

Law for the Administrative Procedures (as amended in 2001)

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Chapter One GENERAL PROVISIONS

Article 1

(1) This Act regulates the procedure for issuing, appealing and implementation of administrative acts insofar as no other act or decree establishes special rules.

(2) This Act shall also apply to individual administrative acts of the organs of economic and public organizations which are empowered to issue such acts.

Article 2

(1) (Amended SG No. 19/1992) Individual administrative acts for the purpose of this Act are acts issued by the heads of official organs mayors of municipalities, mayors of localities and other organs of municipal government, as well as other expressly empowered organs with which rights and obligations are created or which affect rights and lawful interests of individual citizens or organizations, or the refusal to issue such acts.

(2) The decisions for issuing documents which are of significance for the recognition, exercising or extinguishing of rights and obligations, as well as the refusal to issue such documents, shall also be deemed individual administrative acts.

Article 3

The provisions of this Act shall not apply to acts:

1. (Amended SG No. 19/1992) of the President of the Republic;
2. of the Council of Ministers;
3. related to the planning of socioeconomic development and pricing;
4. with which rights and obligations are created for organs or organizations subordinate to the organ issuing the act.

Article 4

When through an administrative act rights are affected or obligations created for citizens and organizations, applicable are those measures which are most favourable for them if this does not compromise the aims of the law.

Article 5

For procedures for issuing, appealing and implementation of administrative acts state taxes shall not be collected and costs shall not be paid unless otherwise stipulated in another law.

Chapter Two ISSUING OF ADMINISTRATIVE ACTS

Article 6

(1) An administrative act shall be issued by the organ empowered to do so in accordance with its competence.

(2) A superior organ may not usurp for resolution a matter from the organ empowered to review and decide upon it unless this is expressly provided for in another law.

(3) An administrative organ shall carry out the procedure independently.

(4) (Amended SG No. 19/1992) When a normative act does not specify who is to issue an administrative act on matters within the competence of the organs of municipal governments, the administrative act shall be issued by the mayor of the municipality, and in the cases under Article 46 of Local Self Government and Local Administration Act, by the mayor of the locality.

(5) (New, SG No. 65/1995) In the cases under paragraph 4 the acts concerning state property management shall be issued by the district governors.

Article 7

(1) The procedure for issuing administrative acts shall be initiated by the competent or superior administrative organ, by oral or written request from an individual or organization or on suggestion of the prosecutor.

(2) The interested individuals and organization shall be notified of the commencement of the procedure.

Article 8

When the organ which has begun the procedure establishes that the administrative act should be issued by another administrative organ, the former shall immediately send the documentation to the latter, notifying at the same time the person on whose initiative the procedure was started as to this fact.

Article 9

An official who has a vested interest in the outcome of the procedure, or has relationships with interested individuals or organizations which give rise to doubts as to his impartiality, may not take part in the procedure. In such cases on his own initiative or on request of the interested parties he shall be withdrawn from the procedure.

Article 10

The interested individuals or organizations and their legal representatives may empower other persons to represent them in the administrative procedure.

Article 11

(1) The administrative act shall be issued, after the facts and circumstances of relevance to the case have been clarified and the explanations and objections of the interested individuals and organizations have been discussed.

(2) For establishing the facts and circumstances all methods and means which are not forbidden by the law may be employed, unless another normative act does not provide that the proving of certain facts or circumstances should be made in a specified manner or through specified means.

(3) Evidence may be provided through written declarations when this is provided for in a law, decree or normative act issued by the Council of Ministers.

Article 12

(1) Organizations are obliged, within the time period set by the administrative organ, to provide the required documents, information, explanations and opinions.

(2) Individuals are obliged to present the requested documents or objects and to provide information of substantial importance for resolving the problem, unless this would be detrimental to their rights and lawful interests or to their good name.

Article 13

(1) When the procedure has begun by appeal or suggestion of the prosecutor, the administrative act shall be issued not later than 7 days from the date of filing.

(2) When it is necessary to gather evidence with regard to important circumstances or to provide opportunity for other individuals and organizations to defend themselves, the act shall be published not later than one month from the commencement of the proceedings.

(3)When the organ is collective, the question as to the issuing of the act shall be resolved not later than the first meeting after the expiry of the time period provided for in the preceding paragraphs.

(4)When it is necessary to obtain the consent or position of another organ, the time period shall be deemed is extended respectively but not by no more than one month. If within the prescribed time period the position has not been communicated, the act may be issued without it.

(5)When the issuing of the act is dependent on the preliminary resolving of a problem within the competence of another organ, the procedure shall be stopped until such resolution.

Article 14

(1)The non-resolution within the prescribed time period is deemed as tacit refusal to issue the act.

(2)When through administrative or court procedure the tacit refusal is repealed, the subsequent express refusal predating the decision of repeal is also repealed.

Article 15

(1)The decision to issue and administrative act or to refuse its issuing shall state reasons.

(2)The administrative act shall be issued in writing and shall contain:

1. the name of the issuing organ;
2. the name of the act;
3. the factual and legal grounds for issuing it;
4. a part containing instructions, setting out the rights and obligations, the manner and the deadline for their implementation;
5. before which organ and within what period it may be petitioned;
6. the date of issue and signature of the person issuing the act and an indication of his position. When the organ is collective the act shall be signed by the Chairman and the Secretary of the organ.

(3)When the act satisfies in full all demands and there is no infringement on the rights and legal interests of other individuals and organizations as well as when the matter involves protection of state and official secrets, only the legal grounds shall be indicated.

Article 16

The administrative act shall contain a provision for preliminary implementation, when this is necessitated for the protection of the life or health of citizens, to prevent losses to the national economy or to protect other important state interests, as well as when there is a danger that the implementation may be seriously compromised or prevented.

Article 17

(1)The administrative act or respectively, the refusal to issue such an act, shall be communicated within a

period of three days of issue to all interested individuals and organizations including those which have not taken part in the procedure.

(2)The notification may be made by oral communication of the contents of the act which shall be verified by signature or a separate notification. When the address of one or more of the interested parties is unknown or the latter do not reside at the given address, the notice shall be placed on a special notice board at the local council or the mayor's office. In such cases notification may also be made in another traditional manner.

Article 18

(1)Before the expiry of the deadline for appeal the administrative organ may remedy the defects in the act. With regard to the changes made the interested parties shall be notified.

(2)Obvious factual errors made in the administrative act may be removed by the organ which has issued it even after the period for appeal has expired.

Chapter Three APPEAL OF ADMINISTRATIVE ACTS

Section I Appeal by Administrative Procedure

Article 19

(1)Administrative acts may be appealed by administrative procedure before the superior administrative organ.

(2)The contents of a document may be challenged by administrative procedure.

Article 20

The following may not be appealed under the provided by this Act by administrative procedure:

1. (Amended SG No. 26/1988 and No. 19/1992) of ministers, heads of agencies directly subordinate to the Council of Ministers, of the regional governors and the mayor of the Greater Sofia Municipality;
2. for which special laws provide for direct appeal before the courts or a special jurisdiction.

Article 21

(1)Appeals may be lodged by interested individuals and organizations.

(2)The legality, as well as the correctness of the administrative act may be challenged with an appeal.

(3)The prosecutor may lodge a protest only with regard to the legality of the administrative act.

Article 22

(1)The appeal and the protest shall be filed within seven days of the notification under Article 17.

(2)The tacit refusal may be appealed within two weeks from the expiry of the time period provided in Article 13.

Article 23

(1) Before the expiry of the deadline for appeal the administrative act shall not be implemented the interested parties declare in writing that they will not appeal it.

(2) The duly filed appeal or protest stops the implementation of the administrative act.

(3) The provisions of the previous paragraphs shall not apply where the administrative act subject to immediate implementation pursuant to a normative act or where the administrative organ has allowed preliminary implementation.

Article 24

(1) The application shall be filed in writing through the administrative organ whose act is being appealed.

(2) The application shall specify the organ to which it is addressed, the name and address of the appellant, the act which is being appealed, the organ which has issued it, the grievances and claims of the appellant.

(3) Attached to the appeal shall be the evidence on which the appellant has based his claim. The appeal may include an application for gathering evidence with regard to facts and circumstances, which were overlooked at the time of issuing the act or have occurred after its issuing.

Article 25

(1) The appeal filed after the deadline shall be returned to the appellant against receipt.

(2) Within a period of seven days of the return of the appeal a resumption of the time period may be asked for if the failure was due to overwhelming events. The previous appeal shall be attached to the application.

(3) The application for resumption of the time period shall be reviewed by the higher administrative organ competent to review the appeal. If the application has good cause the organ shall direct that implementation be stopped and shall initiate proceedings on the appeal, and if not it shall not review the application.

Article 26

(1) Within a period of seven days, and when the organ is collective within two weeks, of receipt of the appeal or protest the administrative organ may review the matter and withdraw the challenged act, alter it, or issue the respective act or document if it has refused to do so. In such cases it is obliged to notify the interested parties. The new act is subject to appeal by administrative procedure under general procedures.

(2) When the administrative organ does not find grounds to review the matter, it shall immediately send the appeal or protest together with the whole documentation to the competent superior administrative organ.

(3) If within seven days of expiry of the period set forth in para 1 the appeal or protest are not forwarded to the higher administrative organ the appellant may send a copy of the appeal and the prosecutor a copy of the protest directly to the higher organ, or notify it of the delay. The higher administrative organ shall request the documentation through official channels.

(4) Subject to the provisions of para 1 and within a period of one month of notification of the issuing of the act, be reviewed with regard to correctness and legality.

Article 27

(1) Competent to review the appeal or protest is the immediately superior administrative organ to which the administrative organ which has issued the act is subordinate.

(2) (Amended SG No. 19/1992) The administrative acts of the specialized executive organs of the municipal councils shall be appealed before the mayor, and the administrative acts issued by the mayors of localities and municipalities shall be appealed before the district governor.

(3) (Amended SG No. 26 of 1992) The administrative acts of the district governors shall be appealed before the governor of the province.

(4) (Rep. SG No. 26 of 1988)

(5) (Rep. SG No. 19 of 1992)

Article 28

The superior organ shall reach its decision after deliberating the explanations and objections of the interested individuals and organization. It may gather new evidence on the matter.

Article 29

(1) The superior administrative organ shall rule on the appeal within two weeks, and when it is a collective body, within one month of receiving it.

(2) When the superior administrative organ fails to rule within the time period stipulated in the preceding paragraph, the appellant may challenge the legality of the administrative act before the court, if the act is subject to appeal before the court.

Article 30

(1) The superior administrative organ shall rule with a reasoned decision, with which it shall repeal in whole or in part the administrative act as illegal or incorrect or shall an issue resolved with an administrative act which is not subject to appeal by administrative procedure may reject the appeal or protest.

(2) When the administrative organ has refused in breach of the law to issue an administrative act or document, the higher placed administrative organ oblige it to do so.

(3) When the issued administrative act is in violation of the law or is incorrect and another act is to be issued in its place the superior administrative organ shall return the file to the organ that has issued it with the respective mandatory instructions. If the matter has been factually clarified, the superior organ its all may issue the act if there do not exist legal obstacles as to that.

Article 31

Within three days from the riling of the superior administrative organ, the said ruling shall be communicated to the appellant, the prosecutor, if the latter has taken part in the proceedings, and to the other interested individuals and organizations, unless the file is returned for review.

Article 32

(1) An administrative act which has entered into force, and has not been challenged before the court, may be repealed or amended by the immediately superior administrative organ and, in the absence of such an organ by the organ which has issued it, only in keeping with the provisions of Article 231 of the Code of Civil Procedure up on an application by the interested party or on suggestion of the prosecutor. On suggestion by the prosecutor the act may be repealed or amended when there is a serious breach of the law. When the act has been challenged before the court, the provisions of the Code of Civil Procedure shall be applicable for its repeal.

(2) When as a result of the administrative act no rights have been acquired or issuing of a document, has been refused the matter may be reviewed by the administrative organ even in the absence of the circumstances envisaged in the preceding paragraph. In such cases review may be made on the initiative of the administrative organ, on application of the interested parties or on direction from the superior organ.

(3) As regards the time period for initiating proceedings for repeal pursuant to paragraph 1 the provisions of Article 232 and 233 of the Code of Civil Procedure shall apply.

(4) The new administrative act may be appealed in accordance with the provisions of this Chapter. The refusal review of the matter in accordance with para 2 is not subject to appeal.

(5) The repeal of the administrative act in accordance with the provisions of this article may not prejudice the rights of third parties acquired in good faith.

Section II Appeal Before the Court

Article 33

(1) Administrative acts may be appealed with regard to their legality before the court.

(2) Also subject to appeal before the court are administrative acts for which in a special law a different procedure for administrative review is provided for.

(3) The content of a document may not be contested before the court by appeal or protest.

Article 34

(Amended SG No. 9/1983) The following administrative acts may not be appealed by the envisaged in this Act judicial procedure:

1. those directly connected with the defence and security of the state;
2. (amended SG No. 61 of 1991) those within the scope of The Currency Transactions and Currency Control Act, and The Territorial and Municipal Development Act;
3. those setting customs duties with the exception of acts which determine the customs dutiable value on goods imported on the basis of foreign trade transactions;
4. those which by law or decree are envisaged as not subject to appeal before the court or for which a different procedure for appeal before the court and special jurisdictions is provided for.

Article 35

(1)Affected individuals and organizations shall file appeals, and the prosecutor shall file protests.

(2)An appeal or protest may be filed before the court after exhausting the possibilities or expiry of the deadline for appeal by administrative procedure.

Article 36

(1)(Amended SG No. 19 of 1992) When the appealed act was issued, approved or amended by a minister, head of another agency, immediately subordinate to the Council of Ministers, by the central leadership of a public organization, by a provincial governor or the Mayor of the Greater Sofia Municipality, the Supreme Court shall have jurisdiction and in all other cases jurisdiction shall belong to the district court.

(2)The Supreme Court shall review the appeals and protests against administrative acts endorsed by a minister or head of another agency directly subordinate to the Council of Ministers.

Article 37

(1)The appeal and protest shall be presented within seven days of the notification under Article 31 or respectively, of the expiration of the deadline under Article 22 or Article 29.

(2)(New SG No. 19 of 1992) Appeals and protest for declaring administrative acts null and void, may be lodged without limitations as to time.

(3)(Amended SG No. 25 of 1991, previous para 2, No. 19 of 1992) The appeal or protest shall stop the implementation of the administrative act unless the court rules otherwise. When the administrative organ has allowed preliminary implementation of the act, the court upon request from the interested parties may halt implementation.

Article 38

The appeal and protest shall be filed in writing through the administrative organ which has issued the act appealed. To them shall be attached copies for the said organ and the interested individuals or organizations party to the administrative proceedings, as well as documentary evidence.

Article 39

(1)Within three days of receiving the appeal or protest and, when the act was not subject to review by administrative procedure within three days of expiry of the time period stipulated in Article 26, para 4, the administrative organ is obliged to send the appeal or protest together with the full documentation to the court.

(2)If within the time period set forth in the previous paragraph the documentation is not sent to the court, the appellant may send a copy of the appeal, or the prosecutor a copy of the protest directly to the court. The court shall request the documents through official channels.

Article 40

(1)An appeal presented after expiry of the time period set in Article 37, para 1, shall be returned to the

appellant against receipt.

(2) Resumption of the time period may be requested within seven days from the rejection and return of the appeal, if the failure was due to overwhelming unforeseen circumstances. The application for the resumption of the time period shall be immediately sent to the court together with the appeal and the full documentation.

(3) The court shall rule with an order which is not subject to appeal.

Article 41

(1) The court shall review the applications and protests in a hearing presided by three judges and with the participation of prosecutor.

(2) The organ which has issued the appealed act, the appellant and the other interested individuals and organizations, having participated in the administrative procedure shall be summoned for the hearing on the appeal.

(3) The court shall review the legality of the administrative act, investigating whether it was issued by a competent authority in the prescribed manner, whether the procedural and substantive provisions have been observed with regard to its issuing and whether it is compatible with the aims and purposes of the law.

(4) (New SG No. 25 of 1991) The court shall gather all evidence permissible under the Code for Civil Procedure.

Article 42

(Amended SG No. 25 of 1991)

(1) The court may repeal in whole or in part the administrative act, may amend it or may reject the appeal.

(2) When the matter is not subject to the discretion of the administrative organ the court may decide the case on its merits.

(3) Apart from the instances envisaged in the preceding paragraph and in cases where the essence of the act does not permit the application of the preceding paragraph, the court shall repeal the administrative act and send the documentation to the respective competent administrative organ for resolving the matter on its merits with mandatory instructions as to the interpretation and application of the law.

(4) In cases of unlawful refusal to issue a document the court shall oblige the administrative organ to so issue it without giving directives as to its contents.

Article 43

(Repealed SG No. 25 of 1991)

Article 44

(1) The decision of the court is final. It may be repealed only in accordance with the provisions of Article 225 or 231 of the Code of Civil Procedure.

(2)(Repealed SG No. 25 of 1991).

Article 45

With regard to matters not regulated by the provisions of this Section the provisions of the Code of Civil Procedure shall apply.

Chapter Four IMPLEMENTATION OF ADMINISTRATIVE ACTS

Article 46

In accordance with the provisions of the present Chapter shall be executed Administrative acts and court decisions in the cases envisaged in Article 43. Sec. 1.

Article 47

(1)The implementation of administrative acts is carried out on the initiative of the organ which has issued it, or on request by the interested individuals or organizations.

(2)The organ which has issued the administrative act shall determine the manner and time of its implementation, if that is not expressly pointed out in the act.

Article 48

(1)The administrative act is executed by officials designated by the organ that has issued it unless by law the implementation is entrusted to another organ.

(2)When a superior administrative organ has itself issued the respective administrative act, this act shall be implementation by officials designated by the organ which has issued the initial act.

(3)(Amended SG No. 19 of 1992) When due to the nature of the obligation or for some other reason the act can not be implemented by the organ that has issued it and another law does not provide for an organ to the said act, it shall be implemented by the respective organ of the municipal government on direction by the mayor.

Article 49

(1)Before resorting to forceful execution the organ empowered shall set a deadline for voluntary performance.

(2)If the obligation is not performed voluntarily, the responsible individuals shall be notified as to the date and manner of forceful execution.

Article 50

(1)Execution shall be directed against the individuals who have been obligated with the administrative act. In the case of death of the obligated individual execution shall be directed against his successors if the executive obligation is not of a personal character.

(2)Where there exists the possibility that performance be carried out in several ways and employing various

means, the most favourable for the obliged individual shall be employed.

(3)(Amended SG No. 19/1992) When the nature of the obligation necessitates it, the organ empowered with execution may seek the assistance of the National Police, and if the execution is directed towards army personnel or employees of the Ministry of Defence they may seek assistance from the respective commander. In case of necessity the assistance of other organs may be sought.

Article 51

When the administrative act is repealed after its implementation has begun, the administrative organ is obliged within a period of one month to restore the infringed right and, if this is not possible, to remedy the affected individual in another lawful manner.

Article 52

(1)The illegal actions connected with execution may be appealed against within a period of seven days after commencement before the higher administrative organ.

(2)The appeal shall not stop execution unless the organ empowered to review it directs otherwise.

(3)The decision may not be appealed.

Chapter Five ADMINISTRATIVE-PENAL PROVISIONS

Article 53

(Amended SG No. 25 of 1991) An official who does not perform directives of a superior administrative organ or directions from the courts to issue an administrative act or document, shall be fined 300 to 1000 leva if a higher penalty is not provided for.

Article 54

(Amended SG No 25 of 1991) An official shall be fined from 200 to 500 leva, if a higher punishment is not provided for, when without due reasons:

1. fails within the prescribed time period to rule on an application or appeal for issuing an administrative act or on an application or protest against such act;
2. fails to send in due time an appeal or protest against an administrative act to the superior administrative organ or the court;

Article 55

(Amended SG No. 25 of 1991) Whoever fails to perform an obligation stemming from the present Act or a normative act as to its implementation shall be fined up to 100 lv. if a harsher punishment is not provided for.

Article 56

(1)(Amended SG No. 94/1990) The acts for registering a violation shall be prepared by the officials of the

superior administrative organ, and penal measures shall be prepared by their respective heads.

(2) The establishment of the violations, issuing, appeal and execution of the penal measures shall be carried out in accordance with the procedure set forth in the Administrative violations and Penalties Act.

SUPPLEMENTARY PROVISIONS

§1.

In all instances where the law refers to administrative acts, individual administrative acts, are envisaged, and where it refers to administrative organ, the organs empowered to issue such acts are envisaged.

§2.

"Organization" for the purposes of this Act shall mean official bodies, enterprises, economic and public organizations.

TRANSITIONAL AND CONCLUDING PROVISIONS

§3.

For procedures pending at the date of entry into force of this Act, the previous provisions shall apply.

§4.

This Act repeals the Administrative Procedure Act (SG No. 53/1970).

§5.

(New - SG No. 19/1992) Prior to the appointment of district governors, the acts issued by the appointment of district governors, the acts issued by the mayors of localities and municipalities shall be appealed before the governor of the province.

§6.

(Former § 5 - SG No. 19/1992) The implementation of the present act is assigned to the Minister of Justice.

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