

**Law**

**No. 8485, date 12.5.1999**

**THE CODE OF ADMINISTRATIVE PROCEDURES OF THE REPUBLIC OF ALBANIA**

Based on the articles 81 and 83 point 1 of the Constitution, upon the proposal of the Council of Ministers,

**THE ASSEMBLY OF THE REPUBLIC OF ALBANIA**

**DECIDED:**

**Part 1  
DEFINITIONS AND GENERAL PRINCIPLES**

**CHAPTER I**

**FIELD OF APPLICATION AND DEFINITIONS**

**Article 1**

Field of application

The provisions of this Code shall be implemented by all Organs of Public Administration while exercising their functions through individual acts. The principles provided in this Code shall be implemented as well for normative acts when such thing is possible. The general principles of administrative activity provided in this Code are mandatory for all administrative acts, even to those undertaken in the frame of private law. The general principles of this Code, by law may become mandatory applicable for the activity of private subjects when this activities affect the public interests. This Code shall be implemented by natural and legal persons, to whom the right of exercising the public duties and competencies is issued by law, sub-legal act or contract. The provisions of this Code will not apply for the acts of public administrate, regulated by private law.

## **Article 2**

### Administrative Activity

1. The activity of the administrative bodies is the entirety of the acts and actions through which is composed of and manifested the will of the Public Administration Offices as well as the execution of this will.
  
2. The forms of the administrative activity regulated by this law are:
  - collective and individual administrative acts;
  - administrative contracts/public; and
  - real acts

## **Article 3**

### Administrative Bodies

In the meaning of this Code, the bodies of public administration are:

- the bodies of central power which exercise administrative functions;
- bodies of public entities to the extent they exercise administrative functions;
- the bodies of local power exercising administrative functions;
- the bodies of Army Forces, as well as any other structure, whose staff enjoy the military status, as long as they carry out administrative functions.

## **Article 4**

### The Interested Party

The interested party at an administrative procedure shall be defined as every physical person, juridical or state authority, the rights and legal competencies of any of whom, individual or common, are likely to be dealt with during the administrative procedure.

**Article 5**  
The Real Act

A real act shall be defined as that form of administrative imposition, when the will of the public administration is expressed with such means as signs, forewarnings, tables, and public information, etc.

**Article 6**  
Administrative Agreement

The administrative contract is an agreement, where at least one of the parties, is a body of public administration and which creates, amends or extinguishes a legal relation of public law.

**Article 7**  
Discretionary Power (discretion)

Discretionary power of public administration shall mean the right of the latter to exercise the public authority for accomplishment of a legal objective, even without an expressed authorization of the law.

**Article 8**  
Revocation and Abrogation

The revocation and abrogation are those administrative acts which interrupt the legal effectiveness of other administrative acts.

**CHAPTER II**

**GENERAL PRINCIPLES**

**Article 9**  
Principle of Legitimacy

1. The Bodies of the Public Administration Offices exercise their activity pursuant to the law and principles of law, within the limits of the competencies granted to them and in conformity with the purpose for which these competencies have been granted.
2. The administrative acts issued in an emergency state contrary to the provision of this Code, are valid only if the required result can not be achieved by other means. The damaged parties

by the above-mentioned acts have the right to be reimbursed for the eventual losses based on the legal provisions, which regulate the responsibility of the Public Administration Offices.

3. The Public Administration Offices can not directly apply the constitutional provisions if in the field in question laws of common order exist.

### **Article 10**

#### Principle of Protection of Public Interest and Citizens Rights

The Public Administration Offices protects the public interest as well as the legitimate citizens' rights.

### **Article 11**

#### Principle of Equity and Proportionality

1. In the relations with the individuals, the Public Administration Offices are guided by the principle of equity. This means that no one should be privileged or discriminated because of family origin, sex, race, language, birthplace, political, religious or cultural pertaining, social and economic conditions.

2. The decisions of the public administration offices, which conflict with other legal acts protecting the fundamental rights of the individual or personal interests, may have effect only to the extent the said decisions are in proportion with their purpose.

### **Article 12**

#### Principle of Justice and Impartiality

The Public Administration Offices, in exercising their functions, treats equally and impartially all the subjects with whom they enter in relation.

### **Article 13**

#### Principle of Cooperation of the Public Administration Offices with Private Persons

1. Public Administration Offices' Bodies exercise their activity in close cooperation with private persons by:
  - a) providing information and necessary clarifications to individuals;
  - b) supporting and stimulating the initiatives of individuals as well as welcoming their suggestions and information.

2. Public Administration Offices are responsible for the written information they provide to the private persons even in case the providing of information is not mandatory. In the decision-making process, the bodies of the Public Administration Offices assure the participation of the private persons and/or associations if the interests of the groups they represent are infringed from these decisions. Pursuant to this Code, the bodies of the administration offices should confer to these subjects the possibility to express themselves.

#### **Article 14**

##### Principle of Responsibility

The bodies of public administration and the employees are responsible for the damages they cause to the private persons through:

- unlawful decision-making
- unlawful denial of decision-making; and
- issuing inaccurate written information to the private persons, as well as for any other cause or other case provided by law.

#### **Article 15**

##### Principle of Decision-Making

1. Pursuant to this Code, the administrative bodies take decisions concerning all cases within their jurisdiction, submitted by the private citizens, which are related to:

- a) cases dealing directly with private citizens;
- b) any petition, request or claim concerning violation of the Constitution and the law or the protection of public interests.

2. The competent administrative body, is not obliged to review a case, if during the last two years it issued a decision related to the same case, submitted by the same individual and based on the same facts. In this case the calculation of the 2 years time limit starts from the day of the submission of petition (principle of a case ruled upon).

#### **Article 16**

##### Principle of Efficiency and Bureaucratization

2. The Public Administration Offices shall be structured in a way to ensure a sufficient access in the decision-making process.
3. The Public Administration Office and its employees are obliged to serve the public in the most effective possible way in each and every case.

### **Article 17**

#### Principle of Non-Payment of the Service

1. The services of the Public Administration Offices are free of charge for the service offered by the Administration Offices, unless law provides a payment.
2. The administration offices does not require the payment of taxes or expenses provided in paragraph 1 of this article, in case impossibility to pay is proved.

### **Article 18**

#### Principle of Internal and Judicial Review

In order to protect the constitutional and legal rights of the individuals, the administrative activity will be subject to:

- a) the internal administrative review in accordance with the provisions of this Code concerning the administrative appeal; and
- b) the judicial review in accordance with the provisions of the Code of Civil Procedure

### **Article 19**

#### Principle of State Secret Protection and Confidentiality

The person who exercises duties in an administrative body or participates or is called to take part in an administrative procedure is obliged to not divulge the data of administrative procedures, when they are classified state secret or have a personal character. The participants of an administrative procedure have the right to request that personal data is not to be declared by them or to be divulged by administrative bodies without their consent.

### **Article 20**

#### Right to be informed

Every person participating in an administrative procedure has the right to be informed on and to have access to the documents used during the procedure, unless limits defined by law.

The right mentioned in the first paragraph of this article may be exercised personally or through an authorized representative.

The administrative body, developing the administrative procedure, is obliged to grant information to the participants concerning their rights and duties.

## **PART II**

### **ADMINISTRATIVE POWERS AND JURISDICTION**

#### **CHAPTER I**

#### **GENERAL RULES**

##### **Article 21**

##### **No Right to Waive from the Issues and Prohibition to Transfer Them**

1. The competencies and their exercise provided by law or by a sub-legal act is mandatory, unless the delegation or replacement of competencies is provided by legal norms.
2. All acts and contracts the object of which is the right to waive from exercising of competencies entrusted to the administrative bodies are invalid, except in case of the delegation of competencies and other similar situations.

##### **Article 22**

##### **Jurisdiction**

1. The jurisdiction is settled at the moment the administrative proceeding starts and any later change that might happen in fact is not relevant.
2. Any legal changes will have no effect, unless the body, which performs the proceeding does not exist any more, has no jurisdictions or gains the jurisdiction it did not have in the beginning of the proceeding.
3. If the territorial jurisdiction of a body is transferred to another body, the proceeding shall automatically be transferred to the latter by means of an official order.

##### **Article 23**

##### **Preliminary Issues Settled by Other Bodies**

1. If a final decision in an administrative proceeding is pending by a preliminary decision to be taken by another competent administrative body or court, the body which is competent to take the final decision suspends the respective proceeding until the preliminary decision is taken by the other administrative body or court. Exception from this rule is made only if the immediate non-making of the decision causes damages to the legal interests of the parties.
2. The suspension terminates by itself in the following cases:
  - a) the other decision is conditioned by the claim of the interested parties, and the latter do not submit it within 30 days or the administrative proceeding for the settlement of the preliminary issue has not taken place within 30 days, due to the fault of the interested party.

b) as the result of the interference of other factors the non-making of the decision causes considerable and/or irreparable damages.

3. In case the body which is competent to take the final decision does not wait for the preliminary decision to be taken by the other body or court, but takes the preliminary decision by itself, the latter has effect only to the administrative proceeding which leads to the taking of the final decision.

#### **Article 24**

##### Conflict of Territorial Jurisdiction

In cases of ambiguity or doubt related to the territorial jurisdiction, the body which shall settle the conflict recognizes the jurisdiction of the body whose location, as the body that examines the case, has greater possibility to settle it properly.

#### **Article 25**

##### Verification of Jurisdiction

1. The administrative body shall verify if it has jurisdiction to settle a case before taking a decision.

2. The issue of lack of jurisdiction can be claimed by the administrative body on its own initiative as well as by the interested parties.

#### **Article 26**

##### Submission of a Request to a Body without Jurisdiction

1. If as a result of an acceptable mistake (by unawareness) and within a defined time limit, a person makes a claim, request, petition, to a body that does not have jurisdiction (is incompetent), this procedure shall be followed:

a) if the competent body belongs to the same ministry or institution the claim, request, or petition, will be sent to it by an official order (motion) notifying at the same time even the person who made the claim, request or petition;

b) if the competent body belongs to another ministry or institution, the claim, request, or petition will be returned to the person within 48 hours accompanied by the information regarding the specific body of the administration offices the person ought to be directed.

2. In the case provided in paragraph 1, item b) of this Article, the new determined time limit for the performance of the proceeding is the same as the first. It starts to be calculated from the moment the competent body is notified.



3. Pursuant to the general principles of the law, the request for the examination or appeal can be made against any decision, which states the existence of a mistake.

## **CHAPTER II**

### **DELEGATION OF THE COMPETENCIES AND THEIR REPLACEMENT**

#### **Article 27**

##### Delegation of the Competencies

1. In cases provided by law, the competent administrative bodies can delegate their competence to another administration office body.
2. The competent administrative bodies may delegate this competence to their subordinate bodies.
3. The above paragraphs of this Article can be applied, to the appropriate extent, in cases of delegation of the competencies of collegial bodies to their presidents.

#### **Article 28**

##### Sub-delegation of the Competencies

1. The body which delegates a competence can not authorize the delegated body to sub-delegate this competence to another body, unless otherwise provided by law.

#### **Article 29**

##### Criteria for the Delegation

1. In cases of delegation, the body which delegates defines the delegated competencies or describes which are the acts that can be issued or applied by the delegated bodies.
2. The delegation of the competencies are published in Official Gazette. The local administration office publishes the delegation and in the local Official Gazette or in its absence, a notification is posted in public places.

#### **Article 30**

##### Specification of the Delegation

While exercising the delegated competencies, the delegated body shall be specified.

### **Article 31**

#### Competencies of the Delegation

1. The delegating body issues directives or instructions, which are mandatory to the delegated bodies while executing the delegated competencies.
2. The delegating body is entitled to regain the delegated competencies and to revoke any act or action undertaken by the delegated bodies contrary to the provisions on the validity of the administrative acts provided by this law.

### **Article 32**

#### Termination of the Delegation

The delegation of the competencies terminates:

- a) by revoking the act of delegation;
- b) by terminating the exercise of the duties as well as by the non-existence of the body which delegates and or of the delegated body.

### **Article 33**

The rules provided by this code for the delegation shall be implemented also for the sub delegation, in cases it is allowed by law.

### **Article 34**

#### Replacement

1. In cases of absence, impossibility or physical incapability to act or for any other legal impediment of a body, the duties are exercised by the replacing body or person provided by law.
2. If the law is silent, the replacement in exercising the duties will be made by the oldest civil servant of the body that comes right after him in the hierarchical level.
3. In exercising the functions of the replacing person are included the delegated competencies of the replaced person.

## **CHAPTER III**

### Settlement of the Jurisdictional Conflicts of Competencies

### **Article 35**

#### Competence to Settle Conflicts

1. The jurisdictional conflicts are settled by the competent courts.
2. The conflicts of the competencies are settled:
  - a) by the administrative sections of the courts when dealing with different administrative bodies;
  - b) by the Prime-Minister for different Ministries;
  - c) by the Minister or the Director of the central institution when dealing with bodies of the same Ministry or any other body of the central administration offices.
3. The conflicts of the competencies are settled in first instance by the body immediately above the bodies involved in the conflict and which has supervisory competencies.

### **Article 36**

#### Motion and Time Limit for the Administrative Settlement of Disputes

1. The settlement of disputes among various administrative bodies is requested in writing by the interested parties. The request is submitted to the competent body to settle this conflict and shall include the justifying reasons. The settlement of the dispute may be requested also by the body in conflict from the moment it is aware of the conflict.
2. The competent body for the settlement of this conflict hears the bodies in conflict and takes a decision within a time limit of 30 days.

## **PART III**

### **GUARANTEE OF IMPARTIALITY**

#### **Article 37**

##### Disqualification Cases

1. No civil servant may participate in an administrative decision-making process or may represent the administration offices' part in a contract, in cases the civil servant has or/and is suspected to have the following vices:
  - a) he has a direct or indirect personal interest in the case in question;
  - b) his spouse, the person living with him, or kinsman up to the second degree have a direct or indirect interest in the case in question;

- c) the civil servant or the persons provided in the above paragraph, have a direct or indirect interest in a case similar to the case in question;
- d) the civil servant has been an expert, counselor or lawyer in the case in question;
- f) against the civil servant or civil servants mentioned in paragraph b) of this Article has started a court proceeding by the interested parties;
- g) the case consists of an appeal to a decision taken by the civil servant or persons provided in paragraph b) of this article;
- h) the civil servant or persons provided in paragraph b) of this Article are debtors or creditors of the interested party in an administrative proceeding or contract in which the Public Administration Offices are a party;
- i) the civil servant or persons provided in paragraph b) of this Article have received souvenirs [gifts?] from the interested party in the administrative proceeding or the contract before or after the administrative proceeding has started or the contract is created;
- j) the civil servant or persons provided in paragraph b) of this Article have amicability or hostility with the interested party in the administrative proceeding or the contract.

### **Article 38**

#### Arguments and Declaration of Disqualification

1. In case a civil servant is prohibited from participating in the decision-making process or in an administrative proceeding pursuant to Article 44, he shall immediately notify his supervisor or president of the collegial body.
2. Until the final decision is taken, each interested party can request the prohibition of the participation of a civil servant in a decision-making process or in an administrative proceeding, stating the reasons why requesting such an action.
3. The supervisor or the president in case of a collegial body takes a decision to expel from the decision-making process or administrative proceeding the civil servant if requirements of Article 37 are fulfilled.
4. In cases of expulsion of the president from the decision-making process or administrative proceeding pursuant to Article 37, the decision for expulsion is made by the collegial body itself, but without the participation of the president.

### **Article 39**

#### Effects of the Disqualification

1. In the cases provided by paragraph 1 and 2 of Article 38 the civil servant shall interrupt any actions as long as the supervisor does not order otherwise.

2. Despite the disqualification of the subjects in cases provided in Article 37, these subjects are obligated to exercise their competencies in emergency cases with the condition that these actions shall be ratified by the replacing subject or by the collegial body.

#### **Article 40**

##### Effects of the Declaration of the Disqualification

1. Immediately after the declaration of the disqualification of the civil servant in question, the latter will be replaced by his legal deputy, unless the supervisor examines the case under his authority.

2. In cases of the collegial body, it will continue its normal function without the participation of the disqualified member.

#### **Article 41**

##### Formulation of the Request

1. In the cases provided in Article 37 the request of the interested party for the disqualification of the civil servant of the administrative body is directed to the body which is competent for disqualification cases. The request states clearly the facts on which it is based.

2. In case the request for the disqualification is made by the civil servant it shall be in writing, if the body to whom the request is directed requests such a thing.

3. In case the request is made by the interested parties in a proceeding, act or administrative contract, the affected civil servant has the right of defense.

#### **Article 42**

##### Decision-Making Related to Disqualification

The decision related to disqualification is taken within 5 days.

#### **Article 43**

##### Disciplinary Measures

1. The acts and the contracts involving the civil servants of the administrative bodies affected by the disqualification provision are not valid.

2. Any failure in the obligation of the civil servant to declare the existence of disqualifying cause, pursuant to paragraph 1 of Article, 38 constitutes a grave disciplinary violation.

## **PART FOUR**

### **INTERESTED PARTIES FOR ADMINISTRATIVE PROCEEDING**

#### **Article 44**

##### Participation in the Administrative Proceeding

1. Everyone who has a legal interest has the right to participate personally in the administrative proceeding or/and to be represented.
2. The capability to participate in an administrative proceeding is regulated pursuant to the provisions of the civil law on the legal capability to act.

#### **Article 45**

##### Legitimacy

1. The holders of the rights and legal interests affected from the decisions taken by the administrative proceeding, have the right to start and participate in the administrative proceeding. Associations and organizations are entitled to the above rights.
2. In order to protect the wide interests affected by the administrative proceeding, these have the right to start such a proceeding and/or to participate in it:
  - a) the persons to whom the administrative proceeding causes or might cause damages in the common rights, i.e. public health, education, cultural inheritance, environment as well as quality of life.
  - b) the person who live in or close to a public property which might be damaged by the administrative proceeding.
3. The associations acting to protect the wide public interest are entitled to start or to participate in the administrative proceeding.

## **PART FIVE**

### **ADMINISTRATIVE PROCEEDING**

#### **CHAPTER I**

### **GENERAL PROVISIONS OF ADMINISTRATIVE PROCEEDING**

**Article 46**  
Start of the Proceeding

The administrative proceeding may start upon the initiative of the administration offices or upon request of the interested parties.

**Article 47**  
Communication with the Interested Parties

1. The start of the proceeding with the initiative of the administration offices shall be communicated to the persons whose rights and legal interests may be affected as a result of the actions undertaken during the proceeding, if these persons can be identified.
2. The administration offices are not obliged to communicate with the interested parties in cases when the case is secret or confidential pursuant to the classification made by law or when the communication might compromise the efficiency of the proceeding.
3. In the notification directed to the interested parties shall be described the administrative body which started the proceeding, date of start as well as the purpose of the proceeding.

**Article 48**  
The Proceeding Started by the Initiative of the Public

Even in cases when the initiative for the start of the administrative proceeding comes from the public, in the meaning of Article 52, the administration offices shall undertake all the steps they deem necessary to prepare the case, even for problems not included in the submitted request, if they deem it in the interest of the public.

**Article 49**  
General Time Limits for the Termination of the Proceeding

1. The administrative proceeding terminates within a period of 3 months, unless otherwise provided by special laws or unless special situations are imposed. In cases of special situations, the administrative proceeding terminates within 3 months after the special situation is terminated.
2. The failure to respect the time limits given in paragraph 1 is justified by the responsible administrative body to the upper body in the hierarchical level, within 10 days from the termination of the 3 months time limit or of the interruption of special situation.

### **Article 50**

#### Demand of the Opinion of the Interested Parties

The administrative body may demand the opinion of the interested parties at any phase of the proceeding. The opinion shall be submitted to the administration offices within the determined time limit.

The opinion may be demanded with regard to any case.

## **CHAPTER II**

### **THE RIGHT TO BE INFORMED**

#### **Article 51**

##### The right of interested parties to be informed

1. Every person enjoys the right to be informed by the administration in relation to the development of the proceedings for which the person is directly interested.
2. On the information given by the administration, it is shown the organ that develops the proceeding, concrete steps undertaken by it, decisions taken as well as any other relevant information.
- 3.

#### **Article 52**

##### Inspection of Files and the Issuance of Certificates

The interested parties have the right to inspect files managed by the administration, when these do not contain information classified as secret, and take certificates or certified copies of documents that they contain in exchange for payment.

#### **Article 53**

##### Issuance of Certificates

1. The competent civil servants are obliged to issue to the interested parties, within 10 days from the submission of the request without needing to wait for order of the superiors, certificates or authentic copies which include all or a part of the following information:

a) date of submission of the application, petitions, requests for review, appeals, and other similar documents;



b) content of these documents or claims of the parties;

c) phase of the performance of the proceeding;

2. If documents requested by the parties are classified as secret, the competent civil servant shall issue to the interested party (upon request) a declaration to certify the confidentiality.

#### **Article 54**

##### Limits of the Rights to be Informed

1. The rights provided in Article 58 to 61 belong to persons who although they have no direct interest, prove to have a legal interest to be aware of specific documents.

2. The exercise of rights provided in the previous paragraph is possible only upon issuance of an order from the head of the administrative entity. The order is accompanied by a written request and other attached documents certifying the claimed legal interest.

#### **Article 55**

##### The Principle of Open Administration Offices

1. Everyone has the right to be familiarized with the files and registers of administration offices, even though an administrative proceeding in which they are interested in is not in progress, unless prohibited by law.

2. The right to be familiarized with the files and registers of the administration offices is regulated by a special law (data processing).

### **CHAPTER III**

#### **NOTIFICATIONS AND TIME LIMITS FOR THEIR PREPARATION**

##### **SECTION I**

##### **Notifications**

#### **Article 56**

##### Obligation to Notify

The interested parties shall be notified for all the administrative acts by means of which:

a) decisions are taken related to their claims;

- b) obligations or punishments are decided or damages are caused;
- c) the interests or legitimate rights of the parties are established, withdrawn, expanded or limited, or the conditions of their exercise are affected in any other way.

### **Article 57**

#### Exception from the Obligation of Notification

1. In the following cases there is no obligation of the administration offices to make a written notification related to the administrative acts:

- a) the administrative acts are communicated orally in the presence of the interested parties;
- b) the interested party participates in the performance of the administrative proceeding and manifests complete knowledge related to the discussed administrative act.

2. The calculation of the time limits starts from the day that follows the day in which the act is issued or the day the interested parties participate in the administrative proceeding.

### **Article 58**

#### Content of the Notification

The notification shall include the following:

- a) complete text of the administrative act;
- b) name of the person responsible for the act and the date of the latter;
- c) body which has the jurisdiction to decide on the appeals against the act and time limits for this purpose, if the act can not be appealed to the court.

2. The complete text of the act can be replaced with the summary of the content and its object, in cases the act fulfills completely the requests formulated by the interested parties, or provides procedural measures.

### **Article 59**

#### Time Limits for the Notifications

The administrative acts shall be notified within 8 (eight) days, unless otherwise provided by law.

Time limits are counted starting from the day when the act is issued or the day when the interested parties take part in the administrative proceeding.

**Article 60**  
Form of Notification

1. The notifications will be made:

a) by mail, on the condition that there exist a postal service from door to door in the locality of residence or work of the party that shall be notified;

b) personally, in case this form of notification does not compromise the rapidity of the performance of the proceeding or if the notification by mail is impossible;

c) by telegram, phone, telex or facsimile in urgent cases;

d) by a public announcement which will be posted in public places, or by an announcement published in the Official Gazette, in a local newspaper or in the two best sold newspapers in the residence place or work of the parties who shall be notified, in cases the interested parties are unknown or in such a number that any other form of notification is evaluated as inappropriate.

2. In case the notification is made by telegram, phone, telex or facsimile, it shall be confirmed by the body that makes the notification in the form provided by subparagraph a) and b) of the above paragraph, the following day of work, although the rule is that the notification is considered made the day of its communication to the parties.

**SECTION II**

**Time Limits for the Implementation of the Administrative Acts**

**Article 61**  
General Time Limit

1. Without prejudice to Article 106 and 107 of this law and other special cases, the time limit for the implementation of the acts by the administration offices is 15 days.

2. There is a 15 days time limit within which the interested parties implement the act, demand the taking of procedural measures for its implementation, solve the cases for which the parties might express their opinions or exercise any other rights during the performance of the proceeding, too.

**Article 62**  
Calculation of Time Limits

When calculating the time limits the following rules are applied:

a) in calculating the time limits the day in which the act is issued is not included;

b) in calculating the time limit the Saturdays, Sundays and official holidays are excluded;

c) in case the termination of the time limit falls in a day the implementing administration offices is closed or functions with reduced hours, the implementation of the act is postponed to the following day of work.

### **Article 63**

#### Extension of Time Limits

If the parties affected by the implementation of the act live or are temporarily not in the territory of the Republic of Albania or are in rural areas, the time limits provided by law start to be calculated only after:

a) 5 days, if the interested parties are located in rural areas;

b) 15 days, if the interested parties are located in a European country; and

c) 30 days, if the interested parties are located in a non-European country.

### **Article 64**

#### Reinstatement of the Time Limit

When one party to the administrative proceeding, not due to its fault, has been hindered in respecting the time limit provided by this Code and other legal provisions, it has the right to ask for the reinstatement of the missed time limit, except for the cases when the law excludes this right.

The request for the reinstatement of the time limit shall be made within 15 days from the day when the hindrances have been removed, but no later than one day from the last day of the missed time limit, except on cases of major force.

The request of the interested party for the reinstatement the time limit shall be reasoned and shall ensure confidence that the time limit was missed not due to the party's fault.

### **Article 65**

#### Review of the request for the reinstatement of the time limit

1. The request for the reinstatement of the time limit is reviewed by the organ that carries out the administrative proceeding.

2. The decision that opposes the request mentioned in paragraph 1 of this article, is appealed according to the rules provided for by this Code.

## **CHAPTER IV**

### **PERFORMANCE OF THE PROCEEDING**

#### **SECTION I**

##### **Starting**

###### **Article 66**

###### Initial Request

1. Unless otherwise provided by law, the initial petition of the interested parties is prepared in written and shall include:

a) name of the administrative body to whom it is directed;

b) complete name of the applicant, civil state, profession, and residence;

c) explanations of facts related to which the petition is made, as well in case it is possible, the legal basis of the petition;

d) clear explanations related to the claims;

e) date and signature of the applicant or of any other person legally authorized by him in case the applicant does not know to write.

2. No application shall consist of more than one request, with the exception in case the requests are alternative or in subordinate relations with each other.

###### **Article 67**

###### Formulation of the Petition Orally

In cases where the law allows the formulation of a petition orally, it shall be accompanied by a written document which shall include the issues provided in item a) and b) of the first paragraph of the previous Article. The document shall be dated and signed by the applicant and civil servant who receives the petition.

###### **Article 68**

###### Defect of the Initial Petition

1. If the initial petition is not prepared pursuant to the requirements of Article 72, the applicant is requested to correct the existing defects.
2. Despite the content of the first paragraph, the bodies of the administration offices and state civil servants try to arrange by themselves the defects of the petition in order that the interests of the parties would not be compromised by any simple irregularities or by any imperfect formulation of the claim.
3. The administration offices do not accept the anonymous petitions and those with not understandable claims.

#### **Article 69**

##### Submission of the Petition

1. With the exception of the cases provided in the following paragraphs, the petitions are submitted to the bodies of the administration offices to which those are directed.
2. The petitions directed to the central bodies of the administration offices can be submitted to the local offices which depend on those central bodies, if the interested parties live in the locality where the local offices are located.
3. If there is no local office of a certain central administrative body, the petition can be submitted to the prefecture.
4. The petitions discussed in paragraph 2 and 3 are submitted to the competent bodies by registered mail within three days from their receipt.

#### **Article 70**

##### Submission of the Petitions to the Embassies or Consular Offices

1. Petitions can be submitted to the embassies, consular offices or other missions located in the place where the interested parties live or are physically.
2. The embassies or consular offices send the petition to the bodies to which it is directed stating the date on which the petition arrived at their offices.

#### **Article 71**

##### Petitions Sent by Mail

The petitions addressed to the administrative bodies, in case sent by mail, the postal service shall ask for the signature of the receiver, unless otherwise provided by law.

## **Article 72**

### Registration of the Received Petitions

1. Despite the form of delivery of the petitions, their arrival is always registered. The respective register shall include the number of the petition, date of the submission, object of the petition, number of documents attached and the name of the applicant.
2. Petitions are registered pursuant to the order of submission and the petitions, which come by the same postal pack, are considered as submitted at the same time.

## **Article 73**

### Certificate for the Submission of the Petition

1. The interested parties can ask for a certificate, which proves the submission and receipt of the petition.
2. The certificate shall state the fact of receipt by the civil servant of the administration offices and the list of the attached documents.

## **Article 74**

### Other Written Documents Submitted by the Interested Parties

The provisions of this section apply also to the explanations, requests for review, answers and other written documents submitted by the interested parties.

## **Article 75**

### Preliminary Verification of Some Issues during the Regular Proceeding

Immediately after the arrival of the petition, the administrative body preliminary certifies the following issue:

- a) if the body has the jurisdiction or not;
- b) the automatic termination of the rights whose exercise is requested;
- c) legitimate of the applicants;
- d) termination of the time limits within which the application shall be submitted.

## **Article 76**

### Silent acceptance of the petition

1. When the execution of an administrative act, or the exercise of a right of an individual, is conditioned on the approval or authorization of the administration, excluding cases when the law provides differently, the execution of the act or the of the right may be proceeded with, in case the corresponding decision is not issued within the time limit provided by the law.
2. In those cases when the law does not provide for any time limit, the time limit for the silent acceptance due to the non respond shall be 90 days from the date the petition's submission.
3. The following are the cases that require the authorization/approval of the administrative bodies:
  - a) licenses for conduct of construction activities;
  - b) permits for the building and destination of the land for construction;
  - c) work permits for foreigners;
  - ç) permits for foreign investments;
  - d) permits for 24 hours work;
  - dh) authorizations for the work with shifts.
4. time limits provided by law and in the second paragraph of this article are annulled in cases when the proceeding is interrupted for reasons for which the individual is responsible.

## **Article 77**

### Silent Non-Acceptance of the Petition

1. Regardless of the content of article 76, in case of the non-issuance of a final decision within the legal time limit, concerning a claim to the competent administrative body, the interested parties are given the right to think and act as if their petition has been rejected.
2. The time limit mentioned in paragraph 1 of this article is 90 days with exception of cases when the law provides differently.
3. With exception of cases when the law provides differently, the time limit mentioned in the second paragraph of this article is calculated as follows:
  - a)from the date when the request has been registered as received (entered) in the competent department, if the law does not require the fulfillment of particular formalities on the preliminary work before the decision is issued;



b) from the end of the time limit determined by law for the conclusion of these formalities, or when a time limit does not exist, by the end of a three-month period from the presentation of the petition;

c) from the day when the notice for the conclusion of the mentioned formalities has been taken.

## **SECTION II**

### **INTERMEDIATE DECISIONS**

#### **Article 78**

##### **Cases in which Intermediate Decisions can be Made**

1. The administrative body which is competent to make the final decision, can also take an intermediate decision, in cases where it is deemed that not taking such measures will cause a grave and irreparable damage to the public interest. The intermediate decisions can be taken upon the initiative of the administrative body or with the request of the interested parties.

2. The decisions for making intermediate measures shall be justified and shall have a defined time limit.

3. The revocation of the decision for the intermediate measures shall be justified, too.

#### **Article 79**

##### **Termination of the Intermediate Decisions**

The intermediate decisions automatically terminate in the following cases:

a) upon issuance of the final decision,

b) upon termination of the time limit defined for the intermediate decisions,

c) upon termination of the time limit within which according to the law, the decision should have been taken.

d) in case there is no time limit defined by law, the intermediate decisions terminate automatically, after 6 months from the date the proceedings started.

## **SECTION III**

### **INVESTIGATION PROCEDURE**

**SUBSECTION I**  
**GENERAL PROVISIONS**

**Article 80**

Subject of the Investigation Procedure

1. The investigation procedure is carried out by the administrative body under whose competence is the taking of a final decision.
2. The competent body for taking the decision may delegate the right to carry out the investigation procedure to its subordinate body, unless the delegation is specifically prohibited by law.
3. The competent investigating body may order the subordinate body specific investigation duties.
4. In case of collegial bodies, the delegation of competencies provided by paragraph 2 may be done in favor of individual members of the body itself or of a subordinate body.

**Article 81**

Verification of Evidence

1. The competent body requires and examines all the necessary evidence to take the final decision, using for this purpose all the evidence methods allowed by law.
2. There is no need of verification for the evidence known publicly and the evidence known by the administrative body because of its function.
3. The competent administrative body ensures the use of the evidence known by it because of its function during the administrative proceedings.

**Article 82**

Burden of Proof

1. Without prejudice to paragraph 1 of the previous Article, the burden of proof concerning the pretended evidence falls on the interested parties.
2. The interested parties may attach documents or opinions or may require the taking of security measures by the administration offices for securing the necessary evidence to take the final decision

3. Without prejudice to Article 11, paragraph 1, the expenses incurred because of the actions undertaken by the administration offices to secure evidence, are covered by the requesting interested party.

### **Article 83**

#### Obligation of the Interested Parties to Submit Evidence

1. The investigating body may require the interested parties to submit information, documents or objects, which are subject to inspection and to any other form of investigation, in order to prove the claims.

2. The interested parties may refuse the cooperation as provided by the previous paragraph, in case it:

a) conflicts with professional confidentiality;

b) spreads information whose knowledge is prohibited by law;

c) makes known compromising information related to the interested party itself or its spouse, parent, child, brother, or sister;

d) makes known information which causes financial or non-financial losses to the interested party or to each of the persons specified in the previous paragraph.

### **Article 84**

#### Methods to Submit Information and Evidence

1. In cases where the submission of information or evidence by the interested party is needed, it shall be notified concerning this in writing or orally, within the time limits and pursuant to the following conditions.

2. In case the interested party does not live in the locality where the investigating administrative body is located, upon the decision of this body, the oral notification can be made by means of another body which is located in the residence place of the party, if the party does not prefer to present itself to the competent body.

### **Article 85**

#### Non-Submission of Evidence

1. If the interested parties do not answer the notification offering them to exercise each of the rights provided in the previous Article, the administration offices can make a new notification or can interrupt the proceeding, if such a thing compromises any public interest.
2. The failure to answer the notification can be taken in consideration for purposes of evidence, pursuant to the circumstances, but in any other case this does not relieve the administration offices from the obligation of requiring evidence and facts and of taking a final decision.
3. In cases where the information or required documents from the parties are indispensable for the examination of their claims, the proceeding shall be postponed until the assuring of the information and notification of the interested party for such a thing.

#### **Article 86**

##### Assistance from Other Bodies

The competent investigating body may require from other bodies of the central or local government the taking of the measures to secure the evidence, in the cases this can not be carried out by itself.

#### **Article 87**

##### Submission of Evidence in Advance

1. In cases there are reasons to deem that the securing of the necessary evidence for the taking of the decision may become impossible or difficult , the competent body, on its own initiative or by the justified request of the interested parties, can proceed with the preliminary securing of the evidence.
2. The preliminary submission of the evidence can be made even before the start of the proceeding.

#### **Article 88**

##### Expenses for finding the evidence

Expenses resulting as a consequence of actions undertaken by the administration for finding the evidence are covered by the interested party that seeks them, despite the provisions of the second paragraph of article 17 of this Law.

## **SUBSECTION II**

## **EXAMINATION AND OTHER MEASURES**

### **Article 89**

#### Taking of Measures

1. The examinations, reports, assessments, and other similar measures are taken only by (one or more) specialized experts.
2. The specialized bodies of administration offices may be required to take the measures provided by this article.
3. The procedure for appointment of the experts as well as their remuneration is regulated by means of special law.

### **Article 90**

#### Notification of Interested Parties Concerning the Examinations

1. The interested parties are notified with regard to the measures of this kind, their purpose, as well as the expert or experts appointed by the administration offices, unless the measures in question are related to secret or confidential issues.
2. The above provided notification is made 10 days in advance of the examination date or other measures, and it shall include the date, time, and location of the execution of these measures.

### **Article 91**

#### Appointment of Experts by the Interested Party

Any time the administration office appoints experts, the interested party is entitled to appoint the same number of experts as the administration offices.

### **Article 92**

#### Formulation of Questions for Experts

1. The investigating body and the interested parties may formulate the questions to be answered by the experts or may require their opinion for certain issues.
2. The investigating body refuses the submission of questions by the interested party concerning secret or confidential issues.

## **SUBSECTION III**

## **HEARING OF THE INTERESTED PARTIES**

### **Article 93**

1. After the end of the investigation procedure, with exception of cases provided in article 96, the interested parties have the right to give their opinion before the final decision is issued.
2. The investigating body decides case by case whether the interested parties will give their opinion in writing or orally.

### **Article 94**

#### Expression of Opinion in Writing

1. In case the investigating body decides to request the interested parties to express their opinion in writing, the latter are given at least 10 days notice to submit the written submission.
2. The notice shall include all the necessary information in order to enable the interested parties to understand what is important for the taking of the decision. The notice shall include also the time and place where the relevant file may be consulted.
3. In their response the interested parties may express their opinion with regard to the object of proceedings, may request additional measures to be taken and may attach additional documents.

### **Article 95**

#### Expression of Opinion Orally

1. In case the investigating body decides to request the parties to express their opinion orally, it sets up a meeting with the parties giving at least 8 days notice to them.
2. During the oral hearings all the legal and factual issues relevant for the taking of the decision can be discussed.
3. Non-appearance of the interested parties does not constitute grounds to postpone the hearing, except when the submission of reasons by the interested parties is made before the hearing starts.
4. Minutes are kept during the oral hearings. In the minutes are included all the claims of the interested parties. Written documents may be attached to the minutes during the hearing or later by the interested parties.

### **Article 96**

#### Cases when the possibility of the Parties to express their Opinion is excluded

1. The interested parties may not express their opinion in the following cases:

a) the taking of the decisions is urgent;

b) it is clear that such a measure would jeopardize the implementation of the decision.

2. The investigating body may not allow the expression of the opinion by the interested parties in the following cases:

a) the interested parties have been given the opportunity to give their opinion on the issues concerning the taking of the decision during the performance of the proceeding and based on the existing evidence.

b) the information submitted during the proceedings leads to the taking of a decision in favor of the interested party.

#### **Article 97**

##### **Supplementary Measures**

After the interested parties have been heard, additional measures may be taken, upon the request of the interested parties or initiative of the investigating body.

#### **Article 98**

##### **Report of the Investigating Body**

In case the investigating body is not competent to take the final decision, the latter prepares a report including the claims of the interested parties, summarizes the history of the proceeding and prepares a proposal for the final decision summarizing the legal and factual reasons which according to its assessment justify the decision.

### **SECTION IV**

#### **TERMINATION OF ADMINISTRATIVE PROCEEDING**

#### **Article 99**

##### **Causes of Termination**

The proceeding is terminated after taking a final decision or because of other facts provided by this section.

#### **Article 100**

##### **Final Expressed Decision**

In the final decision, the administrative competent body decides regarding the issues raised during the proceeding and not resolved in the course of the process.

#### **Article 101**

##### Withdrawal of Petition or Waiver

1. The interested parties, by means of a written declaration, may withdraw from the proceedings or any of the formulated claims, as well as waive their legal rights and interests, except in the cases where this is prohibited by law.
2. The withdrawal or waiver of the interested party does not affect the continuation of the proceedings if the administration offices deems the proceeding in the public interest.

#### **Article 102**

##### Abandonment

1. In case the interested party because of its fault has been inactive for a period longer than 6 months, the proceedings are deemed abandoned, except in the case when the taking of a final decision is in the public interest.
2. The abandonment of the proceedings does not extinguish the right claimed by the individual for implementation.

#### **Article 103**

##### Impossibility

1. The administrative proceeding terminates when the competent administrative body for the taking of the final decision, discovers that the object for which the proceeding started or the purpose of the decision has become impossible.
2. The declaration of termination provided by the previous paragraph shall always be reasoned and it may be appealed to the court.

#### **Article 104**

##### Non-Payment of Fees and Other Duties

1. The proceeding terminates in case the fees and other duties are not paid within the time limit which payment according to the law is a condition for the execution of the procedural acts, with exceptions of the cases provided by the second paragraph or in Article 11.



2. The interested parties may prevent the termination of the procedures in case they pay double the duties and fees within 10 days from the original time limit of payment.

## **PART V**

### **ADMINISTRATIVE ACTIVITY**

#### **CHAPTER I**

#### **ADMINISTRATIVE ACTS**

##### **SECTION I**

##### **VALIDITY OF ADMINISTRATIVE ACTS**

###### **Article 105**

Definition of the Administrative Act

For the purpose of this law all decisions of the bodies of Public Administration Offices which creates legal consequences for individual cases, will be considered administrative acts.

###### **Article 106**

Form of the Administrative Acts

1. The administrative acts are done in written form, unless another form is provided by law or is imposed by the circumstances.
2. The acts issued by collegial bodies shall be in written form only in the cases specifically provided by law. In the other cases these acts are registered in the minutes without which they have no legal effect.

###### **Article 107**

Purpose of the Act

1. The administrative act shall in any case show its aim.
2. Without prejudice to any additional information to be given depending by the case, the administrative act shall include:

- a) the issuing authority as well any delegation and sub-delegation of power concerning the issuance of act;
- b) the identification of parties to whom the act is intended;
- c) the explanation of the facts on the basis of which the act is issued, if relevant;
- ç) the legal basis of the act if required by law;
- d) the explanation of the meaning of the act;
- dh) the date of entrance into effect;
- e) the signature of the civil servant of the issuing body or of the president of the collegial body.

### **Article 108**

#### The Reasoning of the Act

1. Unless the law provides otherwise with respect to the providing of reasons, there shall be given indispensably the reasons for all the acts which totally or partially:

- a) deny, extinguish, limit or infringe in any way a legitimate right or interest, set or increase obligations or punishments;
- b) constitute a decision with regard to the requests for review or appeal;
- c) constitute a decision given contrary to the claims of the interested parties, or contrary to an official opinion, information, or proposal;
- ç) constitute a deviation from the practice of settling similar cases;
- d) causes the revocation, abrogation, amendment, or suspension of an existing act.

2. There is no need of reasoned decision in cases of acts ratifying decisions taken by boards, juries, or commissions established by the administration offices, as well as orders given by people high in hierarchy, with regard to internal issues, unless otherwise provided by law.

### **Article 109**

#### Way of Reasoning

1. The reasoning shall be clear and shall include the explanation of the legal and factual basis of the act. In case there is a reasoning in the previous opinions, information, or proposals, this reasoning can be sufficient for their acceptance by the decision-making body. In such case the previous opinions, information, and proposals are made part of the final decision.

2. The use in a reasoning of unclear, contradictory, or imprecise data, nullifies the reasoning.
3. The reasoning of the decision of a case can be used in an analogous case, on the condition that the interested parties are not disadvantaged.

**Article 110**  
Reasoning in Verbal Acts

1. When the act is expected to be appealed, the reasoning of the act is done in writing and the interested parties shall be notified within 10 days. Communication is done via registered mail or hand delivery.
2. The decision is not compromised if the interested parties do not use their right provided by the paragraph one of this article.

**SECTION II**  
**ENTRANCE INTO FORCE OF THE ADMINISTRATIVE ACTS**

**Article 111**  
General Principles

In principle the administrative acts become effective from the date of their approval, unless the law or the act itself provides its retroactive or delayed entrance into force.

**Article 112**  
Retroactivity

1. The administrative acts have retroactivity effect in the following cases:
  - a) the act interprets an existing act;
  - b) the act is issued in implementation of a court decision which declares null an administrative act;
  - c) the law itself provides the retroactive effect of the act.
2. With the exception of the cases provided in the previous paragraph, the competent body may provide the retroactivity of the act in the following cases:

- a) the retroactive effect is in favor of the interested parties and does not damage the rights of any third party;
- b) the act abrogates a previous administrative act and all the sub-legal acts issued in the implementation of the latter;
- c) it is allowed by law.

**Article 113**  
Delayed Effect

The administrative acts have a delayed effect:

- a) if their entrance into force is conditioned upon approval or countersignature;
- b) if it is impossible for the act to be effective because of any suspension or time limit;
- c) the entrance into force of the act depends upon the occurrence of certain conditions and circumstances.

**Article 114**  
Publishing of Acts

1. The publication of the administrative acts is mandatory only if law requires it.
2. The failure to publish the act when the law requires it causes the failure of entrance into force of the act.
3. In case it is mandatory for the acts to be published, these are published in the Official Gazette within 30 days from approval.

**SECTION III**

**INVALIDITY OF ADMINISTRATIVE ACTS**

**Article 115**  
Invalid Acts

Invalidity of administrative acts, on the understanding of within the scope of this as defined in this Code, is presented in the following cases:

- a) administrative acts absolutely invalid (acts issued in flagrant violation of the law);

b) administrative acts relatively invalid (acts issued in violation of the law).

### **Article 116**

#### Absolutely invalid Administrative Acts

Administrative acts will be called absolutely invalid, on the understanding within the scope as defined in of this Code, in the following cases:

- a) when the act has been issued by an unidentified administrative body;
- b) when the acts were issued by an administrative body that is beyond its legal competencies;
- c) when the act has been issued in contradiction of the form and procedure required by law.

### **Article 117**

#### Effects of the absolutely invalid Acts

1. The absolutely invalid act has no legal consequence, without regard to the fact whether it is declared null or not. It is considered never to have existed.
2. Any interested party may request to declare an act absolutely invalid. An act may be declared absolutely invalid by any administration body or the court at any time.
3. In case only a part of the act is absolutely invalid, the whole act will be considered null upon the condition that the nullified part is so substantial that the issuing body would not have issued it without the null part.

### **Article 118**

#### Relatively invalid administrative acts

1. The administrative acts will be called relatively invalid, on the understating within the scope as defined in of this Code, when they have been issued in violation of the law, but nevertheless are not absolutely invalid.

2. A relatively invalid administrative act can be appealed in administrative legal ways

respectively based on the provisions of this Code and the Code of Civil Procedure.

### **Article 119**

#### Effects of the relatively invalid administrative act

As long as the relatively invalid administrative act has not become a subject of the administrative or court appeal within the time limits provided by this Code, or has not been

revoked/abrogated by the competent administrative organ, it produces the effects of a valid/regular administrative act.

#### **Article 120**

##### Acts Containing Errors and Obvious Mistakes

In case an act is valid but is deemed to contain errors or obvious mistakes, the competent body on its own initiative or upon request of the parties in process corrects the essential mistakes as well as obvious irregularities without changing the content of the act. There are no time limits with regard to the corrections.

### **SECTION IV**

#### **ABROGATION OR REVOCATION OF THE ADMINISTRATIVE ACTS**

#### **Article 121**

##### Initiative for Abrogation or Revocation

1. The administrative acts are abrogated or revoked upon the initiative of the competent body, or as a result of the request for review or appeal submitted by the interested parties.
2. Absolutely invalid administrative acts cannot be abrogated or revoked.

#### **Article 122**

##### Revocation and Abrogation of Valid Acts

1. The administrative acts may not be revoked or abrogated in the following cases:
  - a) the law provides its irrevocability/non-abrogation;
  - b) the act created legitimate rights;
  - c) the act grants to the administration offices rights and obligations which can not be waived.
2. Exceptionally, the acts provided by item b) of the first paragraph of this article, may be revoked or abrogated when:
  - a) they damage the interests of the parties to whom is intended incomplete;
  - b) all the interested parties agree concerning the revocation or abrogation of the act, if the act has created such rights which can be waived.

### **Article 123**

#### Revocation and Abrogation of the Invalid Acts

1. The null administrative acts may be revoked or abrogated only because of their nullity and within the time limit defined for the submission of judicial review.
2. If more than one time limit for submission of judicial review is provided by law, the longer time limit applies.

### **Article 124**

#### Right of Revocation and Abrogation

1. The right of revoking an act belongs to the issuing body, unless otherwise provided by law. The higher body in hierarchy is competent to abrogate an act.
2. The acts issued by delegation or sub-delegation may be revoked by the delegating or sub-delegating body as well as by the delegated or sub-delegated body as long as the delegation or sub-delegation is valid.
3. The bodies higher in hierarchy may abrogate the administrative act only in the cases allowed by law.

### **Article 125**

#### Form of the Revoking or Abrogating Act

The revoking or abrogating act shall have the same legal form and is subject to the same procedures as the revoked or abrogated act unless otherwise provided by law.

### **Article 126**

#### Entrance into Force of Revocation and Abrogation

1. The revocation and abrogation have effect only for the future, except the cases provided in the second and third paragraphs of this article.
2. The revocation or abrogation is retroactive only in case these are done because of the invalidity of the act which is nullified or revoked.
3. The body that issues the revocation or abrogation gives retroactive effect to the revoking/abrogating act when all the interested parties agree in writing for the revocation/abrogation of the act, on condition that the act has created such rights that can be waived.

### **Article 127**

#### Revocation/Abrogation that Regenerates the Legal Effect of a Previous Act

Revocation or abrogation of an act, which has revoked/abrogated a previous act, regenerates the legal effect of the latter only in case the law or the last revoking/abrogating act expressly provided such a thing.

### **Article 128**

#### Amendments and Substitution of Administrative Acts

Unless the law otherwise provides, the rules pertaining to revocation or abrogation are applied also for the amendment and replacement of the administrative acts.

### **Article 129**

#### Correction of Administrative Acts

1. The essential corrections concerning the will of the administrative body, can be corrected at any time by the bodies which are entitled to revoke or abrogate the act.
2. The corrections which have a retroactive effect can be made upon the initiative of the administration offices or upon request of the interested parties.

Correction is followed by the same publicity done to the corrected act.

## **SECTION V**

### **IMPLEMENTATION OF ADMINISTRATIVE ACTS**

### **Article 130**

#### Implementation

1. The administrative acts may be implemented only after entering into force.
2. The administration offices may forcibly implement the obligations provided in the administrative act, without going to the court, on the condition that the act is implemented pursuant to law requirements.

### **Article 131**



## Acts that can not be implemented

1. The following acts can not be implemented:
  - a) acts whose effect is suspended;
  - b) acts which are appealed with a suspending effect;
  - c) acts which enter into force upon approval of an administrative body other than the issuing one.
2. The entrance into force of the acts may be suspended by the revoking administrative bodies, by the higher hierarchical abrogating body and by the court according to the rules provided in the Code of Civil Procedure (Chapter "For the Judgement of the Administrative Disputes").

### **Article 132**

#### Legality of Implementation

1. The bodies of Public Administration Offices may not undertake any action that in one way or another limits legitimate individual rights, without having in hand an administrative act to legitimize authorize such acts. Exemptions from this rule are made only in emergency cases.
2. If it is possible, the implementation of the administrative acts is done by such means as will ensure the effectiveness of the implementation that cause the minimal damage possible to the legitimate interests and rights of private persons.
3. The interested parties may submit an appeal to the higher administrative body or to the court in case the actions taken to implement this act go beyond its limits.
4. An appeal to the court may be submitted against actions undertaken during implementation, if the latter are illegal by themselves on the condition that the actions do not derive from the illegality of the act in implementation.

### **Article 133**

#### Notice of Execution

1. The decision to proceed with the implementation of the administrative act is notified to the parties for whom the original act is intended before its implementation starts.
2. The administrative body may provide notice for the implementation while giving notice for the act and in this case the implementation starts immediately.

### **Article 134**

## Prohibition of Orders that Interrupt the Implementation

No administrative order or court decision can stop the implementation of administrative acts, despite legal provisions for the suspension of the acts' power.

### **SECTION VI**

#### **ADMINISTRATIVE REVIEW AND APPEAL**

##### **SUBSECTION I**

##### **GENERAL PRINCIPLES**

###### **Article 135**

###### General Principles

1. Private persons are entitled to request the revocation, abrogation or amendment of the administrative acts in accordance with the rules provided by this Code.
2. The right provided in the previous paragraph may be exercised in the following ways:
  - a) by means of an informal request to the civil servant/body responsible for the act;
  - b) by means of an appeal to the supervisor of the responsible civil servant/body, to the collegial body if the civil servant responsible is its member, and to the delegating or sub-delegating body.

###### **Article 136**

###### Informal Request

1. No respect of any time limit or procedural criteria is required concerning the filing of informal requests.
2. Informal requests are considered as requests in the meaning of Article 66 of this Code. In these cases the claimant is entitled to get a reasoned answer within one month from the day the request was filed.
3. The administrative body following the informal request informs the claimant of the legal effects of the request, especially the distinction between the informal request and administrative appeal.
4. Informal requests suspend neither the effects of the administrative act nor the expiration of the time limits.

**Article 137**  
Administrative appeal

1. Any interested party is entitled to submit an appeal against an administrative act or against a denial for the issuance of the administrative act.
2. The administrative act, to which the appeal is addressed, reviews the legitimacy and regularity of contested act.
3. In principle, the interested parties may address the court only after using the administrative recourse.

**Article 138**  
Effects of the administrative appeal

1. The administrative appeal suspends the implementation of the administrative act.
2. The implementation of the administrative act is not suspended only in the following cases:
  - a) when the administrative act contemplates the collection of taxes, duties and other budgetary revenues;
  - b) when the administrative act concerns police measures;
  - c) when the suspension of the administrative act is forbidden by law;
  - d) when the immediate implementation is in the interest of the public order, public health and other public interests;
3. In every case the claimant is entitled to be informed concerning the causes of non suspension of the implementation of the act.

**Article 139**  
The Subject to whom the Appeal shall be Submitted

1. The administrative appeal may be submitted before:
  - a) the body which issued the appealed administrative act or denied the issuance of an administrative act.
  - b) the superior body mentioned in point a of paragraph 1 of this Article.
2. In cases where the appeal is addressed to the superior body, the latter transfers the

respective file to the body which has issued/refused to issue the act attached with its instruction concerning the resolution of this case.

#### **Article 140**

##### Time limit for the Administrative Appeal

1. Administrative appeals shall be submitted within one month from the day:
  - a) the appellant was notified of the act or non issuance of it;
  - b) the act was published according to the provisions of this Code.
2. In case of omission of the administrative administration (non issuance of the act), the procedure of appeal starts three months from the day the initial request concerning the issuance of the administrative act is submitted.

#### **Article 141**

##### Time limit for the Decision in an Appellate Procedure

1. The competent administrative body reviews the administrative appeal and decides on it within a month from the date the appeal is submitted.
2. When after the expiration of the time limit provided in paragraph 1 of this article, a decision concerning the appeal is not issued by the competent administrative body, the interested party acquires the right to address to the court according to the paragraph 2 of article 328 of the Code of Civil Procedure.

#### **Article 142**

##### Procedure of Appeal

1. If the body which issued or denied the issuance of the appealed administrative act decides to accept the appeal, it also takes the corresponding decision.
2. If the body mentioned in paragraph 1 of this article does not accept the appeal, it is obliged to transfer the appeal to the superior body, which decides concerning the appeal within two weeks.

#### **Article 143**

##### Formal Conditions for the Development of the Appellate Procedure

1. The appeal shall be done in a written form.

2. The written appeal shall include the following data:

- a) the name and address of the appellant;
- b) the administrative act issued or not issued , which is contested;
- c) the causes of appeal;
- d) any other document deemed important by the appellant

3. The body which will review the appeal is obliged to assist the appellants in preparation of the necessary documentation for the appeal.

#### **Article 144**

##### Non Acceptance of Appeal

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

- a) the act which is the subject of appeal is not appealable by its nature;
- b) when the appeal is barred by the statute of limitations;
- c) when the appealed administrative act is deemed valid prima facie by the body which reviews the appeal.

#### **Article 145**

##### Notification to the Interested Parties

In case the administrative body which reviews the appeal deems that the abrogation, revocation, modification of the appealed administrative act violates in any manner the rights and interests of a third person, the latter shall be notified to participate in reviewing the appeal and is also entitled to present his/her claims.

#### **Article 146**

##### The Decision of the Body which Reviews the Appeal

The administrative body which reviews the appeal decides:

- a) to uphold the administrative act and to reject the appeal;
- b) the abrogation/revocation of the administrative act and the acceptance of the appeal;

c) modification of the administrative act, by partially accepting the appeal;

ç) the obligation of the competent administrative body to issue the administrative act, when the issuance of it was denied.

## **CHAPTER II**

### **REAL ACTS**

#### **Article 147**

##### General Principles

1. The legal principles shall be applied for the real acts, especially the legitimacy principle, as well as for the administrative acts, if their special nature shall not infringe these principles.
2. The real acts such as information, notices, coded signals, etc, issued by a state body are to be deemed legal only in case they are precise, objective and proportional.

#### **Article 148**

##### Elimination of the Consequences

The administrative body is obligated to eliminate/avoid the consequences deriving from an illegal real act.

## **CHAPTER III**

### **ADMINISTRATIVE ACTS WITH A DISCRETIONAL NATURE**

#### **Article 149**

##### General Principles

In those cases when the public administration exercises discretionary power, this power shall be exercised in conformity with the Constitution and the spirit of the legislation in force of the Republic of Albania.

#### **Article 150**

##### Judicial and Administrative Review of the Acts with a Discretionary Nature

Upon the request of interested parties, every administrative act with a discretionary nature may be the object of a judicial or administrative review.

## **CHAPTER IV**

## **ADMINISTRATIVE CONTRACTS**

### **Article 151**

#### **Administrative Contracts Definition**

1. The administrative contract is an agreement by means of which a legal relation of public law is created, modified or terminated.
2. The following are administrative contracts:
  - a) public work undertakings;
  - b) public work procurement;
  - c) public services procurement;
  - ç) games of chance licensing;
  - d) continuing supplies contracts;
  - dh) contracting for services provided by private subjects in cases of natural disaster

## **FINAL AND TRANSITORY PROVISIONS**

### **Article 152**

Within three months from the entrance into power of this Code, the Council of Ministers and the bodies of state administration shall respectively adopt the sub-legal acts and internal rules concerning the implementation of this Code.

### **Article 153**

All legal and sub-legal provisions inconsistent with the provisions of this Code are abrogated. Promulgated with the decree no. 2387, date 7.6.1999 of the President of the Republic of Albania, Rexhep Meidani.