights and interests of natural and legal persons.

Article 5

The principle of equality before the Law

5.1. The public administration bodies shall treat equally all the issues under review insofar as these issues are objectively similar. The differences in deliberation of such issues shall be commensurate with the objective differences among them.

5.2. The public administration bodies shall not differentiate natural and legal persons during administrative proceeding on the basis of gender, language, political or other affiliation, national or social origin, wealth, birth or any other status.

Article 6

The principle of proportionality

6.1. In the course of exercising its legal competences with the view of fulfilling a public interest, public administrative bodies shall have recourse to means and remedies, which are proportional to the goals to be fulfilled.

6.2. The legally recognized rights, freedoms and interests of natural and legal persons shall only be limited in compliance with the Law to the extent necessary to attain an important public interest.

6.3. In each case, the public administrative bodies shall evaluate whether the goal may be attained through other less repressive means, without compromising their effectiveness.

Article 7

The principle of objectivity and impartiality

7.1. During an administrative activity, public administrative bodies shall consider and weigh all the factors related to a specific administrative act.

7.2. Public administration bodies shall ensure that their activity is not affected or influenced by private or personal interests, or prejudices of officials exercising such activity.

Article 8

The principle of sustainability and predictability

The public administrative bodies shall be sustainable in their administrative activity in order to meet legal expectations of natural and legal persons.

Article 9

The principle of publicity

9.1. The public administration bodies shall exercise their activity in a transparent manner and in close cooperation with concerned natural and legal persons.

9.2. Any natural and legal persons, without disclosing his specific interest vis-à-vis public administration bodies, shall have the following procedural rights:

- a) to obtain information available to public administration bodies,
- b) to obtain such information in a timely fashion,
- c) to obtain it in the same manner as any other person;
- d) to obtain it in a convenient and effective means or format.

9.3. Excluded from paragraph 2 information may be limited only for purposes of protection on legitimate public interests, private life or other legitimate private interests determined by relevant laws.

9.4. To refuse the access in information, the public administration body takes the decision in written a decision as such shall contain the reasons of issuing and instructions for appeal.

Article 10

The principle of subsidiarity

If a part or whole aspects of administrative activity regulated by this Law are subject to regulation by a separate legislation, then the said regulation of such legislation shall prevail.

PART II

ADMINISTRATIVE COMPETENCES

CHAPTER I

GENERAL PROVISIONS

Article 11

Decision-making obligation

The public administration bodies, within the scope of their competences, shall decide on any request, submitted by natural and legal persons.

Article 12

Establishment of competences

12.1. Upon submitting the request, by natural and legal persons, the public administration body shall establish if it has case or territorial competency to decide over the matter.

12.2. The interested parties in administrative proceeding may challenge the competence of the public administration body over a specific matter in conformity with the procedures laid out in article 28 of this Law.

12.3. Any factual or legal change that may occur after the said submission of request shall not affect the competence of the public administration body over the submitted request, awaiting decision.

Article 13

Competence in case

13.1. Authority in case to decide on administrative procedure shall be determined according to provisions which regulate the particular administrative scope or shall be determined as competence of certain bodies.

13.2. To take decisions on administrative issues to the first level of competences in case belong to administration municipal bodies , if the determination of issues have not been legally forward to the other territory units within the territory of Kosovo, or in case that other bodies do not have competencies determined by law.

Article 14

Territory Competencies

14.1. Territory competences shall be determined:

- a) For the issues related to immovable property in the place where it is allocated;
- b) For the issues related to activity of business organization or individual business, the location of their residence;
- c) For other issues, residence of party or headquarter of legal person.

14.2. If the territory competence can not be determined according to paragraph 1, item a, b, c of the Article, it will be determined according to the place where the event happened

Article 15

Other provisions

15.1. If according to provisions of preliminary articles will be two or more bodies, the authority is the body which initiate proceeding first.

15.2. Competence in case and territory can not be changed through the agreements of party or through the agreement of body and party, besides it is envisaged different to the law.

Article 16

Non-waiver of competences

16.1. The competences of public administration bodies are vested by laws or by-laws and their exercising is binding.

16.2. Any administrative act or other action aimed at waiving the right of the administrative body to exercise its legal competences shall be deemed invalid.

16.3. The provisions of paragraphs 1 and 2 hereof are without prejudice to the right of public administration bodies to delegate its legal competences to other administrative bodies in conformity with the procedures laid out in Chapter II herein.

Article 17

Prior issues, decided by other bodies

17.1. In cases when final decision in an administrative proceeding is subject to reaching another prior decision, which is the competence of another public administration body or a court, the body responsible of issuing the final decision shall postpone the administrative decision until the said body or court shall reach the prior decision.

17.2. Exceptionally to provisions of paragraph 1 herein, the decision may be reached in cases when any delay may cause a severe irreparable damage to basic constitutional rights of natural and legal persons or to legal public interest.

17.3. An administrative proceeding from the paragraph 1 herein shall be considered postponed in the following cases:

- a) when reaching the prior decision is subject to interested parties submitting a request for which they fail to comply within the period prescribed by the law;
- b) when, in the absence of any legal timeline, the administrative proceeding for reaching such prior decision fails to commence in the course of 30 days upon decision to postpone the administrative proceeding to issue the final decision, due to failure to submit the request by interested parties.

17.4. If a public administration body competent to reach a final decision, fails to obtain the prior decision by other body or court, and decides on the prior issue on its own, the said decision shall only be valid for the ongoing administrative proceeding.

Article 18

Wrongful submission of a request to non-competent body

18.1. In cases when natural and legal persons, by mistake, submit requests to a public administration body, which has no competences over the subject of the request, the following procedure shall apply:

- a) the public administration body, to which the request is wrongfully submitted shall in the course of 2 days upon receipt, reach a decision declaring its non-competence over the matter;

- b) if the competent body to which the request should have been submitted belongs to the same ministry, agency, institution or structure, the request shall be forwarded to such competent body, accompanied by a cover letter from the body wrongly receiving it, one day after its declaration of non-competence. Natural and legal persons, wrongly submitting the request shall be notified in accordance with the procedure set out in Section VI, Part V of this Law;

- c) If the competent body to which the request, should have been submitted belongs to another ministry, agency, institution or structure, the request shall be returned to the natural and legal persons who submitted it 2 working days after the day when the request was made, which shall include the declaration of non-competence as well as any information on the competent body to which the natural and legal persons should approach.

18.2. In cases set out in paragraph 1, item (c) hereof, a new timeline for termination of administrative proceeding shall be set. The new deadline shall be the same as the first one and shall be calculated since the moment when the natural and legal persons wrongly submitting the request, was notified.

18.3. The decision of the public administration body declaring the non-competence may be appealed against by natural and legal persons in conformity with the procedures of the Article 28 of this Law.

CHAPTER II

DELEGATION OF COMPETENCES AND REPLACEMENT

Article 19

Delegation of competences

19.1. Competent public administration bodies may delegate their competences to other public administration bodies.

19.2. Competent public administration bodies may delegate their competences in favor of their subsidiary bodies or in favor of other bodies.

19.3. The legal instrument through which the competences may be delegated shall be the Decision of the delegating body in cases when the delegated body is subsidiary to it, and Memorandum of Understanding in cases when the delegated body is not a subsidiary of the delegating body.

19.4. Collective bodies of the public administration may not delegate competences in favor of their managers.

Article 20

Restrictions to delegation of competences

20.1. The delegated body may not sub-delegate the competences vested through delegation to a third body.

20.2. Any decision of delegating body, with the view of authorizing the delegated body to sub-delegate competences, shall be invalid.

Article 21

Criteria for delegation

21.1. In each case of delegation of competences, the delegating body shall clearly specify the competences delegated, as well as the procedure for their implementation to be complied with by the delegated body.

21.2. The legal instrument through which the delegation of competences is carried out shall be published in "Official Gazette".

21.3. The delegated body shall commence the implementation of delegated competences immediately upon publication of the said instrument in "Official Gazette".

Article 22

Reference to delegating body

In the course of implementation of delegated competences, the delegated body shall refer to the delegating body, originally vested with such competences.

Article 23

The competences of delegating body

23.1. The delegating body may issue instructions with regards to implementation of delegated competences, which are binding for the delegated body.

23.2. The delegated body may withdraw the delegated competence as well as revoke any act or legal action employed by the delegated body which is in contradiction with the provisions governing the legality of the administrative acts, as set out in Section I, Chapter I, Part V of this Law, or in contradiction with the instructions of delegating body.

Article 24

Termination of delegation

Delegation of termination shall terminate in the following cases:

- a) when revoked by the delegating body;
- b) upon completion of duties specified by the act of delegation;
- c) when the delegating or delegated bodies are dissolved.

Article 25

Replacement

25.1. In case of any absences or inabilities to perform duties due to temporary physical disability or conflicts of interest affecting the individual public administration bodies or any other public servant, such duties shall be performed by the body or servant as laid out by appropriate law.

25.2. If there are no provisions in the law governing such replacements, the replacement shall be performed by the highest official of the public administration body, which in the hierarchy of the individual body is ranked immediately after the replaced individual body or official.

25.3. If in the public administration body there are more than one officials of the same rank in hierarchy, the replacement shall be done by the appointment of the replaced official or by the oldest official.

25.4. The replacing body or official shall also perform such competences that the replaced official or body has performed by delegation.

CHAPTER III

RESOLUTION OF CONFLICTS OF COMPETENCES

Article 26

Conflicts over territorial competences

In cases of any doubt related to territorial competences, the body resolving the conflict shall recognize the competence to such public administration body whose location allows better access to administrative procedure.

Article 27

Resolution of conflicts of competences

27.1 Conflicts of competences shall be resolved by:

- a) Courts of jurisdiction over conflicts between various bodies public administration;
- b) Prime Minister for various ministries;
- c) The minister or head of central institution for their subsidiary institutions.

27.2 Resolution of conflicts of competences according to point 1 shall not violate competences of the Special Chamber of the Supreme Court for Issues of the Constitutional Framework according to points 9.4.11 (c) of the Constitutional Framework.

Article 28

Dispute of competences of public administration body

28.1. The concerned parties in an administrative procedure may challenge the competence of public administration body in the course of proceedings.

28.2. The request challenging such competences shall be made in writing to the body whose competence is opposed at any stage of administrative proceeding.

28.3. The public administration body, whose competence is challenged by parties to administrative proceeding, shall hand over the case for final decision to the competent public administration body set out in Article 27.

28.4. The legal timeline for completion of administrative proceeding under review shall be cancelled pending the decision over claims of the interested parties.

28.5. Public administration bodies may state resolution of conflicts of competences between them at any time.

28.6. The competent body for resolution of conflicts shall hear the parties in conflict and shall reach a decision in the course of 30 days.

28.7 Provisions of this article shall not violate competences of Special Chamber of the Supreme Court for Issues of the Constitutional Framework according to points 9.4.11 (b) and 9.4.11 (c) of the Constitutional Framework.

PART III

PROCEDURE TO GUARANTEE IMPARTIALITY OF PUBLIC ADMINISTRATION

Article 29

Legal restrictions

Public officials of public administration bodies shall not participate in decision-making in an administrative proceeding in cases when:

- a) public official has a direct or indirect personal interest in decision-making under review;
- b) the spouse or his/her partner or next of kin to a second degree, have a direct or indirect interest in decision-making under review;
- c) public official or persons under item b) hereof have a direct or indirect interest in a matter similar to the one under review;
- d) public official has participated in the capacity of an expert, representative or private lawyer into the matter under review;
- e) persons under item b) hereof have participated in the capacity of experts, representatives or private lawyers into the matter under review;
- f) public officials or persons under item b) hereof are party to court proceedings initiated by interested parties in the administrative proceeding;
- g) the issue under review is an appeal against a decision reached by a public officials or by persons stated under the item b) hereof;
- h) public official or persons stated under the item b) hereof are debtors or creditors to interested parties in the administrative proceeding under review;
- i) Public officials or persons stated under item b) hereof have received gifts from the interested parties before or after the administrative proceedings have commenced;
- j) Public official or persons stated under item b) hereof are friendly or hostile with the parties interested in the administrative proceeding.

Article 30

Declaration of legal restrictions

30.1. If an official of public administration bodies shall find himself/herself subject to any restrictions set out in article 29, he/she shall immediately notify his/her superior or the director of the collective public administration body in writing.

30.2. The manager or director of collective body who has received declaration regarding legal restrictions, shall notify the parties interested in the administrative proceeding over the declaration of legal restrictions that apply to said official.

30.3. Further to declaration of legal restrictions, pending the final decision by the management or director of the collective body, the official shall be excluded from the decision-making process.

Article 31

Motion of interested parties to exclude a public official due to existence of legal restrictions

31.1. The parties interested in an administrative proceeding may request the exclusion of an official if he/she has or is believed to have interests related to restrictions referred to in Article 29 herein.

31.2. Motions of interested parties for exclusion of an official of public administration body shall be made in writing and submitted to the supervisor of the official or the director of collective body.

31.3. The interested parties may also submit their request to exclude an official to the concerned official himself who is alleged to have said legal restrictions and he shall, in turn, forward the request to his supervisor the following work day.

31.4. The request of the interested parties for exclusion of an official shall clearly specify the type of legal restriction and shall present all possible evidence corroborating such claims.

31.5. Further to the request of interested parties to exclude an official, and pending a final decision from the manager or director of collective body, the official shall be excluded from decision-making process.

31.6. In cases when the motion for exclusion of official is made by parties interested in the administrative proceeding, the official so affected has the right to protection.

Article 32

Issuance of decisions over exclusion

32.1. Upon self-declaration of the official, or following a motion of interested parties to exclude an official, the manager or director shall, in cases of collective administrative bodies, reach a decision for exclusion from or confirmation of participation in the decision-making process.

32.2. Decision for exclusion from or confirmation of participation of official shall be issued in the course of 5 working days after interested parties have made a request for exclusion of official, or after self-declaration by the official.

32.3. In cases when legal restrictions from article 29 apply to the director of collective public administration body, decision for his/her exclusion from or confirmation of participation in the decision-making process shall be taken at the plenary meeting, held without the presence of director.

Article 33

The impact of exclusion

33.1. If a manager of public official the exclusion is requested for, or the director of collective body decide on the exclusion of said official from decision-making, the official shall be replaced by his legal replacement in accordance with article 25 of the Law, with the only exception when the manager deliberates the issue under his authority.

33.2. When the restriction applies to a member of collective public administration body, such body shall function without the participation of the excluded member.

33.3. Irrespective of the exclusion of official of public administration body as per procedures set out in article 29 to article 34 hereunder, such official shall continue to exert his competences in cases of extraordinary situations, as set out under this Law.

33.4. All administrative acts or other actions performed by public officials affected by restrictions laid out in Article 29 hereunder shall be deemed invalid.

Article 34

Disciplinary action

Failure of by the public official to disclose existence of legal restrictions under Article 29 herein in a timely fashion shall be deemed severe violation of legal provisions.

PART IV

ADMINISTRATIVE PROCEDURE

CHAPTER I

COMMENCEMENT OF AND PARTICIPATION IN ADMINISTRATIVE PROCEEDING

Article 35

Participation in administrative proceeding

35.1. All interested persons are entitled to start administrative proceeding or to participate in it either personally or through representation.

35.2. Capacity to start an administrative proceeding or to participate in it, as well as the rules governing the representation are set out in accordance with the provisions of civil rights on eligibility of natural and legal persons.

35.3. In order to protect public interests, which may be affected by an administrative proceeding, the right to start an administrative proceeding or to participate in it, is also recognized to the following entities:

- a) persons to whom administrative proceeding infringes their common rights such as: public health, education, cultural heritage, environment and quality of life;
- b) persons who live within or near a public property, which may be affected by the administrative proceeding;
- c) Ombudsperson (people's lawyer).

35.4. Associations and other organizations acting for protection of public interests may also start an administrative proceeding or be part of it.

Article 36

Initiation of administrative proceeding

Administrative proceeding may be initiated by a public administration body, at a request of an interested party or at a request of public.

Article 37

Initiation of administrative proceeding by a public administration body

37.1. In cases when an administrative proceeding has been initiated by a public administration body, the latter shall send the parties interested in administrative proceeding, if they are identifiable, a notice on initiation of actions by said body.

37.2. The said notice shall be sent in writing and signed by the director of the public administration body and shall contain the following information:

- a) the names and postal addresses of all the interested parties to whom the notice has been sent;

- b) the name and postal address of public administration body that has initiated the proceeding as well as the name of responsible official of public administration;
- c) the designation of the proceeding, if applicable;
- d) timeline for initiation of actions since the date of serving the said notification, in the course of which the interested parties may present their written representations;
- e) if the law requires a hearing session, a notice on time and place of said hearing, as well as the purpose of the hearing shall be sent, along with a reminder that should the party fail to appear at the hearing it may be found guilty;
- f) if the law provides for conduct of such a hearing, a notice shall be sent to the parties reminding them that they may ask the hearing to be held at timelines set out by the law or by the internal rules of the proceeding body;
- g) information on the legal authority of the proceeding body to conduct the said proceeding;
- h) information on the purpose of proceeding and, if applicable, issues requiring a decision.

37.3. The public administration body shall not communicate with interested parties as set out in paragraph 2 of the present article in cases when the issue deliberated by the body is confidential as per classifications of such concepts laid out by law, or if in the conditions of extraordinary situation, the communication may undermine the effectiveness of the administrative proceeding.

Article 38

Initiation of administrative proceeding by interested parties

38.1. When provided for by the law, the request of an interested party to initiate administrative proceeding shall be done in writing, signed and dated by the person requesting the action by the administration, or by the legal representative of the person, and shall include the following information:

- a) the designation of public administration body, which is required to act;
- b) the date when request for action by the public administration has been posted;
- c) an indication of competences of administrative body, under which the action of the body is required;
- d) concrete action required by the public administration bodies, and

e) statement of basic facts and causes for action by the administrative body.

38.2. The interested party, requesting the action of public administration body, shall submit the request to the competent body and shall send copies of the request to all interested parties who have either direct or indirect interests in the action requested by the administration.

38.3. Public administration body may issue forms through which it may obtain information it needs from the interested parties requesting an administrative procedure, as per paragraph 1 of present article.

38.4. The manager of public administration body shall immediately review the request for action submitted by the interested parties and shall undertake the following action:

- a) he/she shall notify the requesting party in writing that the request has been endorsed and that the administrative proceeding has commenced, or
- b) he/she shall notify the requesting party in writing that the request has not been endorsed and that the party may lodge an appeal against the decision, as per procedure set out in article 101 herein, or;
- c) he/she shall notify the requesting party that further administrative action is required before the body may respond to the request. In this case, the body shall set a reasonable deadline for completion of the required actions.

Article 39

Inaccuracies contained in the request of the interested party to commence administrative proceeding

39.1. If the request of the interested party to commence an administrative proceeding has not been prepared in accordance with the requirements set out in Article 38 of this Law, the natural and legal persons requesting the action by the administrative body, shall be requested to correct the inaccuracies contained in the request.

39.2. Notwithstanding the provisions of the paragraph 1 of the present article, the public administration body shall, if applicable, correct the request of the interested parties, without prejudice to legal interests of the interested parties.

Article 40

The modes of submitting the request by the interested party

to commence an administrative proceeding

40.1. The request of the interested party to initiate an administrative proceeding shall be delivered in person to the competent public administration body.

40.2. The request of the interested party, addressed to central public administration body, may also be submitted to the municipal authorities, if applicable.

40.3. Local public administration bodies shall forward the request of the interested party to initiate an administrative procedure to the central body through registered post (Recommended) in the course of 2 working days after submission.

Article 41

Delivery of requests for initiation of administrative proceeding

in the diplomatic or consular offices

41.1. The request of the interested party to initiate an administrative proceeding may be also submitted to certain offices outside the territory of Kosovo, for this purpose and in full compliance with Resolution 1244 of the UN Security Council and with Constitutional Framework, established at places where interested parties reside either legally or temporarily.

41.2. Offices as mentioned in point 41.1, shall forward the requests of the interested parties to initiate administrative proceeding to the appropriate public administration authorities through official mail in the course of 2 days upon receipt.

Article 42

Mailing the request to initiate an administrative proceeding

42.1. The request of interested person for initiation of an administrative proceeding may be submitted through recorded (recommended) mail or electronically.

42.2. Communication of electronic documents is permissible since the receiver of documents allows the electronic access.

42.3. An official written document can be issued or electronically received with exemption of cases when the Law forbids it. In that case the document shall obtain electronic signature arranged with a particular act.

42.4. Electronic documents issued according to paragraph 2 and 3 may replace the written document.

42.5. Documents electronically submitted to the public authority shall fulfill the legal requirements determined with provisions for submission of documents to the public authority. If the document electronically submitted does not fulfill the requirements, the public authority informs the claimant of request on the formal or substantial discrepancies.

Article 43

Registration of the request to initiate administrative proceeding

43.1. Irrespective of the modality of submission of requests of interested parties to initiate an administrative proceeding, the receiving body shall register such any such requests in a special registry, as set out by the law.

43.2. The registry of requests for initiation of administrative proceedings shall contain the following information:

- a) request (reference) no;
- b) date of submission;
- c) request subject;
- d) the number and designation of documents attached to the request, and
- e) the name of applicant.

43.3. The requests of interested parties to initiate an administrative proceeding are registered as per the order of submission. The requests submitted through a same mail shipment are deemed to have been delivered at the same time.

Article 44

Certificate slip for submission of request to initiate administrative proceeding

44.1. The public administration body, which is the addressee of the request to initiate an administrative proceeding shall issue a proof to interested parties on submission of requests, through which the delivery and receipt of requests is being acknowledged.

44.2. Such evidence proves the fact of receipt of request and attached list of documents by the responsible public administration body official.

Article 45

Other written documents presented by the interested parties

The provisions for commencement of administrative proceeding shall also apply to any explanations, requests for redress, replies or any other written documents presented by the interested parties during the administrative proceeding.

Article 46

Preliminary verification of some issues prior to commencement of administrative proceeding

In addition to verification of competences, which is carried out by the public administration body as per procedures set out in Article 12 herein, immediately upon receipt of request by the interested parties to initiate the proceeding, the administrative body shall also carry out the following verifications:

- a) if the rights or interests requested by the interested parties have been properly stated;
- b) the legitimacy of natural and legal persons who have submitted the request to initiate administrative proceeding;
- c) if the timelines set out by the law have been complied with;
- d) if the request of a natural and legal persons to commence the administrative proceeding may be reviewed along with the requests of other natural and legal persons as per procedures laid out in article 49 of this law.

Article 47

Commencement of administrative proceeding at the request of public

47.1. In cases when the requirements set out in paragraphs 3 and 4 of Article 35 hereunder have been met, the administrative proceeding may be initiated by the public or Ombudsperson.

47.2. In cases when an administrative proceeding is initiated by the public or Ombudsperson, the public administration body shall undertake any action it deems necessary to prepare the case, including issues not explicitly stated in the request, if, in its judgment, it is of public interest to do so.

Article 48

Verbal request for initiation of administrative proceeding

Exceptionally, the request for initiation of administrative proceeding may also be done verbally. In that case, the responsible civil servant shall prepare an official note including the following data:

- a) designation of the public administration body, whose action is required;
- b) name of the applicant;
- c) date of request;
- d) concrete action required by the public administration body.

Article 49

Collective review of several requests for commencement of administrative proceeding

49.1. Different requests of the same interested parties to initiate an administrative proceeding may be jointly reviewed by the competent public administration body within a single administrative proceeding, if such requests are based upon the same facts and legal basis.

49.2. Similar requests submitted by different persons may be reviewed simultaneously, if they are based on the same facts and legal basis.

49.3. The decision of the competent public administration body to simultaneously review several requests may be appealed against by parties to administrative proceeding.

Article 50

Modifications of the original request to commence an administrative proceeding

50.1. Upon commencement of the administrative proceeding and the issuance of final administrative act, the interested parties may complement or modify their original request, even if such modifications may cause the change of legal basis, on the basis of which the request is reviewed, provided that such modified request relies on the same facts as the original.

50.2. The refusal of competent public administration body to accept any modifications to the request may be appealed by the interested party.

Article 51

Withdrawal of the request to commence an administrative proceeding

51.1. Through a written declaration, the interested parties may, partially or completely, withdraw from the administrative proceeding as well as waive their legal rights and interests, except when otherwise provided for by the law.

51.2. Upon the withdrawal of the interested party, the competent public administration body shall issue a decision on termination of administrative proceeding. The opposing party to the administrative proceeding shall be notified of the termination of proceeding.

51.3. The decision of the competent public administration body on termination of administrative proceeding upon the withdrawal of one interested party may be appealed by any other interested party.

51.4. Withdrawal of one interested party shall not constitute a cause for termination of administrative proceeding if, in the judgment of the competent public administration body, continuation of said proceeding is of public interest or legal interest to other parties to proceeding.

51.5. The interested party withdrawing the request for commencement of administration proceeding shall bear all verified costs to the moment of termination, except otherwise provided for by the Law.

Article 52

Reconciliation Act

In the course of an administrative proceeding between two parties, the responsible public administration body official shall endeavor to reconcile the parties to proceeding:

1. The Reconciliation Act between two or more parties in an administrative proceeding shall be drawn in a written form and shall enter into effect upon reading and signing by the parties. A copy of reconciliation act shall be delivered to parties.
2. The reconciliation act between two or more parties has the same effect as an administrative act.
3. The competent public administration body shall not agree to reconciliation of parties to proceeding if such reconciliation is deemed to be to the detriment of public interests or legal interests of other natural and legal persons.

CHAPTER II

ADMINISTRATIVE PROCEEDING UNTIL ISSUANCE

OF ADMINISTRATIVE ACT

SECTION I

INVESTIGATION PROCEDURE

SUB-SECTION I

GENERAL PROVISIONS

Article 53

The principle of objectivity

53.1. During an administrative proceeding, the official running the proceeding shall consider all the relevant factors for the matter at hand, and shall duly evaluate every factor.

53.2. During an administrative proceeding, the public administration body shall employ all possible means of investigation set out in this section, so as to enable the parties to proceeding to obtain the necessary information to support their claims and to enable an informed decision-making to administration bodies.

Article 54

The subject of investigation procedure

54.1. The investigation procedure shall be conducted by administrative body, which is competent to reach the final decision.

54.2. The body competent to reach the decision may delegate the right to conduct of investigations to a subsidiary body, unless otherwise provided under the Law.

54.3. The body competent to conduct investigation procedure may assign specific investigation duties to other subsidiary bodies.

54.4. In the case of collective bodies, the delegation of competences set out in paragraph 2 of the present article may be done in favor of specific members of the body or to a specific subsidiary body.

Article 55

Verification of evidence

55.1. The competent body shall ask and shall be acquainted with all the facts necessary to reaching the final decision, employing all the means of verification provided for by the Law.

55.2. For publicly known facts, as well as the facts known to the administrative body due to its functions, no verification is required.

55.3. During an administrative proceeding, the administrative body shall allow access to use of evidence in its possession, which is acquired in the course of its regular functioning.

Article 56

The obligation to submit evidence

56.1. The obligation to submit evidence over the claims is with the interested parties to administrative proceeding, irrespective of the obligation of the administration to make available the evidence at its disposal.

56.2. In order to support their claims, the interested parties may, along with their request to initiate administrative proceeding, attach various documents or evidence. The interested parties may also request the competent public administration body to undertake any action required to allow use of evidence by the party in the course of administrative proceeding.

Article 57

The obligation of interested parties to submit evidence

57.1. The body conducting the investigation procedure may ask the interested parties to submit information, documents or objects, which will be subject to inspection as well as any other form of investigation in order to prove the claims.

57.2. The interested parties may refuse the cooperation required by paragraph 1 of the present article in the following cases:

- a) when it violates a professional secret;
- b) to provide data the disclosure of which is prohibited by law;
- c) to disclose data that may compromise the interested party or his/her spouse, parent, child, brother, and sister.
- d) to disclose data that may cause financial or non-financial loss to the interested party or any of the persons mentioned under item (c) of the present article.

Article 58

The methods of submitting information and evidence

58.1. In cases when it is necessary to submit information or evidence by the interested party, the competent public administration body shall notify the party either in writing or verbally within the timeframe set out by the provisions of this Law.

58.2. The interested parties may present written or verbal information and evidence at any time in the course of administrative proceeding.

58.3. If the interested party is not the resident at the place where administration's body principal place of business is located, and is unwilling to appear in person in front of the competent body, at the decision of the latter, the verbal information may be delivered through the mediation of another body, which is located at the party's place of residence.

Article 59

Failure to submit evidence

59.1. When the interested party fails to respond to the notification, the administration may issue another notification or terminate the proceeding, unless such an action may compromise a public interest or any other legal private interest.

59.2. The failure to reply to a notification may be considered for the purposes of the proving, however this shall not constitute a waiver for the administration to ask evidence and facts to reach a final decision.

59.3. When the information or documents requested to the party are essential to review of claims made by the party itself, the proceedings shall be cancelled pending provision of information, and the interested party shall be notified of this decision.

Article 60

Support from other bodies

The authority competent to conduct the investigation may ask other public administration bodies to undertake action to provide the evidence, in case it is unable to do so within an agreed time period, but no later than 30 days.

Article 61

Early acquisition of evidence

61.1. In case of reasonable doubt that acquisition of evidence required to reach a decision may be rendered difficult or impossible, the competent body, at its initiative or at a justified request by the interested parties, may proceed with their early provision.

61.2. Early presentation of evidence may be carried out before the commencement of proceedings.

Article 62

Expenditures for acquisition of evidence

Costs incurred during the actions undertaken by the administration to ensure evidence, with the exception of those already at its possession, shall be borne by the interested requesting party.

SUBSECTION II

EXPERTISE AND OTHER ACTIONS

Article 63

Undertaking action

63.1. In the course of administrative proceeding, the expertise, reports, assessments and other actions are solely performed by the specialized experts or specialized administration bodies.

63.2. The selection of experts and their remuneration are governed by Law.

Article 64

Notice of expertise to interested parties

64.1. The interested parties are notified of the expertise, the purpose as well as the expert or experts appointed by the administration, unless such actions relate to secret or confidential issues.

64.2. The notice shall be issued in the course of 10 days before the day set for the expertise and shall contain the date, time and place of implementation of required action.

Article 65

Appointment of experts by interested parties

Anytime the administration appoints experts, the interested parties may also appoint experts at the corresponding number with the administration.

Article 66

Submitting questions for experts

66.1. The body conducting the investigation procedure may submit questions to which the experts shall apply or may ask their views on specific issues.

66.2. The body conducting the investigation procedure may refuse to allow submission of questions by interested parties, when such questions relate to secret or confidential matters.

SUBSECTION III

HEARING OF THE INTERESTED PARTIES

Article 67

The right to hearing

67.1. Upon completion of investigation procedure, the interested parties are entitled to make declarations prior to reaching final decision.

67.2. The body conducting the investigation procedure shall decide on any case if the interested parties make written or verbal declarations.

Article 68

Written declaration

68.1. When the body conducting the investigation procedure decide to ask the interested parties to make their declarations in writing, the parties shall be asked to submit their written declaration 10 days upon receipt of said notice.

68.2. The notice shall contain all the necessary information in order for the interested parties to understand the rationale behind the request for written declaration. The notice shall also contain the time and place where specific files may be consulted.

68.3. In their reply, the interested parties may raise issues related to the subject of proceedings, to ask for employment of other actions as well as attach new documents or evidence.

68.4. The interested parties may ask the competent body of the public administration to organize a hearing session. In this case, the administrative body shall immediately undertake action to organize such hearing.

Article 69

Verbal declarations

69.1. When the body conducting the investigation requests the interested parties to submit verbal declarations, it shall set a date for meeting with said parties, but not earlier than 8 days upon servicing of notice.

69.2. In sessions when parties make verbal declarations, all legal or factual issues relevant to decision-making may be discussed.

69.3. The absence of interested parties shall not constitute a cause to postpone the session, unless parties present justified reasons before the beginning of the session.

Article 70

Exceptions to obligation of hearing the parties

70.1. An interested party may be denied the right to declaration during the administrative proceeding in the following cases:

- a) when reaching a decision is urgent,
- b) when it is clear that such an action may render difficult the execution of the decision.

70.2. The interested parties may lodge an appeal against the decision not to hear the parties, which however, shall not constitute a cause to terminate the administrative proceeding.

70.3. The body conducting the investigation procedure may also deny the right to declaration to the interested parties in the following cases:

- a) if the interested parties have had the opportunity to make declarations on issues relevant to decision-making in the course of proceedings and on the basis of existing evidence.
- b) if the information presented during the proceeding leads to a decision in favor of the interested party.

Article 71

Additional actions

Upon hearing the interested parties, other additional actions may be undertaken at the initiative of the body conducting the investigation or at a request of interested party.

Article 72

The report of the body conducting the investigation procedure

When the body conducting the investigation procedure is not competent to make the final decision, it shall prepare a report detailing the claims of interested parties, summarize the history of proceedings and shall formulate a recommendation for a final decision, including legal and factual justifications, which, in its judgment, justify such decision.

SECTION II

INTERVENTION

Article 73

Procedures for involvement of a third interested party to administrative proceeding

73.1. Any natural and legal persons, who is not a party to the ongoing administrative proceeding may submit a request in writing to intervene on the said proceeding.

73.2. The person wishing to intervene in an ongoing administrative proceeding shall submit a copy of his/her request to the competent public administration body and to each of the parties to proceeding.

73.3. The request of a third interested party to intervene in an ongoing administrative proceeding shall contain the following elements:

- a) the designation of the public administration body conducting the administrative proceeding;
- b) the designation of the proceeding;

- c) a summary of facts indicating that the legal rights and interests of such party are affected by the ongoing administrative proceeding;
- d) an indication of the action to be undertaken by the public administration body.

73.4. The manager of public administration body, conducting the proceedings, shall endorse the request to intervene if the request meets the following requirements:

- a) the legal rights, freedoms and interests may be affected by the ongoing administrative proceeding;
- b) the speedy and regular conduct of administrative proceeding is not jeopardized by the intervention;
- c) public interests benefit from the intervention.

73.5. The decision of the manager of public administration body to endorse or reject the intervention shall be given in writing and shall be mailed to the applicant and parties to ongoing proceeding.

73.6. The decision allowing the intervention shall set out conditions to be met by the applicant so that the intervention may not jeopardize a speedy and regular conduct of ongoing proceeding.

73.7. The manager of the body conducting the proceeding may set the conditions of intervention at any time after the intervention.

SECTION III

MEDIATION DECISIONS

Article 74

Cases constituting cause for issuance of mediation decisions

74.1. The administrative body, competent to reach a final decision in an administrative proceeding, may also reach mediation decision, if in its judgment, failure to undertake some action may result in severe irreparable damage to interests of the public or interested parties.

74.2. Mediation decision may also be reached at the initiative of the administrative body or at a request of interested parties.

74.3. The decision to undertake mediation action shall be justified and of specific timeframe.

74.4. Revocation of decision to undertake mediation action shall also be duly justified.

Article 75

Termination of mediation decisions

Mediation decisions issued by competent authorities of public administration during the administrative proceeding, shall terminate in following cases:

- a) upon issuance of the final decision;
- b) when the deadline of validity of mediation decision expires;
- c) in the absence of deadline specified by law or administrative body conducting investigation, at the expiry of 6 months from the date of commencement of proceeding.

SECTION IV

TERMINATION OF ADMINISTRATIVE PROCEEDING

Article 76

Reasons for termination

The proceeding may terminate upon reaching the final decision or due to other facts laid out in the present Law.

Article 77

Final decision

In reaching the final decision, the competent administrative body shall decide on all the issues raised in the course of proceedings.

Article 78

Abandoning the proceedings

78.1. The proceeding shall be deemed abandoned if the interested party, at its discretion, is inactive for a period exceeding 3 months, unless there is a public interest in reaching a final decision.

78.2. Abandoning the proceeding shall not waive party's rights sought through the proceeding.

Article 79

Inability

79.1. The administrative proceeding shall terminate if, in the opinion of competent administrative body for reaching the final decision, the object or the purpose for which the final decision was contemplated was rendered impossible.

79.2. The termination as per the paragraph 1 of the present article shall always be justified and such decision may be appealed against with the administrative body or the court.

Article 80

Outstanding tariffs or other charges

80.1. The proceeding shall terminate as a consequence of failure to pay the tariffs or charges when due, the payment of which is a pre-requisite to implementation of procedural acts.

80.2. The interested parties may prevent the termination of proceeding if they pay the double of the original amount in the course of 10 days upon the expiry of original payment due time.

Article 81

General timeframes for completion of administrative proceeding

81.1. An administrative proceeding shall be completed within a period of 3 months from the date of its initiation, unless otherwise specified under other specific laws or when its postponement is necessary due to extraordinary situations.

81.2. In the case of extraordinary situations, an administrative proceeding shall be completed in the course of 3 months upon lifting of such extraordinary situation.

81.3. Failure to comply with the timeframes laid out in paragraph 1 hereof, shall be justified by the responsible body or person to the responsible body or person in the course of 10 days after expiry of 3 months period or lifting of extraordinary situation.

PART V
ADMINISTRATIVE ACTIVITY

CHAPTER I
ADMINISTRATIVE ACT

SECTION I
VALIDITY OF ADMINISTRATIVE ACT

Article 82

Definition of administrative act

Administrative acts are all individual and collective acts, which conform to the definition laid out in Article 2 herein.

Article 83

The form of administrative acts

83.1. Administrative acts shall be of written form, unless otherwise specified by Law or else required by special circumstances.

83.2. The acts of collective bodies are indiscriminately in writing, unless otherwise explicitly required by Law. In such cases, such acts shall be registered in minutes, in the absence of which the said act shall not be of any legal consequence.

Article 84

The content of administrative act

84.1. In each case, the administrative acts shall state their goal or purpose.

84.2. The administrative act shall contain the following information:

- a) the name of the public administration body that issued the act, reference number, date of issuance as well as any delegation of competences, on the basis of which the act was issued;
- b) the identity of the party to whom the act is addressed;
- c) a summary of factual findings based on evidence submitted during the administrative proceeding or otherwise provided by the administration;
- d) a statement of legal basis, on the basis of which the act is drawn;
- e) an explanation of practical consequences of the act for parties to administrative proceeding;
- f) a reminder to the parties of their right to seek redress;
- g) a reminder that the parties have the right to appeal against the decision through administrative bodies or through court;
- h) a reminder of the timeframes parties have to observe if they wish to file a request for redress or administrative or court appeal;
- i) the date when the act shall enter into effect;
- j) the signature of the manager of the administrative body issuing the act or the manager of collective body.

Article 85

Act rationale

85.1. In addition to legal requirements of providing rationale set out by Law, rationale shall also be provided for acts which, partially or entirely:

- a) deny, abolish, restrict or otherwise affect legal rights and interests or cite obligations or fines;
- b) constitute a decision related to requests for redress of appeal;
- c) constitute a decision which is contrary to the claims of interested parties or contrary to an official information or proposal;
- d) constitute a deviation from the usual practice of resolution of similar cases;
- e) revoke, annul, modify or supersede an earlier act.

85.2. Unless otherwise provided for by the Law, the acts ratifying decisions issued by boards, juries, committees established by administration, as well as managers' orders relating to internal issues, do not require rationale.

Article 86

Modalities of rationale

86.1. Rationale shall be clearly formulated and shall include an explanation of legal and factual basis of the act.

86.2. When rationale is prepared on earlier information or proposals, their endorsement may constitute the only rationale for reaching a final decision by the responsible body. In such cases, such earlier information and proposals shall constitute an integral part of the act.

86.3. Rationale with unclear, contradictory or inaccurate data is equal to lack of rationale.

86.4. In cases of analogous issues, earlier precedents may be used, provided that the position of interested parties is not aggravated.

SECTION II

ENTRY INTO EFFECT OF THE ADMINISTRATIVE ACT

Article 87

General rules

The administrative act shall enter into effect upon its approval, unless under the law or under any provisions of the act, the act has been given retroactive effect.

Article 88

Retroactive effect

88.1. The administrative act shall have retroactive effect in the following cases:

- a) when the act interprets an earlier act;
- b) when the act is issued with the view of enforcing a court decision, which has declared an administrative act to be void;
- c) when the retroactive effect has been given by law.

88.2. In addition to cases mentioned in paragraph 1 of the present article, the competent body may also give retroactive power in the following cases:

- a) when the retroactive effect is for the benefit of interested parties and inflicts no harm to the rights of a third party;
- b) when issuing an act superseding an earlier act along with any other acts issued for implementation of the latter;
- c) when such an action is allowed by law.

Article 89

The late effect

An administrative act has a late effect in the following cases:

- a) when entry into effect is subject to approval or countersigning;
- b) when the effects of an act are rendered impossible due to some cancellation or deadline;
- c) when entry into effect of an act is subject to verification of some conditions or circumstances.

Article 90

Publication of acts

90.1. Individual and collective administrative acts are serviced to interested parties no later than 30 days.

90.2. Individual and collective administrative acts shall be published only when specifically required under the law.

90.3. Failure to publish an individual or collective act when required by law shall constitute a cause for non-entry into effect of the act.

90.4. In cases when publication of an individual or collective act is compulsory, the publication shall be done in Official Gazette no later than 30 days upon approval.

SECTION III

INVALIDITY OF AN ADMINISTRATIVE ACT

Article 91

Invalid act

The invalidity of an administrative act is manifested through two following forms:

- a) absolutely invalid act;
- b) relatively invalid act.

Article 92

Absolutely invalid administrative act

An administrative act shall be deemed absolutely invalid in the following cases:

- a) when it is issued by an unidentified administrative body;
- b) when it is issued by a non-competent administrative body,
- c) when it is issued in contradiction to the form prescribed by this and other laws;
- d) when it is issued in contradiction to the procedure set out by this and other laws.

Article 93

Consequence of absolutely invalid administrative act

93.1. An absolutely invalid act shall generate no legal consequences.

93.2. Any administration bodies or natural and legal persons to whom the administrative act is directed shall ignore its orders to act.

93.3. Any interested party may, at any time, request the public administration body to declare a specific act as absolutely invalid.

93.4. The public administration body, competent to decide on the request for redress or on the appeal against an administrative act, may at its discretion or at a request of interested party, declare an administrative act as absolutely invalid.

93.5. In cases when only a part of an administrative act is absolutely invalid, the entire act shall be deemed absolutely invalid if the said part contains the parts, which are vital to the purpose of the act.

Article 94

Relatively invalid administrative act

94.1. An administrative act shall be deemed relatively invalid, when it, contrary to the law:

- a) authorizes actions or recognizes rights and privileges not laid out by the law;
- b) prevents actions or rejects the rights or privileges laid out by the law;
- c) is issued on the basis of an illegal act of a higher body;
- d) is issued under the influence of threat, violence or temporary mental instability.

94.2. The interested parties may file request for redress or appeal against the relatively invalid administrative act within the specified timelines laid out by the law.

94.3. Competent bodies of the public administration, at their discretion, may revoke or abolish a relatively invalid act within the specified timelines laid out by law.

Article 95

The consequences of relatively invalid administrative act

95.1. Relatively invalid administrative acts generate legal consequences until its abolishment by appropriate request (for redress or administrative appeal) by interested parties or at the discretion of competent public administration bodies;

95.2. Relatively invalid administrative act, which after redress or appeal, is revoked or abolished shall thereafter cease generating any legal consequences;

95.3. After formal revocation or abolishment of relatively invalid administrative act, the appropriate public administration body shall reconstitute the condition existing before the issuance of such relatively invalid act. If such restitution is rendered impossible, the competent authority shall consider and resolve any claims of parties injured by relatively invalid administrative acts.

Article 96

Administrative act with visible inaccuracies and mistakes

In cases when an administrative act is valid, but contains visible inaccuracies or mistakes, the administrative body, which issued such an act, shall, at its discretion or at a request of parties to administrative proceeding, correct material mistakes and visible inaccuracies of the act without changing its content. Correction of administrative acts containing visible inaccuracies or mistakes may be done at any time.

SECTION IV

CONCLUSION

Article 97

97.1. With conclusion shall be decided for issues related to process.

97.2. With conclusion shall be decided for such issues performed as secondary issues related to implementation of process and not decided through an act decision.

Article 98

98.1. Conclusion is issued by the official person who exercise the act of process along which the subject of conclusion has been performed if in the law or other provisions have not been differently determined.

98.2. If through a conclusion has been ordered the implementation of any act shall be determined the dead line within which the act shall be implemented.

98.3. Conclusion shall be verbally communicated to the interested persons whilst in written can be issued only with the request of persons who can make a particular. complain against the conclusion, or when the execution of conclusion ma be immediately requested.

Article 99

99.1. Against the conclusion can be exercised a particular complain when it is exclusively foreseen to the law. A conclusion as such shall be justified and contain the instruction for appeal.

99.2. Appeal shall be exercised to the same dead line, in the same way addressed to the same bodies as well as the appeal against act decision

99.3. Conclusions which can not be contested through any particular appeal, can be opposed by particular individuals through an appeal opposing the act decision, beside the case when the appeal against conclusion is excluded by the law.

99.4. Appeal does not postpone the execution of conclusion besides cases when the law or conclusion itself differently determine.

SECTION V

REVOCATION AND ABOLISHMENT OF ADMINISTRATIVE ACT

Article 100

Request for review and revocation of administrative act

100.1. An administrative act may be revoked by public administration body that issued it, at the request of interested parties.

100.2. Upon submission of the request of interested parties for review of an administrative act, the public administration body shall decide on the revocation or confirmation of the said act.

100.3. The decision of the public administration body reviewing the request for review of administrative act, shall also be deemed an administrative act and as such shall be in compliance with articles 83, 84, 85 and 86 herein.

100.4. The request of interested parties for review of an administrative act shall be submitted within the timelines specified by the law or the administrative act itself.

Article 101

Appeal against and revocation of the administrative act

101.1. The initiative for the abolishment of the administrative act may come from the competent body of the public administration or it may come as a consequence of appeal of the interested party.

101.2. Upon submission of appeal against the administrative act by the interested parties, the competent public administration body shall either decide to abolish or sustain the challenged administrative act.

101.3. The decision of the competent public administration body, reviewing the appeal of the interested parties against an administrative act, shall also be deemed an administrative act and as such shall be in conformity with articles 83, 84, 85 and 86 herein.

101.4. The appeal of the interested parties against an administrative decision shall be done within timelines specified under this Law or under the administrative act.

Article 102

Competences to revoke or abolish

102.1. The competences to revoke an administrative acts lies with the public administration body, which issued it, unless otherwise specified by the law.

102.2. The competences to abolish administrative acts lies with the highest public administration body vis-à-vis the body that issued the challenged administrative act, unless otherwise specified under the law.

102.3. An administrative act issued on the basis of delegated competences may also be revoked by the delegating body insofar the delegation is valid.

Article 103

Revocation and abolishment of valid act

103.1. A valid administrative act may be revoked or abolished if the change of circumstances or the legal environment no longer warrant its existence;

103.2. The revocation or abolishment of a valid administrative act shall not be allowed in the following cases:

- a) when the law explicitly prohibits the revocation or abolishment of the act;
- b) when it grants legal rights to natural and legal persons;
- c) when the act vests such rights and obligations to the administration as may not be renounced.

103.3. The acts set out in item (b) of paragraph 2 of this article, exceptionally, may be revoked or abolished in the following instances:

- a) when they affect the rights of parties to which it is addressed;
- b) when all interested parties agree to revoke or abolish the act, provided that the rights stemming from such an act may be waived.

Article 104

Revocation and abolishment of an invalid act

104.1. An invalid administrative act may be revoked or abolished on the grounds of its invalidity and within timelines specified for court appeal.

104.2. In cases when there are more than one legal deadlines for submission of court appeal, the longer deadline shall be applied.

Article 105

Entry into effect of revocation and abolishment

105.1. Revocation and abolishment of administrative act shall only apply to the future, with the exception of cases set out in paragraphs 2 and 3 of the present article.

105.2. Revocation and abolishment of an administrative act shall have retroactive effect only when revoked or abolished due to its absolute invalidity.

105.3. Public administration body ordering the revocation of an administrative act may vest retroactive powers to the revocation/abolishment act in cases when all interested parties are agreed upon in writing, provided that the act to be revoked/abolished grants such rights or privileges as may be waived.

Article 106

Revocation/abolishment reinstating legal validity of an earlier act

Revocation or abolishment of an act, which in turn revoked/abolished an earlier act, shall reinstate the legal validity of the latter only when the law or the revoking/abolishing act explicitly provide for such an action.

Article 107

Amendment and replacement of administrative acts

Unless otherwise provided by the law, the rules for revocation/abolishment shall also apply for amendment and replacement of administrative acts.

Article 108

Correction of administrative acts

108.1. Material mistakes in expressing the will of administrative body, when visible, may be corrected at any time by the bodies with the right to revoke/abolish the act.

108.2. Correction, with retroactive effect, may be done at the initiative of the administration or at a request of interested parties.

108.3. The correction shall be given the same publicity extended to the corrected act.

SECTION VI

SERVISING OF ADMINISTRATIVE ACT

Article 109

Obligation to service

The interested parties shall be served the administrative acts through which:

- a). decisions regarding their claims are reached;
- b). obligations or fines are cited, or damages inflicted;
- c). the legal interests or rights of the parties are granted, abolished, expanded or limited, or their enjoyment is otherwise limited.

Article 110

Exceptions to obligation to notify

110.1. Public administration bodies have no obligation to issue notices on administrative acts in the following cases:

- a) when the administrative acts are communicated verbally in the presence of interested parties;
- b) when interested parties participate during the conduct of administrative proceeding and manifest full knowledge of said administrative acts.

110.2. An official note shall be drawn for the cases from paragraph 1 of the present article.

Article 111

Content of the notice

111.1. The notice shall contain the following information:

- a) the full text of the administrative act;
- b) the name of the person responsible for the act, and the date;
- c) the name of the body vested with competence to receive appeals against the act,
and appropriate timelines.

111.2. The full text of the act may be replaced by a summary of content and the object, in cases when the act have endorsed all the requests of interested parties, or when the acts relates to undertaking procedural action.

Article 112

Timelines for notification of acts

The administrative acts shall be made public eight days upon its issuance, unless otherwise specified under the law.

Article 113

The ways of notification

113.1. Notices shall be serviced:

- a) through mail, provided that there are postal services in the zone, settlement or work place of the recipient;
- b) personally, in cases when such a way of notification may compromise the development of ongoing proceeding or when mail notification is impossible;
- c) through telegram, telephone, cablegram, fax in urgent cases;
- d) Public notice, which shall be put in conspicuous public places, or by a notice published in two most widely read newspapers in the zone, settlement or work place of the recipient, in cases when the interested parties are not known or are in excessive number, which would render any other form of notification inconvenient.

113.2. In special cases, when required by the nature of the act, the person shall be invited to be personally serviced the act.

113.3. In cases when the notice is done through telegram, telephone, cablegram or fax, the confirmation of receipt shall be done by the body issuing the notice by one of the means set out in items a) and b) of the paragraph 1 of the present article the following day, although the notice will be deemed to have been serviced on the date of its first communication.

SECTION VII
IMPLEMENTATION OF INDIVIDUAL AND COLLECTIVE
ADMINISTRATIVE ACTS

SUB-SECTION I
VOLUNTARY IMPLEMENTATION

Article 114

Obligations of natural and legal persons

Natural and legal persons whose rights, freedoms and interests are affected by the administrative act shall voluntarily implement the provisions contained in the act.

Article 115

Cancellation of implementation of the administrative act

115.1. Natural and legal persons whose rights, freedoms and interests may be affected by the administrative act may ask the public administration body or the court, which is competent to revoke or abolish the administrative act, to cancel the implementation of the challenged administrative act in order to protect their rights and interests.

115.2. The motion of the natural and legal persons to cancel the implementation of the administrative act shall be lodged within the specified timeframes, but not later than the deadline specified for submission of motion for redress or appeal against the act.

115.3. While deciding on the motion to cancel the implementation of an administrative act, the competent public administration body shall consider the public interests at stakes, the legal rights and interests of the natural and legal persons as well as the necessity for safety in legal relations.

SUBSECTION II

IMPLEMENTATION

Article 116

The timeframe of implementation

116.1. The competent body of the public administration shall implement an issued administrative act, only upon its entry into effect.

116.2. The competent public administration body shall implement the provisions set out in the administrative act, only when explicitly vested with power to do so by the law.

Article 117

Non-executable acts

117.1. The following administrative acts may not be implemented:

- a) the act, whose effect was cancelled;
- b) the act against which an appeal with canceling effect has been filed;
- c) the act that will enter into effect only upon its approval by another public administration body, different from the other that originally issued the act.

117.2. Entry into effect of the administrative act may be cancelled by administration bodies which have the authority to revoke it, the higher bodies that have the right to abolish it or by court in accordance with applicable rules of civil procedure.

Article 118

The legality of implementation

The implementation of an administrative act by the public administration is subject to following conditions and guarantees:

1. Restrictive action may only be taken upon issuance of the act, whose implementation is required.
2. Natural and legal persons the administrative act is implemented against shall be given the opportunity to comply with it voluntarily within the timeframes set out by the law or by the administrative act. In cases of extraordinary situations, as stipulated by the law, the public administration bodies may abolish the above provision for allowing a reasonable timeframe for compliance with the act.
3. The restrictive action employed by the public administration bodies shall be such so as to allow the implementation of the act by inflicting the minimal possible damage to the legal rights and interests of the natural and legal persons.

Article 119

Appeal against the implementation

Natural and legal persons the administrative act is implemented against may file an appeal with a higher administrative body or a court in cases when the actions employed in the course of implementation are illegal or disproportional, provided that the illegality of the said action shall be the consequence of illegality of the implemented act.

Article 120

Forewarning of implementation

120.1. Forewarning of employing restrictive action as well as its justification shall be made known to the persons the administrative act is implemented against.

120.2. The public administration body may issue notice of restrictive action along with the notice on administrative act, and in this case the implementation is done instantaneously or separately through a separate notice.

SECTION VIII

DEADLINE FOR IMPLEMENTATION OF ADMINISTRATIVE ACT

Article 121

General timeframes

121.1. Deadline for implementation of administrative act shall be 15 days from the date of entry into effect, unless otherwise specified by the law.

121.2. The deadline for voluntary compliance of natural and legal persons the administrative act refers to is 15 days from the day of entry into effect, unless otherwise specified by the law.

Article 122

Calculation of deadlines

In calculation of the deadlines for implementation of administrative acts, the following rules shall be observed:

- a) in calculation of the deadline, the date of issuance shall not be included;
- b) in cases when deadline expires on the same day when the concerned administrative body is not working or works part-time, the implementation of the administrative act shall be postponed for the following working day.

Article 123

Extension of deadlines

If the parties affected by the implementation of the act are temporarily residing abroad or residing in remote areas, the deadline for implementation of the administrative acts shall be calculated upon the expiry of:

- a) 15 days, when the interested parties are residing in a European country, and
- b) 30 days, when the interested parties are residing in a country outside Europe.

Article 124

Resetting of deadline

124.1. In cases when a natural and legal persons the administrative acts is implemented against has been unable to comply with the timeline for implementation set out by this law or by other legal provisions, the person shall be entitled to ask for reset of expired deadline, with the exception of cases when resetting the deadline is explicitly prohibited by the law.

124.2. The request for resetting deadline shall be submitted in the course of 10 days since the day when obstructions have been lifted or eliminated, but no later than one year from the last day of expired deadline, except in cases of force majeure.

124.3. The request of the interested party to reset the deadline shall be justified and shall convey the confidence that the deadline has not been complied with due to reasons outside party's control.

Article 125

Review of request for resetting deadline

125.1. Request for resetting deadline shall be reviewed by the public administration body that issued the act awaiting implementation.

125.2. Against the decision to refuse the request above, an appeal may be filed in conformity with the rules laid out in this Law.

SECTION IX

ADMINISTRATIVE APPEAL

Article 126

General provisions

126.1. Natural and legal persons are entitled to request revocation, abolishment or modification of administrative act in compliance with the rules for administrative appeal set out under this Law.

126.2. The entitlement referred to in paragraph 1 of the present article may be exercised through the following forms:

- a) through a request for redress or review submitted to the person responsible for the act;
- b) through appeal sent to higher bodies.

Article 127

Administrative appeal

127.1. The administrative appeal may be submitted in the form of request for review or an appeal.

127.2. Any interested party has a right to appeal against an administrative act or against unlawful refusal to issue an administrative act.

127.3. The administrative body the appeal is addressed to shall review the legality and consistency of the challenged act.

127.4. The interested parties may address the court only after they have exhausted all the administrative remedies of appeal.

Article 128

The consequences of administrative appeal

128.1. An administrative appeal, either in the form of request for review or appeal, shall cancel the implementation of administrative act.

128.2. The implementation of administrative act shall not be cancelled in the following cases:

- a) when the administrative act refers to collection of fees, taxes or other budgetary incomes;
- b) when the administrative act relates to police action;
- c) when its cancellation is prohibited by law;
- d) when the immediate implementation is in the interest of public order, public health
or any other public interest.

128.3. In each case, the complainant shall be notified of the reasons for non-cancellation of act in writing.

Article 129

The entity receiving appeals

129.1. When the administrative appeal is in the form of request for review, it shall be submitted to the body that issued the challenged administrative act or refused to issue the requested administrative act.

129.2. When the administrative appeal is in the form of appeal, it shall be submitted to higher bodies.

129.3. In cases when the administrative appeal is made in the form of appeal, it shall be submitted to the higher body, which in turn may forward the case to the body that issued/refused to issue the act along with its determination for resolution of the case.

Article 130

Deadline for administrative appeal

130.1. The administrative appeal shall be done in the course of 30 days since the day:

- a) the complainant has received the notice on the act or refusal to issue an act;
- b) the act has been promulgated in accordance with the provisions of this and other laws.

130.2. In case of failure to undertake any action by the administration (non-issue of act or complete silence), the administrative appeal shall be done in the course of 60 days since the day of submission of request for commencement of administrative proceeding.

Article 131

Deadline for reaching a decision in an appeal procedure

131.1. The competent administrative body shall review the administrative appeal and shall issue a decision in the course of 30 days upon submission of appeal.

131.2. If, upon the expiry of the deadline specified in paragraph 1 of the present article, no decision on the appeal has been issued by the competent administrative body, the interested party shall be given the right to address the court in conformity with the applicable law on civil procedure.

Article 132

Appeal procedure (request for review)

132.1. If the body that issued or refused to issue the appealed administrative act decides to endorse the request for review, it shall issue appropriate decision.

132.2. If the body from the paragraph 1 of the present article does not endorse the request for review, it shall immediately transfer the appeal to the higher body, which will decide on the appeal in the course of 15 days.

Article 133

Formal requirements for conduct of appeal procedure

133.1. The appeal shall be submitted in writing.

133.2. The written appeal shall contain the following data:

- a) the name and address of complainant;
- b) the administrative act being challenged, either issued or non-issued;
- c) the cause of appeal;
- d) any other document deemed important to the complainant.

133.3. The body reviewing the appeal shall help the complainants in preparing the necessary appeal documents.

Article 134

Rejection of appeal

The appeal against the administrative acts or non-issuance of administrative acts may not be accepted by competent public administration bodies in the following cases:

- a) when the appeal relates to acts for which no appeal is allowed;
- b) when the deadline for lodging an appeal has expired;
- c) when the challenged administrative act is deemed legal and regular prima facie by the body reviewing the appeal;
- d) when the appeal is submitted by an unauthorized person.

Article 135

Notice to interested person during the review of appeal

In cases when the administrative body reviewing the appeal finds that the abolishment, revocation or modification of challenged administrative act (or issuance of the act when the appeal was done against illegal non-issuance of act), affects in any way, the legal rights and interests of a third party, the latter shall be notified to participate the review of appeal and may submit his/her claims.

Article 136

The decision of the body reviewing the appeal

The administrative body reviewing the appeal shall decide:

- a) to confirm the validity of the act and reject the appeal;
- b) to abolish/revoke the act and endorse the appeal;
- c) to modify the administrative act by partially endorsing the appeal;
- d) to instruct the competent body to issue an administrative act when its issuance has been unlawfully rejected.

CHAPTER II

REAL ACTS

Article 137

General provisions

137.1. The principles of this Law, especially the principle of legality, shall equally be applied for real acts of the public administration bodies as for those administrative acts, if the nature of these acts is in contradiction with these principles.

137.2. The real acts of public administration bodies, warnings, coded signals, etc. shall be deemed legal only if they are accurate, objective and proportional.

Article 138

Elimination of consequences caused by illegal real acts

The administrative body is obliged to eliminate the consequences caused by illegal real acts.

CHAPTER III

ADMINISTRATIVE ACTS OF DISCRETIONARY NATURE

Article 139

General principles

In cases when public administration exercises discretionary power, that power shall be exercised in conformity with the Constitutional Framework and the spirit of the applicable legislation in Kosovo.

Article 140

Court and administrative review of acts of discretionary nature

Based on the request of interested parties, any administrative act of discretionary nature may be subject to court or administrative review.

PROVISIONAL AND FINAL PROVISIONS

Article 141

The public administration bodies shall issue by-laws or internal regulations regarding the implementation of the provisions of this Law.

Article 142

This Law shall supersede all the provisions of the applicable Law with which it is in contradiction.

Article 143

The present law shall enter into force after adoption by the Assembly of Kosova and 6 (six) months after its promulgation by the Special Representative of the Secretary General.

Law No. 02/L-28

22 July 2005

