

REFORMING ADMINISTRATIVE LAW IN TRANSITION COUNTRIES - KOSOVO CONTEXT

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Abstract¹

Countries in transition, such as Kosovo, have as their primary goal the reform of the administration and administrative law in order to ensure democratic governance. This reform turns out to be directly related to the mechanisms of interaction with citizens. The administrative procedure contains mechanisms that should provide legal certainty to citizens when interacting with state institutions. The legal norm that regulates this mutual interaction between the state and the citizens and its effective implementation is of great importance because it is a source of satisfaction and trust of citizens towards public institutions and vice versa. However, the implementation of the law continues to be one of the major challenges for strengthening institutions in the Kosovo context and, consequently, for advancing the rule of law. This article aims, through the analytical, legal-dogmatic, and qualitative method, to analyze the mechanisms of interaction between citizens and public institutions through the law on general administrative procedure and the legal effects caused by the latter. In this context, it was found that the established practices are not in full compliance with the legal provisions and consequently reflect negatively on the mutual relations between citizens and public institutions.

Keywords: *public administration; administrative procedure; administrative oversight; principles of administrative law.*

¹ Translations have been made by the authors themselves.

1. Introduction

The legal material provisions cannot be applied directly, but certain actions must be undertaken in order to materialize them in given cases. Thus, in order to fulfill a right or a legal interest or to stipulate an obligation to the citizen, a number of actions must be undertaken, throughout certain stages, in order to ensure that the decision issued by the administrative body is fair and legal. This administrative proceeding, which takes place in stages, is influenced by numerous principles which aim to better protect the rights and legal interests of citizens but also to protect the public interest. Thus, the principles of administrative procedure provide a guarantee to natural and legal persons that the administrative bodies will issue fair and lawful decisions. The basic principles of administrative procedure are essential guidelines in the exercise of administrative activity, as they enable the functioning of the rule of law and democracy within a country. The administrative bodies, during the exercise of their activity, are obliged to apply these principles in order to avoid any violation that may be done to the citizen.

Post-conflict states and countries in transition, such as Kosovo, face many difficulties in establishing democratic institutions and a functioning democracy. Since citizens and state institutions interact with each other in different forms and instances, this interaction should be transparent and well regulated. The most frequent interaction between the citizen and state institutions (administrative bodies) occurs through the administrative procedure in which the citizens' aim is to realize a right or their legal interest, guaranteed by constitutional and other legal norms. In transition countries, not infrequently, administrative bodies violate the rights guaranteed to citizens by general legal provisions. This is due to the lack of knowledge of material and/or formal legal provisions by public officials. Therefore, the strengthening of the rule of law is directly related to the professionalism of administrative officials and the development of oversight mechanisms within the administrative apparatus. In Kosovo, major shortcomings of the aforementioned nature have been noticed within the administrative apparatus, especially during the issuance of concrete administrative acts, in which major violations of both material and formal legal provisions have been identified.

Every action of the government in democratic systems is presumed to be also the action of the citizens themselves through their representatives. The demand for citizen orientation and the greater responsibility of the administration is changing the system of responsibility and oversight of public services and consequently the relationship between the citizen and the government (Hughes 2003, p. 237).

This paper seeks to shed light on the internal forms of oversight that take place within administrative institutions based on the responsibility of higher-instance administrative bodies in relation to subordinate bodies to control the legality of their decisions. The article, using analytical, legal-dogmatic, and qualitative methods of research crystallizes the practices created in Kosovo during the implementation of this form of administrative oversight,

which, if implemented successfully, ensures the higher performance of the administrative activity and better implementation of administrative laws. Furthermore, the research provides answers to questions regarding the performance of the administration, the knowledge of civil servants on the provisions of the law on the general administrative procedure as well as application of its general principles to the daily activities of public institutions.

2. Principles of administrative procedure in Kosovo's legislation

The principles generally taken are the basic norms, the rules that determine what is desirable and positive for the person, group, organization, or community as well as the help needed to determine the right or wrong path of such actions. Thus, principles are general legal rules which apply in situations in which there is confusion and lack of determination regarding the implementation of any legal provision. General principles are an important part of any legal order, while their practical function enables the resolution of disputes for which there are no concrete or written legal rules. Since disputes must be resolved, to prevent the arbitrariness of decision-making bodies, in cases where there are no concrete or written rules, decision-makers apply certain values that are in accordance with the legal order (Baraliu 2014, p. 15-16).

In carrying out its activities, the administration must comply with a number of general principles. Some of the principles of administrative action can be taken directly from the basic rights or from other constitutional provisions. The administration is bound by law and justice and as an executive power, it must comply with the law and act according to the law. The constitutional state is essentially characterized by the principle of the legality of administration (Klingler et al 2018, p. 69-70).

The principles of administrative procedure are based on experiences and on the ongoing needs of the citizen to fulfill their rights. Therefore they are a dynamic phenomenon. Moreover, there is a huge dilemma as to whether or not to codify the principles of the Administrative Procedure Act. Scholars who are against the codification of the administrative principles emphasize the need to entrench them within the text of the law. Those scholars in favor of the declaration of the principles unfold the argument that the latter has an added value role that impacts the cohesive nature of the administrative law. In addition, they argue that it is impossible to cover all procedural steps and actions within the Law on Procedure and therefore the principles are of enormous assistance in solving many dilemmas and issues that are not directly covered by the given legislation. Up to now, this dilemma has not been resolved and continues to be tackled in favor or against the inclusion of the principles of administrative procedure within the Preamble of the Law (Balogh-Békesi & Pollák 2017, p. 49).

The direct applicability of the principles of administrative procedure is also a current issue in the context of the Kosovo administration. Quite often,

administrative officials, in exercising their powers, neglect the basic principles of administrative procedure by focusing on the material provisions of administrative law. Consequently, administrative decisions, in most cases, cause violations of the rights and legal interests of citizens and legal entities.

Public administration is strongly linked to administrative procedure due to the fact that good administration depends on basic principles of administrative law. In particular, while developing public administration, great importance should be given to equality of service, non-discrimination, legal certainty, fairness, participation, proportionality, transparency, objectivity, impartiality, and access to effective remedies. Within the European administrative space, particular importance is given to the principles of subsidiarity and cooperation. (Craig et al 2017, p. 49).

The rule of law is an ephemeral phrase that is used to mean a variety of things according to the context in which it is being used. In the context of administrative law, the principle also requires that the government act according to the law. It is this concept with which we are concerned in the context of judicial review where the rule of law assumes meanings encompassing principles of accountability, equality, the absence of arbitrariness, and the presence of fairness in decision-making. The rule of law means the supremacy of regular law contrary to the influence of arbitrary power, excluding the arbitrariness and wide discretionary power on the side of the public administration (Stott & Felix 1997, p. 22-23).

The Law on General Administrative Procedure in Kosovo defines some principles upon which the administrative procedure is conducted and from which all other institutes derive. These principles provide for the protection of the citizen, its rights, and interests, in cases of interaction with the administrative bodies in order to protect from the irregular activity of the administration. The legal significance of the basic principles of the administrative procedure lies in the fact that if the provisions of the Law on Administrative Procedure are unclear, then they should be interpreted in accordance with the basic principles which serve as a guide for the interpretation of the legal norms of the aforementioned law. Therefore, we can say that the basic principles of the administrative procedure are the guide for a fair decision on the administrative case because the administrative body, respecting these principles, is oriented towards issuing a fair and lawful decision (Sokoli 2014, p. 32-33).

The principle of lawfulness is not only a basic principle but also the most important principle of administrative procedure. The Law on Administrative Procedure has clearly defined the obligation of the administrative bodies, during the exercise of their activity, to work and decide in accordance with the law and within the power given to them. According to this principle, the administrative bodies which conduct the administrative procedures, when deciding in administrative matters, on the rights, obligations, or legal interests of natural and legal persons must adhere to the material and formal legal provisions. This principle also applies in the case of administrative acts issued according to free assessment (discretion), emphasizing the need to

respect the authorizations given for discretionary assessment (Art. 4 of the Law No. 05/I-031 on General Administrative Procedure, 2016). The principle of lawfulness and its protection is at the core of the rule of law. This is a basic principle of the legal order and includes the essential requirement that all acts of state power must be in accordance with the law and issued according to the procedure provided by law.

The principle of balance between public and private interests is an important principle for a citizen establishing any legal-administrative relation with state institutions. The public interest is determined by law, therefore the body conducting the procedure assesses the public interest within the law by limiting them through material legal provisions. Balancing public and private interests is one of the basic principles of the administrative procedure which emphasizes the necessity of balancing public and private interests by incorporating within itself the whole meaning of general administrative principles (Shasivari 2015, p. 170). On the other hand, it should be noted that in the past, the main task of the public official who conducted the administrative procedure was to take care of the realization of the public interest, while the realization of the interests of the citizen was left to them. This is especially evident during the procedure of the execution of an administrative act. Unfortunately, as a result of the political and legal transition in Kosovo, this principle based on the balance of interests continues to be violated, mainly in favor of private interests incited by conflicts of interest and corrupt affairs that seriously violate the public interest.

The principle of equality under the law is an essential constitutional principle that is guaranteed by Article 3 of the Constitution of Kosovo. According to the constitutional provisions, all are equal before the law without any discrimination on the basis of race, color, gender, language, religion, or political views. Furthermore, the law on general administrative procedure also treats equality under the law during administrative proceedings by obliging administrative bodies or organizations exercising public authority to not discriminate while applying administrative proceedings (Art. 6 of the Law No. 05/I-031 on General Administrative Procedure, 2016). Just as the freedom and equality of people in a given society are among the most important elements of democracy, equality under the law has been raised to the level of the general principle of the law of general administrative procedure. The importance of the principle of equality under the law is great, continuous, and indisputable, not only in administrative procedure but also in other national, regional, and international documents (Baraliu 2014, p. 26-28).

Another pillar of European administrative law is the general principle of equality. If it is interpreted less strictly, a person must show that he or she is in a situation similar in all but the most irrelevant of circumstances to that of a person treated differently. If it is interpreted more strictly, the courts will intervene whenever a person is treated differently from other persons who are in a more or less comparable situation. It is obvious that the strict interpretation gives the judiciary a much more powerful tool for review (Nolte, 1994). In transition countries, equality under the law is one of the major challenges in

building the rule of law. Kosovo is no exception to the countries that face major difficulties in the implementation of this basic principle. Moreover, not only in administrative law but also in other areas of law, citizens continue to face unequal and selective treatment. This is one of the frequent causes of the loss of citizens' trust in public institutions.

The principle of proportionality is a basic principle of administration that is understood in mutual correlation and is organically inseparable from the principle of legality and equality before the law. This principle can also be considered a surrogate of the principle of legality because it aims to prevent exceeding the frameworks of the legality of actions of administrative bodies, during the exercise of their powers in administrative proceedings (Baraliu 2014, p. 30-31). While exercising their legal competencies in the implementation of the public interest, the public administration should use the means that are in proportion to the goals that are intended to be achieved (Art 5 of the Law No. 05/1-031 on General Administrative Procedure, 2016). The principle of proportionality in both European and German law is usually held to consist of two components. In Germany, a measure must satisfy the requirements of "*Geeignetheit*" and "*Erforderlichkeit*" in order to pass the test of proportionality. "*Geeignetheit*" is usually translated as "suitability", a term that can give rise to misunderstandings. "*Geeignetheit*" means only that a particular measure must be theoretically capable of contributing to the achievement of the administrative procedure aim. Therefore, it appears that a more accurate translation is the "capacity of furthering an aim". However, a measure that is incapable of furthering its aim is unduly burdensome or disproportionate. The same is true with respect to the requirement of "*Erforderlichkeit*" (necessity). This principle demands that the least restrictive of several possible means must be used by the administrative authority (Nolte, 1994).

The principle of legitimate and reasonable expectations requires that administration must be durable in their activity with the aim of respecting the legitimate expectations of citizens (Art. 8 of the Law No. 05/1-031 on General Administrative Procedure, 2016). The principle of legitimate expectations has long been recognized as a general principle of EU law and as such it requires that the administrative authorities must, if possible, fulfill the legitimate or justified expectations created by them. Legitimate expectations can be created by generally binding rules (for instance: regulations) or individual decisions, at least to the extent that one has confidence in the fact that they will not be abruptly changed, although they are sometimes created by promises and assurances on the part of the administration or by soft law instruments (Seerden 2012, p. 280). The effective implementation of this principle affects the advancement of work and the legality of administrative institutions and the rule of law by aligning the national standards with the European standards of the European administrative space.

According to the civil society representatives in Kosovo, this principle is not evenly applied in Kosovo and other transition countries which face difficulties in establishing the rule of law. Thus, the citizens and other legal entities, while interacting with the administrative institutions, have difficulties

in predicting the epilogue of these relations due to the great discretion of the administrative officials who have the role of leading the administrative procedure (L. Hakaj, personal communication, January 25, 2022).

The principle of open administration determines the transparency of a procedure in principle to everyone, which means that the administrative procedure can be assisted by other persons who do not participate directly in the administrative procedure. This principle is expressed in public administrative bodies mainly during the oral hearings. The public can be excluded only in the cases provided by legal provisions on the exclusion of the public and upon the conclusion drawn, which must be reasoned and publicly announced (Shala & Halimi 2019, p. 12). Public institutions exercise administrative activity in a transparent manner and in close cooperation with the natural and legal persons involved. Moreover, every natural and legal person, without having to show specific interest, in relations with public administration bodies, has the procedural right to obtain information that is in the possession of public institutions (Art. 9 of the Law No. 05/1-031 on General Administrative Procedure, 2016). The Law on General Administrative Procedure in Kosovo defines other additional principles of administrative procedure which must be respected during the conduct of this procedure, such as the principle of non-formality and efficiency of the administrative proceeding; the principle of gratuity of the proceeding; the principle of the right to legal remedies; and the principle of information and active assistance.

The principle of informality and efficiency stipulates that the administrative body should conduct the administrative procedure in a form that reduces costs and duration without compromising anything that is necessary for the issuance of a fair and lawful decision (Art. 10 of the Law No. 05/1-031 on General Administrative Procedure, 2016). Whereas, the principle of gratuity of the procedure regulates the issue of expenses and exemption from payment for categories defined by the law (citizen with income under the minimum level). The administrative procedure in Kosovo is conducted free of charge for the citizens unless otherwise provided by law (Art. 12 of the Law No. 05/1-031 on General Administrative Procedure, 2016). The principle of the right to legal remedies stipulates the right of the citizen to use the legal administrative and judicial remedies against any administrative action or omission, which affects his rights or interests (Art. 13 of the Law No. 05/1-031 on General Administrative Procedure, 2016). Furthermore, the principle of information and active assistance stipulates the duty of the administrative body conducting the administrative procedure to ensure that the ignorance of the citizen or legal entity shall not negatively affect the protection of its rights and interests. Moreover, the administrative body conducting administrative proceedings is obliged to assist the citizen in fulfilling their legitimate rights and interests and instruct them on how to initiate a specific administrative proceeding, what are legal substantial requirements, the time limits of the procedure, and available legal remedies (Art. 11 of the Law No. 05/1-031 on General Administrative Procedure, 2016).

3. Implementation of principles of administrative procedure in the Kosovo context

The conduct of administrative activity in Kosovo has many challenges and difficulties. Some of these difficulties derive from the non-application of the basic principles of administrative procedure when deciding on concrete administrative issues, conflicting with both material and formal provisions. The greatest difficulties have been identified in the insufficient reasoning of administrative decisions, non-compliance with formal legal provisions, and ambiguities in the interpretation of substantive legal provisions (Alidemaj 2021, p. 217). Despite the legal requirements for a reasoned administrative decision containing a summary of factual findings based on the evidence submitted during the administrative procedure, it has been observed that many administrative decisions do not comply with these requirements. For this reason, the competent court in assessing the legality of administrative acts has annulled many administrative acts based on a lack of reasoning and returned the cases back to the administrative authorities for reinstatement. Thus, to treat an administrative case in the Administrative Department at the Basic Court of Pristina takes at least 947 days. This established administrative court practice affects the length of court proceedings. Even in those cases when courts, after nearly three years, decide on administrative lawsuits, in 90% of cases, they return them for reinstatement. In this way, the same administrative issues are being dealt with several times by administrative bodies and by the court as well. In the abovementioned cases, the main issue is the judicial review and their approach of returning the cases for reinstatement with the high possibility of the administrative institution undertaking an almost identical decision to the initial one (Kosovo Law Institute, 2019).

Administrative activities in Kosovo are characterized by a lack of compliance with formal legal provisions, causing the ongoing need to review the legality of acts in the competent courts. As a result of the failure to comply with the procedural rules, the administrative bodies leave the affected parties with no choice but to file a court appeal against the decision. In fact, the judicial review of administrative decisions results in costs not only for the affected party, whose rights have been violated but also for the administration which will bear the costs of legal proceedings which could have been avoided (Alidemaj 2021, p. 201). In this way, the administrative bodies have continuously violated the principle of economy and efficiency, delaying the fulfillment of the rights and legal interests of the citizens and causing unnecessary expenses. Despite the installation of the legal infrastructure and the effort to implement it, major problems have been observed in the functioning of the rule of law. The administrative bodies and the organizations that exercise public authorizations, during the exercise of their activity, have continuously committed legal violations for various reasons, mainly as a result of the ignorance of the officials who are in charge of the administrative activity. Many of these officials are recruited on the basis of political loyalty, not respecting the criterion of meritocracy which is a basic condition to increase

the efficiency of administration. Moreover, administrative officials lack professional training in administrative procedures which plays an essential role in enhancing professional performance.

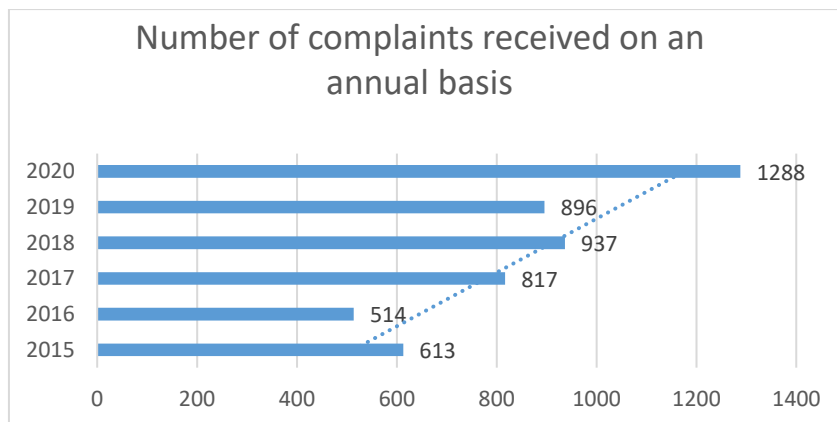
3.1 Other challenges in implementing the law on general administrative procedure

One of the major challenges in the efficient functioning of public administration in Kosovo is the clumsy implementation of the new law on general administrative procedure which was adopted in 2016 and entered into force in 2017. Although the transitional provisions of the law provided for a sufficient period of time for administrative officials to become acquainted with it and to have adequate training, this has not been done. Consequently, serious violations of the rights and legal interests of citizens are being caused. According to the law, the administrative bodies must decide within a time limit of 45 days on any request of a citizen. If not decided within this time limit and the citizen is not notified concerning an extension of the time limit for another 45 days, then the administrative silence will be considered a tacit approval (Art. 98 & 100 of the Law No. 05/1-031 on General Administrative Procedure 2016). All this is done in order to increase the efficiency and effectiveness of the work of public institutions. However, the established practice as a result of the impossibility of implementing these legal provisions has resulted in extremely negative effects which have led to an increase in the number of rejections of citizens' requests and their legal appeals to the second-instance administrative bodies in order to gain their rights and legal interests.

The Independent Oversight Board for the Civil Service of Kosovo in 2017, has reviewed 817 complaints of civil servants related to the recruitment procedures. Out of 312 recruitment procedures monitored, the Board annulled 148 of them due to legal and procedural violations. On the oversight reports of the Board concerning the implementation of the principles of the civil service, 523 violations have been found in which an equal number of recommendations have been addressed to the respective public institutions (Civil Service Oversight Board, 2017).

Thus, despite the increase in monitoring activities of the Board, the number of complaints within the civil service has increased, especially during 2017 with the entry into force of the new law on general administrative procedure. During 2016 and 2015, 514 and 613 complaints were registered, respectively. The difference in the number of complaints received before the start of the implementation of the new law on administrative procedure and five years after its implementation is double (see diagram 1).

Diagram 1: *Number of complaints received by the Civil Service Oversight Board on an annual basis (Alidemaj & Haxhiu, 2022)*



The Citizen Service Centre in the Municipality of Vushtrri (Northern Kosovo), in 2021, has received 1231 requests from citizens destined for the Department of Urbanism. Over 67% of these requests were rejected, in which case the citizens were instructed to complain to the second instance. This number of refusals is very high compared to the period before 2017, when the old law on administrative procedure was in power (S. Xhaferi, personal communication, January 12, 2022). According to the legal office of the Municipality of Vitia (Eastern Kosovo), they received a smaller number of citizen requests. The Department of Agriculture received only 10 requests in 2021. The Department of Agriculture in the Municipality of Mitrovica received 787 requests from the citizens in 2021. Of these requests, 326 (41%) were rejected and appealed to the administrative bodies of the second instance (H. Rushiti, personal communication, January 25, 2022). Furthermore, the Department of Public Services received 823 requests from citizens of Mitrovica, of which 316 (37%) were rejected, with the citizens instructed to complain to the administrative bodies of the second instance as well (A. Muzliukaj, personal communication, January 25, 2022). This has happened due to the overload of administrative cases and many uncertainties related to the implementation of material and formal provisions of the law.

According to the European standards, every citizen is entitled to have his administrative issue treated within a certain time frame. Setting a clear time limit for a decision on an administrative procedure is of great importance as a mechanism for ensuring timeliness. In most European countries, in accordance with the principles of good administration, public administration is required to decide on any administrative case no later than two months from the date of receipt. In Montenegro, Kosovo, and Albania, the law on administrative procedure enforced the silent consent as a positive response to the request of the applicant if institutions eventually fail to decide by the given deadline. This new approach, as the default solution, is very counterproductive, taking into consideration the existing capacities of public institutions (SIGMA Paper No. 62, 2021).

Furthermore, one of the largest providers of public services in the region of Prishtina is the Regional Water Company (Public Company) which covers the municipalities of Prishtina, Obiliq, Podujeva, Fushë Kosovë, and Lipjan. In just 2019, 7533 citizens submitted various requests of a technical nature. A large number of these requests were rejected, with 1172 citizens filing a complaint against this public company to fulfill their legal rights or interests. Administrative officials within this public company continue to have difficulties implementing the provisions of the law on administrative procedures. The first training related to the law was organized at the beginning of 2020. Consequently, a large number of citizens have been forced to file lawsuits in the competent court due to ambiguities and the lack of administrative instructions that facilitate the implementation of the law on the general administrative procedure (R. Nura, personal communication, January 11, 2022).

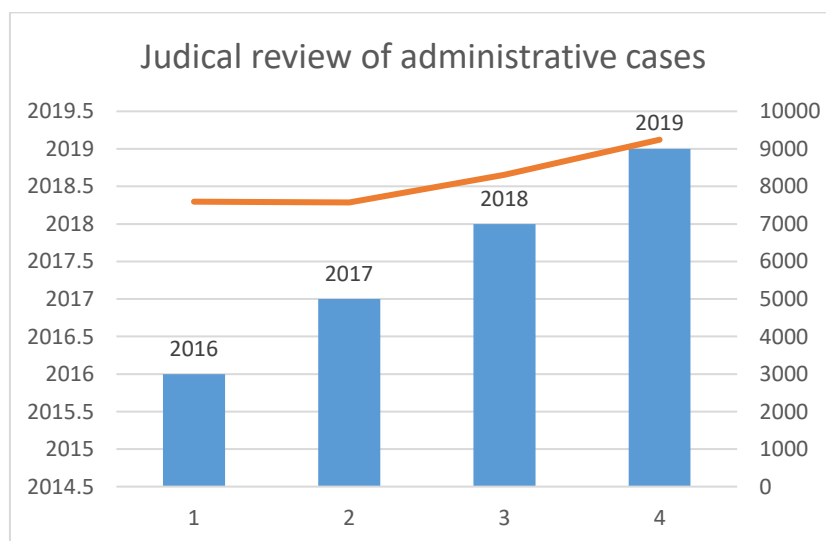
Table 1: *Analysis of cases undergoing the administrative procedure.*
(Alidemaj & Haxhiu, 2022)

Public Institution	No. of requests received	No. of requests rejected	No. of cases instructed to second-instance bodies
Department of Urbanism (Vushtrri Municipality-2021)	1231	825	825
Department of Agriculture (Viti Municipality-2021)	10	Pending	Pending
Department of Agriculture (Mitrovica Municipality - 2021)	787	326	326
Department of Public Services (Mitrovica Municipality-2021)	823	316	316
Pristina Regional Water Company	7533	1172	1172

The provisions of the Law on General Administrative Procedure that entered into force in 2017 are not being implemented in their entirety. This is due to the fact that most of the civil servants have not been trained on the implementation of this law, especially the meaning of administrative silence as a positive reply to the request of the party (citizen). In the entire Municipality of Vushtrri (70,000 inhabitants), only two civil servants have been trained in the implementation of the new law (Xh. Mehmeti, personal communication, January 12, 2022). On the other hand, in 2019, the Kosovo Institute for Public Administration has organized 10 training sessions related to the law on general administrative procedure, which accommodates only 123 civil servants, out of 20,000. The training lasted for two days and involved mainly municipal administration officials (E. Haxhijaj, personal communication, January 10, 2022).

Due to the sluggish and unprofessional handling of administrative cases, a large number of citizens requested a judicial review of administrative decisions by the Department of Administrative Affairs of the Basic Court in Prishtina. Since 2017, after the entry into force of the new law on general administrative procedure, the number of cases requiring judicial review has increased significantly: during 2016 there were 7,596 cases; during 2017, there were 7,572 cases; during 2018, there were 8,312 cases; while, during 2019, there were 9,244 cases. Only 32 % of the cases were resolved during 2019 (Kosovo Law Institute 2019, 13-16). According to the statistics of the Basic Court in Prishtina, in the first half of 2015, about 1182 cases were received for the Department of Administrative Affairs, while in 2019, for the same period, 1538 cases were received.

Diagram 2: *Trend of cases received by Administrative Court for judicial review.* (Alidemaj & Haxhiu, 2022)



It is more than evident that the improper implementation of the provisions of the law on general administrative procedure has caused an increase in citizens' dissatisfaction, causing violations of their rights and legal interests and consequently an increase in lawsuits at the competent court for judicial review of administrative decisions.

3.2 The possible way out in enhancing the implementation of LAP

In order to have an efficient and effective administration, the civil servants' understanding must be increased through various professional trainings. The constant concern of civil servants is that the training modules last up to two-three days instead of having longer training in order to master the learning material. The Kosovo Institute for Public Administration should be transformed into a proper public administration school in charge of producing professional staff for the needs of the civil service in Kosovo by offering training courses for beginners (up to six months) but also advanced courses for the needs of civil servants who have accumulated relevant experience during their career (two-four weeks of training). Raising the professionalism of civil servants can be done only when objective training plans are established. Those training plans should be based on the needs of civil servants and transform the training into proper ongoing education. Moreover, the training sessions and increase of civil servants' capabilities should be considered not only as a right of civil servants but also as their legal obligation (Haxhiu & Alidemaj 2021, p. 98-107).

On the other hand, at both the central and local levels, legal offices need to be strengthened by increasing the number of well-trained staff to be able to cope with the large influx of citizens' requests and complaints. Currently, most municipalities in Kosovo have legal offices employing a maximum of two legal officers, while in small municipalities the legal office consists of only one official. Rectifying this problem can be accomplished through the allocation of staff who are already working in public institutions, without the need for additional recruitment.

Since the enactment (2017) of the new Law on Administrative Procedure (LAP) in Kosovo, harmonizing the rest of the administrative laws and sub-legal acts with the LAP has not been done. Moreover, the secondary legislation in favor of the implementation of the LAP was excluded. As such, without harmonization of newly enacted administrative laws with an existing one, the administrative reform is prejudged to fail. Ineffective appeal procedures also undermine the reform provisions, if they are stipulated only as general principles in the LAP. For the efficient harmonization of the legislation, it would be necessary to have a complete overview of primary as well as secondary legislation and harmonize them under strong central oversight (SIGMA Paper No. 62, p.62). Furthermore, since the entry into force of the Law on General Administrative Procedure in Kosovo five years ago, not even a single sub-legal act that facilitates its implementation has been drafted.

One advancement that might help this situation is electronic communication between the citizen and public institutions. However, Kosovo citizens lack digital IDs. This has disabled any attempt to use electronic communication while conducting the administrative procedure. (SIGMA Paper No 62, p. 77). To be sure, conducting administrative procedures electronically should not completely replace the current procedure but be used in parallel by encouraging the progressive use of electronic devices until fully electronic communication is ensured. This is due to the existing circumstances in Kosovo and the inability of every citizen to have free access to electronic devices or even the knowledge needed to use the latter.

4. Conclusion

Proper implementation of the Law on General Administrative Procedure has a strong impact on increasing the efficiency of public institutions, becoming a guarantor of respect for the rights and legal interests of citizens. Implementation of this law, including its general principles, has been slow in the Kosovo context as a large number of public servants have been recruited in violation of the principle of meritocracy. Thus, the vast majority of public servants do not possess the necessary knowledge to interpret the legal basis and consequently do not display professionalism in the exercise of their administrative activity.

On the other hand, despite recruitment practices, the training of public servants is extremely poor in terms of content. The training sessions are short, addressing issues only superficially, and are not mandatory and therefore do not affect the improvement of the performance of public officials. The Kosovo Institute for Public Administration (KIPA) should be strongly supported by the state in order to turn it into a public administration school. So far no positive change has been observed in the approach of the Government of Kosovo in relation to KIPA. Moreover, the funds allocated to this institution for 2022 were reduced despite the demand for increased financial support, which would affect the reform of the training system.

During the conduct of administrative procedures in both instances, numerous delays have been noticed, in which case the legal deadlines are violated as a result of the negligence of public sector employees. These delays are contrary to the principle of legality and efficiency of the administration, causing citizens to distrust public institutions and consequently the state itself. The rule of law and its implementation in Kosovo is imperative if we want to pass the transition phase as soon as possible and get involved in European integration processes. Despite the installation of the legal infrastructure and the effort to implement it, major problems have been observed in the functioning of the rule of law. Among others, the review of the legal basis governing the administrative activity, with special emphasis on the administrative procedure, expresses the necessity for better structuring of the proceedings in order to issue fair and lawful decisions. Therefore, there is an immediate need to adopt bylaws

that are understandable and based on the general principles of administrative procedure.

The citizens of Kosovo, interacting with public institutions, have the need and right to obtain their legal rights and interests in the most efficient way. This can be achieved with the professionalization of administrative officials who would apply the basic principles of administrative procedure consistently and categorically.

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