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IMPLICATIONS OF THE REFORMED ADMINISTRATIVE JUDICIARY IN THE REPUBLIC OF NORTH MACEDONIA

Abstract

This paper analyzes the latest trends in administrative-judicial control in the Republic of North Macedonia. More specifically, the subject of the research in this paper is the development of the administrative judiciary in RNM from 1991 to 2019. The paper will answer the questions related to the legal regulation of the administrative dispute in Macedonia, as well as the questions regarding the organizational innovations in the administrative judiciary. Furthermore, it will analyze the new institutes in the administrative dispute and how the scope of the administrative-judicial protection is gradually changing, as well as the trend of changing the role of the Administrative Court from cassation to meritorious role, that is, the subject of analysis of the paper is deciding in full jurisdiction as a rule in administrative court proceedings.

The purpose of the research is to show the implications, that is, the effects of the administrative judiciary reforms in the Republic of North Macedonia, more specifically how they act or how they can affect the realization of the secure legal protection of the rights and legal interests of individual and legal entities from the acts and actions of the public authorities, how they can influence the provision of the efficient and effective administrative-judicial procedure and how the administrative judiciary in the Republic of North Macedonia has been harmonized with the European principles and standards. At the same time, questions will be raised as to whether the administrative courts have sufficient material, human and technical capacities to effectively implement the latest legal solutions.

Special emphasis in the paper will be put on the analysis of the latest Law on Administrative Disputes adopted in May 2019, namely, the reasons for adopting a new law and the innovations provided by this law.

For this purpose, the positive-legal method and the historical and comparative method are used to analyze the legal regulation of the administrative dispute, the historical development of the administrative dispute and the presentation of the European recommendations for the regulation of the administrative judiciary.

Key words: *administrative dispute, administrative judiciary, administrative-judicial control, Administrative court, full jurisdiction*

I. INTRODUCTION

This paper analyzes the latest trends in administrative-judicial control in the Republic of North Macedonia. More specifically, the subject of the research is the development of the

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administrative judiciary in RNM from 1991 to 2019. The paper will answer the questions related to the legal regulation of the administrative dispute in Macedonia, as well as the questions regarding the organizational innovations in the administrative judiciary. Also, the emphasis is placed on the new institutes in the Law on Administrative Disputes that indicate the existence of a trend of changing the role of the Administrative Court from cassation to the meritorious role, which is deciding in full jurisdiction as a rule in administrative court proceedings.
Also, through the analysis of specific articles of the law, it is indicated in which parts the amendment to the law on administrative disputes was made to harmonize with the European principles and standards that refer to the administrative judicial protection.

II. HISTORICAL DEVELOPMENT OF THE ADMINISTRATIVE JUDICIARY - CHANGES IN AN ADMINISTRATIVE DISPUTE

The historical development of the administrative judiciary in the Republic of North Macedonia can be analyzed through four periods.
The first period from 1991 to 2006 is characterised by the combined model of the administrative judiciary. This means that the Supreme Court was competent to settle administrative disputes, but the dispute was resolved in a separate administrative court procedure. Whereas the first component is part of the Anglo-Saxon system, the second component is part of the European continental system.

In 2006, a new Law on Administrative Disputes was adopted for the first time since Macedonia's independence. This law established a separate administrative court and Macedonia thus fully accepted the continental system of administrative disputes. The essence of this law is the implementation of institutional novelty concerning the determination of a separate court as competent for resolving administrative disputes.[1] Naturally, the Law on Courts was previously amended, which gave grounds for the establishment of the Administrative Court. For example, it was regulated by the article 22 under which "In the judicial system, the judicial power is exercised by the basic courts, the appellate courts, the Administrative Court and the Supreme Court of the Republic of Macedonia". Also, article 25 provides that "The administrative court is established and performs the judicial power on the entire territory of the Republic of Macedonia. The seat of the Administrative Court is in Skopje."[2]

With the adoption of the Law on Amendments to the Law on Administrative Disputes in 2010, a novelty was made regarding the organizational set-up (structure) of the administrative judiciary in the Republic of Macedonia. Namely, another Supreme Administrative Court has been established, which under this Law and the Law on Courts has been determined as a second instance administrative court. The name of this court is the High Administrative Court and it is competent to decide on appeals against decisions of the Administrative Court.

In this way, two levels of administrative-judicial protection were provided. From the previous ten years of experience in the work of the Higher Administrative Court, the main shortcomings were the excessive scope of control (this court ruled on appeals against all decisions of the Administrative Court, the defendant could challenge the decisions of the Administrative Court and thus delay the duration of the procedure and also considering that the institutions submit the complaint through the State Attorney, this right of the institutions

[1] Law on Administrative Disputes, Official Gazette of the Republic of Macedonia, No. 62 of 19.05.2006 (Закон за управните спорови, Сл. Весник на РМ, бр.62 од 19.05.2006 година)
[2] Law on courts, Official Gazette of the Republic of Macedonia No. 58/2006 (Закон за судови, Сл.весник на РМ, бр. 58/2006)

was limited by the units of local self-government. With the new Law on Administrative Disputes, these inconsistencies have been overcome, which will be discussed more specifically in the paper below.[3]
The most recent law was adopted in 2019. Through this law, substantial innovations have been made in the administrative dispute, the purpose of which was to modernize the administrative judiciary in the Republic of North Macedonia, which will be harmonized with European principles for resolving administrative disputes and is expected to contribute to quality protection of the rights and interests of parties. With this law, a completely new concept of the administrative judiciary in RNM has been created.

1. The reasons for adopting a new law

After several years of work and experience from the specialized administrative judiciary in North Macedonia, several reasons have been pointed out, due to which it's modernization and improvement needed to be be done to overcome the indicated inconsistencies. Here are some of the reasons for the novelty in the law on administrative disputes:

1. inefficiency of the administrative judiciary
2. ineffectiveness of court rulings[4]
3. failure to submit the case file from the competent authority to the court
4. trial within unreasonable time or delay in the procedure
5. necessity to comply with the Law on General Administrative Procedure of 2015[5]
6. harmonization of the administrative judiciary with European principles and standards[6][7]

The main reason for the reform of the administrative judiciary is primarily the alignment with the acquis communautaire, in particular with Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, as well as the need to modernize the administrative judiciary.
Namely, article 6 of the European Convention on Human Rights reads:
"In the determination of his civil rights and obligations or any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent

[3] Law on Amending the Law on Administrative Disputes, Official Gazette of the Republic of Macedonia, No. 150 dated 18.11.2010 (Закон за изменување и дополнување на законот за управните спорови, Сл. Весник на РМ, бр.150 од 18.11.2010 година)
[4] More specifically see in: Borce Davitkovski, Ana Pavlovska-Daneva, Ivana Sumanovska-Spasovska, Elena Davitkovska, The Administrative Court - the custodian of the legality of acts of public administration and European standards, Proceedings from the International Scientific Conference - Legal Days - Prof. Dr. Slavko Caric "University of Novi Sad, Faculty of Law, University of Economics and Law, October 2017, p.475- 493.
[5] Law on General Administrative Procedure, Official Gazette of R. Macedonia, no. 124 of 23.07.2015 (Закон за општата управна постапка, Сл. Весник на Р. Македонија, бр.124 од 23.07.2015 година)
[6] More specifically see in: Borce Davitkovski, Ana Pavlovska-Daneva, Ivana Shumanovska-Spasovska, "Consistent Application of Article 6 of the European Convention on Human Rights in Administrative Judicial Procedure in the Republic of Macedonia – Reality of Fiction", Iustinianus Primus Law Review No. 12, Vol. VII – winter 2015
(http://law-review.mk/pdf/12/Borce%20Davitkovski,%20Ana%20Pavlovska%20Daneva,%20Ivana%20Shumanovska%20Spasovska.pdf);
[7] More specifically see in:
Borce Davitkovski, Ana Pavlovska-Daneva, Ivana Sumanovska-Spasovska, Elena Davitkovska, Consistency of the Administrative Judiciary in the Republic of Macedonia with European Standards, Proceedings from the International Scientific Meeting - Legal Days - Prof. Dr. Slavko Caric "University of Novi Sad, Faculty of Law, University of Economics and Law, October 2016

and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice."[8]

Among the more significant international acts, which contain the principles of administrative procedure, we single out and:

- Recommendation CM/Rec(2007)7 of the Committee of Ministers to member states on good administration.
- Recommendation No. R (80) 2 of the Committee of Ministers concerning the exercise of discretionary powers by administrative authorities.
- Recommendation No. R (84) 15 of the Committee of Ministers relating to public liability.

Recommendation Rec(2003)16 on the execution of administrative and judicial decisions in the field of administrative law. This recommendation stipulates that

a) Member states should ensure that administrative authorities implement judicial decisions within a reasonable period. To give full effect to these decisions, they should take all necessary measures under the law.
b) In cases of non-implementation by an administrative authority of a judicial decision, an appropriate procedure should be provided to seek execution of that decision, in particular through an injunction or a coercive fine.
c) Member states should ensure that administrative authorities will be held liable where they refuse or neglect to implement judicial decisions. Public officials in charge of the implementation of judicial decisions may also be held individually liable in disciplinary, civil or criminal proceedings if they fail to implement them[9].

Recommendation Rec(2004)20 of the Committee of Ministers to member states on judicial review of administrative acts[10]. This recommendation determines the meaning of administrative acts and judicial review. They have also listed principles for judicial review, such as the scope of judicial review, access to judicial review, an independent and impartial tribunal, the right to a fair hearing and the effectiveness of judicial review.

III. NOVELTIES IN THE LATEST LAW ON ADMINISTRATIVE DISPUTES ADOPTED IN MAY 2019

The Law on Administrative Disputes of 2019 in RNM provides the following novelties:

a) Change of the cassation role of the Administrative Court. The emphasis is now put on litigation in full jurisdiction. Administrative court is to resolve administrative dispute by itself
b) The court itself will be able to determine the factual situation
c) The dispute shall be settled by an individual judge
d) The dispute must be completed within 9 months of completing the case file. This means having a trial within a reasonable time
e) The Court shall, as a rule, hold an oral and public hearing

[8] European Convention on Human Rights, https://www.echr.coe.int/Documents/Convention_ENG.pdf
[9] *Recommendation Rec(2003)16 on the execution of administrative and judicial decisions in the field of administrative law*, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805df14f
[10] *Recommendation Rec(2004)20 of the Committee of Ministers to member states on judicial review of administrative acts*, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805db3f4

f) The subject of the administrative dispute is extended. That means that now a lawsuit can be brought not only for an administrative act but also administrative actions

In this chapter, we will make a comparison between the articles of the Law on Administrative Disputes of 2006 and the Law of 2019 to see the main novelties in the administrative dispute.[11]

1. News in the scope of judicial protection

The subject of administrative judicial protection under the LAD from 2006 is determined by articles 1, 2, 3, 8 and 11. [12]

Following these articles, we can conclude that there is a system of positive enumeration in Article 2 of the law in which all the acts against which an administrative dispute can be initiated with a lawsuit are listed. However, what is specific is that the administrative dispute is primarily allowed against an individual, final administrative acts (an act against which an appeal is not allowed or an appeal has already been used), in case of silence of the administration and case of a request for compensation.

According to the LAD from 2019, Article 2 provided that the administrative dispute provides judicial protection of the rights and legal interests of individual and legal persons against individual administrative acts and actions of public authorities under this Law. Whereby, "administrative action" shall mean the adoption of administrative acts, the conclusion of administrative contracts, the protection of users of public services and services of general interest, as well as the taking of other administrative actions in administrative matters under law. Positive enumeration for which cases an administrative dispute can be initiated is set out in Article 3 of the Law. This article lists the cases for which the Administrative Court is competent.

Both laws contain provisions stating negative enumeration or cases in which an administrative dispute cannot be conducted. In the Law on Administrative Disputes from 2006 it is regulated by Article 9[13], while according to the Law from 2010 it is regulated by Article 6. [14]

[11] Law on administrative disputes (Official Gazette of the Republic of Macedonia, No. 62 of 19.05.2006) and Law on Administrative Disputes of May 17, 2019

[12] Article 1 - To provide judicial protection of the rights and legal interests of natural and legal persons and to ensure legality, the Administrative Court, in administrative disputes, decides on the legality of the acts of the state administration bodies, the Government, other state authorities, municipalities and the City of Skopje, organizations established by law and to legal and other persons exercising public authorizations (holders of public authorizations), when deciding on the rights and obligations in individual administrative matters, as well as on acts adopted in misdemeanour proceedings. Article 3 /- A individual or legal person has the right to initiate an administrative dispute if he/she considers that the administrative act has violated a right or an immediate interest based on law. Article 8 - An administrative dispute may be brought against an administrative act passed in the second instance (final administrative act). An administrative dispute may also be initiated against a first instance administrative act against which there is no appeal in the administrative procedure. An administrative dispute may also be initiated when the competent authority has not adopted an appropriate administrative act upon the request, ie upon the appeal of the party, under the conditions provided for by this Law. The administrative dispute may also be initiated for violation of the provisions of the administrative contracts, under the provisions of this Law. Article 11 - The administrative dispute may also require the restitution of the confiscated property, as well as compensation for the damage done to the plaintiff by the enforcement of the impugned act.

[13] Article 9 - An administrative dispute cannot be initiated: 1) against acts adopted in matters in which judicial protection is provided outside the administrative dispute; and 2) for matters that are directly decided by the Parliament and the President of the Republic of Macedonia based on constitutional powers, except for the decisions on appointment and dismissal.

[14] Exceptions when an administrative dispute cannot be settled Article 6 - (1) An administrative dispute may not be initiated in matters in which judicial protection is provided out of administrative dispute. (2) An administrative dispute cannot be brought about the proper application of a free assessment by a public authority

We can conclude that in RNM, we have primarily a subjective dispute because the legality of individual administrative acts is valued, and not the general acts adopted by the administrative bodies, as is the case with Croatia, France, Germany and other countries.[15] In this context, we also state the opinion of Koprić, who emphasizes that judicial protection in an objective administrative dispute should be allowed at least against some general acts, such as spatial plans that affect the rights and interests of a large number of entities.[16] That the general acts may be subject to administrative dispute is also stated in the Recommendation Rec(2004)20 of the Committee of Ministers to member states on judicial review of administrative acts, which contains the meaning of administrative acts. Namely, by "administrative acts" are meant: legal acts - both individual and normative - and physical acts of the administration taken in the exercise of public authority which may affect the rights or interests of natural or legal persons; situations of refusal to act or omission to do so in cases where the administrative authority is under an obligation to implement a procedure following a request. All administrative acts should be subject to judicial review. Such review may be direct or by way of exception.[17]

Given this, the question remains whether in North Macedonia the subject of administrative judicial protection should be extended beyond the assessment of the legality of some of the bylaws, such as urban plans and the like.

What is specific for North Macedonia is that an administrative dispute cannot be conducted even for labour disputes, that is against decisions that decide on the rights, obligations and responsibilities of administrative officials.

However, the most significant novelty is that an administrative dispute is now allowed for administrative actions, which has not been the case so far. In this way, this Law was harmonized with the Law on General Administrative Procedure.

2. Oral hearing

The oral hearing until the adoption of the new Law on administrative disputes was an exception in the administrative court proceedings. This is provided with Article 30 which reads "As a rule, the court decides on administrative disputes in a non-public session". Namely, from the several years of practice of the Administrative Court, this was rarely applied. The oral hearing under the 2006 Administrative Disputes Act was scheduled for the following cases: - because of the complexity of the case in the administrative dispute, - for better clarification of the state of affairs, - when determining a factual situation,- when producing evidence and - in the cases when there are cases for the silence of administration. For those reasons, the party may propose holding a public hearing.

According to the 2019 Law, an oral hearing is introduced as one of the basic principles in an administrative dispute. Namely, it is now provided as a rule. This principle is now provided

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(discretionary power) in the passage of an individual administrative act, but the legality of such act and the limits of such authorization may be guided.3) An administrative dispute may not be brought against an individual administrative act deciding the issues of the procedure, but such act may be dismissed with a lawsuit against an individual administrative act deciding the main matter unless otherwise provided by law. certain.

[15] Mateja Crnković, Koncepcije o prirodi upravnog spora u hrvatskom i poredbenom pravu, https://hrcak.srce.hr/149414

[16] Koprić, Ivan, Upravno sudovanje u svjetlu prilagodbe standardima EU-a, reforma upravnog sudstva i upravnog postupanja, Hrvatska akademija znanosti i umjetnosti, Zagreb, 2006, стр.62, prezemeno od D. Đerđa, Upravni spor u Hrvatskoj: sadašnje stanje i pravci reforme Zb. Prav. fak. Sveuč. rij. (1991) v. 29, br. 1, ???-??? (2008) https://www.hrcak.srce.com

[17] Recommendation Rec(2004)20 of the Committee of Ministers to member states on judicial review of administrative acts, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805db3f4

by several articles, as following. Article 8 - "In accordance with the principle of the hearing of the parties, before making its decision, the court will allow the parties to comment on the allegations in the lawsuit and the response to the lawsuit, as well as on all the facts and legal issues raised in the administrative dispute, except in cases specified by law". Article 9 - "In accordance with the principle of oral argument, the court shall, by rule, rule in administrative dispute based on public, direct and oral argument. The court may decide in an administrative dispute without holding a hearing only in the cases determined by this law. In accordance with the principle of contradiction and proportionality provided with Article 10, the court shall allow the parties to comment on the allegations and suggestions of the opposite party. Also, according to Article 37, the court shall decide upon the lawsuit filed, otherwise held pursuant to this Law.

3. Determining the factual situation

Regarding the issue of determining the factual situation in accordance with the Law on Administrative Disputes from 2006, the rule that the Administrative Court decides based on the factual situation determined in the previously conducted administrative procedure was valid.[18] But, according to the new legal solution, the parties can present facts and when conducting the administrative dispute, to rule on them and the court to determine the factual situation on its own.[19]

The new legal solution is in line with Recommendation Rec(2004)20 of the Committee of Ministers to member states on judicial review of administrative acts, which contains that: "There should be equality of arms between the parties to the proceedings. Each party should be given an opportunity to present his or her case without being placed at a disadvantage. Unless national law provides for exceptions in important cases, the administrative authority should make available to the tribunal the documents and information relevant to the case. The proceedings should be adversarial in nature. All evidence admitted by the tribunal should in principle be made available to the parties with a view to the adversarial argument. The tribunal should be in a position to examine all of the legal and factual issues relevant to the case presented by the parties. The proceedings should be public, other than in exceptional circumstances. Judgment should be pronounced in public."[20]

4. Full jurisdiction dispute

The main difference between a substantive dispute over the legality and a dispute over full jurisdiction is over the jurisdiction of the court when deciding on legality. In the dispute over legality, the Administrative Court renders annulment judgments. This means that the court only assesses the legality of the disputed act and if it deems that the act is illegal, it upholds the lawsuit and annuls the act and returns it for retrial. If the court finds that there is no violation of the law, it rejects the lawsuit, and the act remains in force. In a dispute over full jurisdiction, the court, in addition to having the authority to assess the legality of the act or action, may itself resolve the administrative matter itself, in which case its decision completely replaces the decision of the administrative body. Namely, this dispute goes deeper

[18] Article 36 - The court, as a rule, resolves the dispute based on the facts established in the administrative proceedings or based on the facts which it establishes.

[19] Article 34 - In the claim and the response to the claim, the parties state the facts on which they are based their claims shall provide evidence to establish those facts and shall be expressed in relation to the allegations and evidence proposed by the other parties.

[20] Recommendation Rec(2004)20 of the Committee of Ministers to member states on judicial review of administrative acts, https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805db3f4

than the issue of legality itself, judging facts and law. The function of the court is not only supervisory but consists in determining the rights or powers of a person[21]

In North Macedonia, the full jurisdiction dispute has always been an exception, as the basic role of the Administrative Court was considered to be cassation. However, with the development and modernization of the administrative judiciary, given the comparative experience, the trend is for the full jurisdiction dispute to be increasingly used as a guarantee for better and more comprehensive judicial protection of public bodies. Thus, with the Law on Administrative Disputes of 2019, this dispute has been introduced as a rule.

Now, this dispute is settled by Article 60 - "If the court finds that the impugned administrative act is unlawful, it shall rule by a judgment the claim will annul the impugned individual administrative act and resolve the administrative matter itself (judgment in full jurisdiction), with the judgment completely replacing the annulled individual act. If the court finds that the public authority within the prescribed time limit has not adopted the individual act that was to be adopted in accordance with the regulations, the judgment shall adopt the lawsuit and shall decide the administrative matter itself. When the court proceeds upon a lawsuit filed against an administrative act that was once quashed and remanded for re-examination before the first instance authority under paragraph 5, it shall be bound to resolve the administrative matter itself, with the judgment replacing the annulled individual act in its entirety.

Unlike the previous legal solution, that is according to Article 40 which read: When the court finds that the impugned administrative act should be quashed, it may, if the nature of the work so permits and if the particulars of the proceedings provide a sound basis for it, decide to dismiss the administrative work. The court will be obliged to do so: in case of wrong application of the law (wrongly established legal issue); in the case of administrative contract disputes; in the case of acts adopted in the misdemeanour procedure by the bodies referred to in Article 1 of this Law; if there is a delay in the procedure, which is a case in which the factual situation is established in the administrative-judicial procedure; if it has previously annulled the administrative act by a judgment and the body has not acted on the directions and positions of the court stated in the judgment; if the competent authority after the annulment of the administrative act adopts an administrative act contrary to the legal opinion of the court, or contrary to the court's observations on the proceedings, then the plaintiff files a new lawsuit; in the cases specified in Article 22 of this Law.

5. Decision by an individual judge

In North Macedonia, as a rule, the administrative dispute is resolved by a council of judges composed of three judges. However, with Law amending the Law on Administrative Disputes from 2010 there is a possibility that the administrative dispute can be resolved by an individual judge. Namely, according to Article 18-c, an individual judge adjudicates against acts brought in misdemeanour proceedings by the bodies referred to in Article 6 of this Law, fining not exceeding EUR 5,000 in MKD counter-value and for which no special misdemeanour, confiscation of objects and there is no prohibition on performing a profession and activity. Despite this possibility, this solution has hardly been applied in the Administrative Court until today.

With the new Law, the possibility for the individual judge to resolve the dispute is also in the cases listed, but still, the emphasis is on the possibility that if the legal requirements are met,

[21] Brown, N. L.; Bell, J. S., *French Administrative Law*, Clarendon Press, 1998., str. 177 , *Mateja Crnković* , Koncepcije o prirodi upravnog spora u hrvatskom i poredbenom pravu, https://hrcak.srce.hr/149414

this rule should be respected. This is provided by Article 16 - "In a first instance administrative dispute, the court shall decide in a panel of three judges, or as an individual judge, in the cases referred to in paragraph (2) of this Article designated by this Article. An individual judge shall decide in the first instance administrative dispute in disputes whose case in monetary value does not exceed the amount of EUR 10,000 in MKD counter value or in disputes in which only procedural actions are challenged in the proceedings of passing the administrative act."
This solution was introduced to achieve greater efficiency of the administrative judiciary so that lighter cases will be resolved more quickly by a single judge.

6. Electronic communication in administrative dispute

One of the novelties in the new Law that is expected to contribute to better and more efficient access of parties to the Administrative Court is the introduction of electronic communication. Namely, the current Law allows the parties to file a lawsuit electronically. It is regulated by Article 27 which reads: The complaint may be filed directly with the court in writing, by mail or by electronic means.

7. Authorization of the court to impose fines

The legal novelty that is expected to contribute to the strengthening of the authority of the Administrative Court and to increase the effectiveness in terms of enforcement of court decisions is to authorize the Administrative Court to impose financial sanctions on the body that will not submit the documents to the court in a certain term,[22] as well as for the body that will not execute the judgment of the court within the legally determined deadline.[23]
This novelty in accordance with the Recommendation R (2003) 16 of the Committee of Ministers to the Member States relates to the enforcement of administrative and judicial decisions in the field of administrative law. In enforcement, it is recommended that the administration act on the following principles: enforcement must be explicitly provided for by law; private persons against whom a decision is to be made should be allowed to comply with the decision of the administration within a reasonable time, except in urgent and therefore justified cases; the persons whose decision is being executed should be informed of the execution; the enforcement measures used, including any accompanying financial penalties, should respect the principle of proportionality. In the enforcement procedure, protection of the rights and interests of private persons should be ensured through the possibility of lodging an appeal or a lawsuit.[24]

8. The right to appeal in an administrative dispute

One of the inconsistencies in the administrative dispute in North Macedonia was the second instance administrative court procedure, due to the fact that an appeal could be filed against any decision of the Administrative Court and also the defendant could file an appeal only through the State Attorney.[25] According to the new Law, the appeal shall not be allowed

[22] the court shall, by a decision, impose a fine up to 20% of the monthly salary of the authorized person, that is, the person in charge of the public body who has failed to submit the documents or data for unjustified reasons. at its disposal.
[23] Article 88 If the defendant does not act in accordance with the verdict within the established period of 30 days, nor does he respect the legal opinion and the instruction of the court, the court shall impose a fine of up to 20% of the monthly salary of the authorized or responsible person in the public body.
[24] Stevan Lilić u saradnji sa Katarinom Golubović, Evropsko upravno pravo sa osvrtom na upravno pravo Srbije u kontekstu evropskih integraciji,
http://www.slilic.com/Stevan%20Lilic_%20Evropsko%20upravno%20pravo(1).pdf
[25] Article 42-a

against a judgment annulling or declaring null and void and the case remitted to the public authority for re-examination, or against a judgment ordering the public authority to adopt the individual act was not adopted within the prescribed period.
The purpose of such a restriction is to protect individual and legal persons from unnecessary delay in proceedings.
These provisions implicitly limit the right of appeal to the public authority. It can only appeal to the Higher Administrative Court when its administrative act is completely replaced by the judgment (or in the case of silence when the judgment fills the void in the missing act). This puts natural and legal persons in a more favourable position.[26]
For this reason, the norm was that the appeal was allowed only against Reformation judgments. In other words, only if the administrative court has ruled on the party's right, obligation or legal interest or decided otherwise than it was settled in the administrative procedure.

9. Model decision and model procedure

The Law on Administrative Disputes of 2019 introduces another novelty and that is model decision and model procedure. "Model decision" is a decision taken by the Administrative Court in cases where lawsuits are filed against multiple administrative acts in which the rights and obligations of the plaintiffs are based on equal or similar factual situation and have the same legal basis. The Administrative Court is obliged to adopt the model decision after the hearing and publish it as a sentiment of court case law. While "model proceeding" shall mean a procedure instituted by the Administrative Court in cases where lawsuits are filed against more than 20 administrative acts in which the rights and obligations of the plaintiffs are based on equal or similar factual situation and have the same legal basis.
These innovations related to the institutional organization of the administrative judiciary, primarily the two-tier, the introduction of contradictions, conducting oral hearings, litigation in a full jurisdiction in administrative proceedings, the tactical listing of cases in which an individual judge can decide individually are only a trend in RSM, but they have been introduced and accepted in many countries.[27]
What can be concluded given the novelties presented in the Law on Administrative Disputes from 2019 is that in RNM in the administrative court proceedings the emphasis is placed on the meritorious decision of the Administrative Court by passing judgments brought in a dispute of full jurisdiction and passing judgments on the basis of a previously held oral hearing. In this way, the cassation role of the Administrative Court in the reform role changes. This solution is certainly good in terms of providing better administrative judicial protection, but on the other hand, it can affect the efficiency of resolving administrative disputes.
With the reformed administrative judiciary, RNM has harmonized with the basic European principles and standards related to administrative judicial protection, which are listed in the European Convention for the Protection of Human Rights and Freedoms, as well as in the

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The parties may file an appeal against the decisions of the Administrative Court within 15 days from the day the decision is delivered through the Administrative Court to the Higher Administrative Court.
The body whose act has been the subject of an administrative dispute may appeal the decision of the Administrative Court through the State Attorney of the Republic of Macedonia, Law amending the Law on Administrative Disputes ("Official Gazette of the Republic of Macedonia" No. 150/10)

[26] B. Davitkovski, A. Pavlovska-Daneva, Administrative law, textbook, first edition, http://ukim.edu.mk/e-izdanija/PRF/Administrativno_pravo_II.pdf

[27] D. Đerđa, D. Kryska, Neka rješenja upravnog spora u usporednom pravu: kako unaprijediti hrvatski upravni spor?, Zbornik Pravnog fakulteta Sveučilišta u Rijeci, vol. 39, br. 1, 91-126 (2018), https://hrcak.srce.hr/199427

numerous recommendations concerning the operation of administrative bodies and administrative proceedings.
The implications of the novelty and modernization of the administrative judiciary in practice are yet to be expected because the new Law has a one-year delay and it will take effect in May 2020. The biggest challenges regarding the consistent implementation of the new legal solutions are certainly in the hands of the administrative judges who will have to apply this Law. Therefore, it is necessary for administrative judges and professional associates not only ad hoc but also to permanently attend trainings and improve their knowledge regarding the innovations in the administrative matter that is constantly changing to harmonize with the new social developments and needs for harmonization with European legislation.
A special challenge for the judges will be to hold oral hearings and determine the factual situation in the administrative dispute. This decision is implemented in the new Law because the principle of an oral hearing, the principle of contradiction are stated in European acts as important in terms of achieving fair and equitable administrative court proceedings and leaves room for parties to be able to rule on certain facts and evidence, especially when the lawsuit disputes the application of the principle of material truth, that is the established factual situation in the administrative procedure conducted by the administrative bodies. But, on the other hand, such a solution can lead to a doubling of the competence between the administrative courts and the administrative bodies, but also to reflect on the duration of the judicial protection.
Concerning overcoming one of the major problems facing the administrative judiciary, which concerned the effective enforcement of court judgments, the Administrative Court is now authorized to impose a fine for non-compliance with the court's decision and non-enforcement of the judgment in the term provided by law. Such authorization of the court has been granted in relation to the failure of the defendant to file the documents. In this way, this problem is expected to be overcome in the future.
Regarding the length or duration of the administrative dispute, for the first time, a deadline is introduced in which the administrative dispute should end, which is expected to end the administrative court proceedings within a reasonable time, which would be a certainty for the parties regarding the deadline. The procedure should be completed so that they can exercise a certain right or protect a certain interest, and on the other hand, such a legal solution would affect the efficiency of the administrative courts.
Finally, we would like to note that the new LAD certainly contains principles and institutes in the direction of achieving efficient, effective and quality protection of the rights and interests of the parties in the procedure, but for all this to be achieved a consistent implementation of what is provided or standardized is necessary. For that purpose, the administrative courts should have sufficient personnel, technical and financial resources. It is necessary to provide a sufficient number of judges and professional associates, especially having in mind the fact that in RNM there is only one Administrative Court on the whole territory. Appropriate working conditions must also be provided, especially when it comes to holding sessions. Emphasis should also be placed on electronic communication, the possibility of amicable settlement of administrative disputes, the importance of case law and a number of other issues arising from the application of the new Law.

IV. CONCLUSION

This paper analyzes the novelties in the Law on Administrative Disputes in RNM from 2019. We can conclude is that the new Law harmonizes our administrative dispute with European principles and standards, and it harmonizes with the Law on General Administrative Procedure adopted in 2015. The Law also contains solutions that should affect the

elimination of the main shortcomings noted in the two decades of the existence of the administrative dispute in RNM, which were inefficient administrative judicial protection, problems with trial within a reasonable time, non-execution of court judgments, failure to submit documents from the body, as well as non-application of European principles for administrative proceedings such as the principle of oral hearing and the principle of contradiction. The new Law actually changes the basic role of the Administrative Court, which according to previous experience has been a cassation, and according to the new legal solution is more reform role. This means that the Administrative Court until now brought verdicts for annulment (annulment judgments), ie judgments passed in a dispute over legality, and the new law emphasizes the adoption of judgments in a dispute of full jurisdiction.

Analyzing the new terms, principles and institutes in the administrative dispute, we conclude that they are all in the direction of achieving effective, efficient and quality administrative judicial protection of the rights and interests of the parties on one hand and effective supervision over the principle of legality in passing administrative acts and taking administrative actions by public bodies, on the other hand.

The new legal solutions are expected to affect the efficiency of administrative judicial protection by anticipating the deadline within which the administrative dispute should end, anticipating the possibility of certain administrative disputes being resolved by an individual judge and restricting the right to appeal to the defendant, only for judgments rendered in a dispute of full jurisdiction.

Regarding the strengthening of the effectiveness and consistent implementation of the court's decisions, it is envisaged that the Administrative Court will determine the factual situation, conduct the oral hearing, the principle of contradiction and monetary sanctions for non-compliance and non-enforcement of court decisions, as well as financial sanctions for failure to act upon judgment by the defendant.

However, what may affect or hinder the consistent application of these innovations in practice are insufficient training or readiness of the judges and the professional associates, the lack of a sufficient number of judges and professional associates, as well as the lack of technical, material and spatial working conditions.

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