

PARTIES IN ADMINISTRATIVE DISPUTES

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Abstract. *The paper explores the issues of active legitimacy to be a party in administrative dispute proceedings and the representation and protection of parties' rights before the Administrative Court, established as a court of special jurisdiction by the Act on Seats and Areas of Courts and Public Prosecutor's Offices which entered into force in January 2010. The author first examines who can be the plaintiff, the defendant, and the interested person in an administrative dispute, and then focuses on the rules on representing the parties before this specialized court. Subsequently, the author explores the current case law established by the Administrative Court.*

Key words: *parties, plaintiff, defendant, interested person, Administrative Court, administrative dispute, representation of the parties*

1. INTRODUCTORY CONSIDERATIONS

The principle of the separation of powers is an expression of citizens' aspiration for liberty, equality and fraternity. Its origins can be traced back to the French Civil Revolution (1789), which was a response to the unlimited power of the monarch who had all the power concentrated in his hands. We may recall the words of Louis XIV, asserting: "*The State is Me*".

Article 4 of the Constitution of the Republic of Serbia (2006)¹ clearly prescribes the separation of powers into the legislative, the executive and the judicial branch, particularly emphasizing that the judiciary is independent. Article 11 of the Act on the Organization of Courts², designated as "Courts in the Republic of Serbia", prescribes that Serbian courts are classified into courts of general jurisdiction and courts of special jurisdiction, The courts of general jurisdiction include: the basic (municipal) courts, high courts, appellate courts,

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¹ Article 4 of the Constitution of the Republic of Serbia, *Official Gazette of the RS*, No. 98/2006

² Article 11 of the Act on the Organization of Courts (hereinafter: Courts Organization Act) *Official Gazette of RS*, No. 116/2008, 104/2009, 101/2010, 31/2011-another law, 101/2011, 101/2013, 106/2015, 40/2015-another law, 13/2016, 108/2016, 113/2017, 65/2018 - CC decision, 87/2018 and 88/2018 - CC decision)

and the Supreme Court of Cassation, while the courts of special jurisdiction include commercial courts, commercial courts of appeal, misdemeanor courts, misdemeanor courts of appeal, and the Administrative Court.

The Administrative Court was established as a court of special jurisdiction by the Act on Seats and Areas of Courts and Public Prosecutor's Offices³, which entered into force in January 2010. Thus, the Administrative Court started its work on 1 January 2010⁴, as a court of special jurisdiction with the seat in Belgrade and three departments in Kragujevac, Niš and Novi Sad⁵. In addition to the aforementioned Courts Organization Act, the jurisdiction of the Administrative Court is also regulated in Article 1 of the Act on Seats and Areas of Courts and Public Prosecutor's Offices, which stipulates that the Administrative Court judges hear administrative dispute and perform other tasks determined by law, and provide international legal assistance within their competence. In administrative dispute proceedings, Article 3 of the Administrative Disputes Act (2009)⁶ specifies that the Administrative Court decides on the legality of final administrative acts pertaining to the right, obligation and legal interest in respect of which the law does not provide for other judicial protection. In relation to the former Administrative Disputes Act (1996),⁷ the new Administrative Disputes Act (2009) has made systemically different decisions regarding the establishment of facts. Thus, in Chapter 7, Articles 33-39 of the ADA refer to the public hearing, establishing facts, hearings in special cases, scheduling hearings, the management of a hearing, the absence of the parties from a hearing, and the course of the hearing. The new 2009 Administrative Disputes Act was proclaimed by the Decree of the President of the Republic of 2009⁸.

In theory, an administrative dispute is defined differently but what most authors agree on is that it is a special form of judicial control of the administration. It can be said that an administrative dispute is a type of judicial control of the administration and its administrative activities, while the subject matter of control is the legality of the final administrative act. It can be conducted even when the administrative act has not been passed, in case of "the silence of the administration", or when it is assumed that a negative⁹ final administrative act has been passed; it may also be instituted against other final individual acts deciding on a right, an

³ Act on Seats and Areas of Courts and Public Prosecutor's Offices, *Official Gazette of the RS*, No. 111/2009

⁴ The Administrative Court did not begin its work on 1 October 2002, as previously planned, nor within the postponed deadlines that were extended until the adoption of the new Constitution. Instead of the Supreme Court, the new Constitution (2006) envisages the Supreme Court of Cassation as the highest court in the Republic of Serbia. Article 6 (para.2) of the Constitutional Act on the Implementation of the Constitution stipulates that the deadline for the courts shall be determined by the laws by which their competence and organization are harmonized with the Constitution. The implementation was completed at the end of 2008 (Milosavljević, 2018 a: 135-136).

⁵ Under Article 8 (para.7) of the Act on Seats and Areas of Courts and Public Prosecutor's Offices (*Official Gazette of RS*, No. 101/2013), the Departments of the Administrative Court are: Department in Kragujevac (for the areas of higher courts in Jagodina, Kragujevac, Kruševac, Kraljevo, Novi Pazar, Užice and Čačak); Department in Niš (for the areas of higher courts in Vranje, Leskovac, Nis, Prokuplje and Pirot); Department in Novi Sad (for the areas of higher courts in Zrenjanin, Novi Sad, Sombor, Sremska Mitrovica, Subotica and Šabac).

⁶ Administrative Disputes Act, *Official Gazette of RS*, No. 111/2009.

⁷ Administrative Disputes Act, *Official Gazette of the FRY*, No. 46/1996.

⁸ Decree on the Proclamation of the Administrative Disputes Act, issued by the President of the Republic Boris Tadić, stated as follows: "The Act on Administrative Disputes, adopted by the National Assembly of the Republic of Serbia at the Seventh Session of the Second Regular Session in 2009, December 29, 2009, is promulgated." (Decree on the Proclamation of the Administrative Disputes Act, PR No. 257 of 29.12.2009, Belgrade).

⁹ In theory, there are several classifications of administrative acts. They are classified as follows: meritorious and procedural administrative acts; positive and negative acts; constitutive and declarative acts, binding and discretionary act; simple and complex acts; individual and general acts; and administrative acts adopted *ex officio* and those adopted upon request (B. Milosavljević, Administrative Law, Projuris, Belgrade, 2018, p. 51)

obligation or a legal interest in respect of which the law does not provide different judicial protection; when the party has the right to be issued an administrative act and it does not happen, the party can go to court. What is common is that the dispute is seen as a situation in which there is a conflict between the two parties. According to the classical conception, a dispute brought before a court arises from the opposition of two parties who, unable to reconcile their respective claims, ask the court to resolve it; therefore, a dispute is defined as a conflict between two subjects of law. This view has been the subject of much criticism by Leon Duguit who claimed that a dispute may also exist when a legal issue arises that needs to be resolved, which may not be related to cases where there are two opposing parties (Auby, Drago, 1962: 3).¹⁰

The Administrative Disputes Act (ADA, 2009) envisages the jurisdiction of the Administrative Court, which decides on an administrative dispute in a panel of three judges (Article 8 ADA), and the Supreme Court of Cassation, where a panel of three judges decides in proceedings on a request for review of a court decision against a decision of the Administrative Court (Article 9 ADA). According to Article 3 of the ADA, in administrative dispute cases, the competent court decides on:

- a) legality of final administrative acts, except for those in respect of which different judicial protection is provided;
- b) legality of final individual acts deciding on a right, an obligation or an interest based on law, if no other judicial protection is provided by law, and
- c) legality of other final individual acts when provided by law.

The subject matter of an administrative dispute may also be the silence of the administration (Article 15 ADA), as well as the return of the confiscated items and compensation for the damage caused to the plaintiff by the execution of the contested administrative act (Article 16 ADA).

The author of this article emphasizes that an administrative dispute is a special type of judicial control of the administration whose existence is provided by the Constitution of the Republic of Serbia (2006). Namely, according to Article 198 (para.2) of the Serbian Constitution, the legality of final administrative acts is subject to review before a court in an administrative dispute, unless the law provides for different judicial protection in a certain case. In short, an administrative dispute is a dispute over the legality of a final administrative act. This practically means that the court is an active subject-controller while the administration is a passive subject-controlled. Taking into consideration that the administrative acts issued by state (administrative) bodies directly decide on the rights, obligations and legal interests of natural and legal persons (such as: restitution, expropriation, the right to enjoy property, rights from pension and disability insurance, customs, taxes, etc), it is clear that the jurisdiction of the court is diverse. For this reason, it is of great importance that the Administrative Court, as an independent and impartial body in charge of ensuring legal protection, shall protect the rights of the parties in administrative dispute proceedings. Otto Mayer claimed that a state that has no law for its administration is not a state governed by the rule of law (Mayer, 1895: 66)¹¹, which the author fully supports.

¹⁰ J.M. Auby, R. Drago, *Traite de contentieux administratif*, I, LGDJ, Paris, 1962, p. 3

¹¹ Otto Mayer, *Deutsches Verwaltungsrecht*, Duncker und Humblot, Leipzig, 1895, p.66.

2. PARTIES IN ADMINISTRATIVE DISPUTE PROCEEDINGS

Unlike administrative proceedings which involve only one party and where the competent administrative body usually decides on the party's rights, obligations or legal interests (Article 1 of the GAPA)¹², administrative dispute proceedings always involve two opposing parties, whose dispute is decided by the administrative court.¹³ Thus, it can be clearly concluded that the obligatory parties in an administrative dispute are the *plaintiff* and the *defendant*, whose position is directly conditioned by their position in the previously conducted administrative procedure. In addition to the plaintiff and the defendant as obligatory parties in the administrative dispute, *an interested person* may also participate as a party, as indicated in Article 10 of the Administrative Disputes Act (Administrative Court Bulletin, 2008: 62)¹⁴

2.1. Plaintiff

In order to initiate an administrative dispute, the plaintiff has to meet certain conditions regarding the procedural capacity to act as a plaintiff. The person authorized to initiate an administrative dispute must have active procedural legitimacy. An administrative dispute may be initiated only by authorized persons, whose circle is limited.

The plaintiff in an administrative dispute is primarily a natural or a legal person who considers that an administrative act has violated a right or a legal interest (Article 11 para. 1 ADA). In addition, certain collective bodies (state bodies, an autonomous province body, a unit of local self-government, an organization, a part of a company authorized in legal transactions or settlement, a group of persons and others who do not have the status of a legal entity) may initiate an administrative dispute as plaintiffs if they are holders of rights and obligations that are the subject matter of the administrative dispute proceedings (Article 11 para. 2 ADA). If they fulfill that condition, they are granted active parties legitimacy in an administrative dispute.

Moreover, both the competent *public prosecutor* (Article 11 para.3 ADA)¹⁵ and *the public attorney* (Article 11 para.4 ADA)¹⁶ may appear as plaintiffs in an administrative dispute. Namely, if the administrative act violates the law to the detriment of the public interest, the administrative dispute is initiated by the competent public prosecutor (Article 2 para. 1 of the Public Prosecutor's Office Act), and if the administrative act violates

¹² "Administrative procedure is a set of rules that state bodies and organizations, bodies and organizations of provincial autonomy, and bodies and organizations of local self-government units, institutions, public enterprises, special bodies through which the regulatory function is exercised, and legal and natural persons entrusted with public powers (hereinafter: the authorities) apply when acting in administrative matters" (Article 1 of the General Administrative Procedure Act/GAPA, *Official Gazette of the RS*, No. 18/2016 and 95/2018-authentic interpretation).

¹³ See: Dragan Milkov, *Administrative Law*, III, Faculty of Law, University of Novi Sad, 2013, 80-83; Zoran Tomić, *General Administrative Law*, Faculty of Law, University of Belgrade, 2015, 383-385; Ratko Marković, *Administrative Law*, Slovo AD, Belgrade, 2002, 527-531.

¹⁴ Legal understanding of the Department for Administrative Disputes of the Supreme Court of Serbia dated April 28, 1982, *Bulletin of the Administrative Court* No. 4/2008

¹⁵ Under Article 2 (para.1) of the Public Prosecutor's Office Act, the Public Prosecutor's Office is an independent state body that prosecutes perpetrators of criminal offenses and takes measures to protect constitutionality and legality. (Public Prosecutor's Office Act, *Official Gazette RS*, No. 116/2008, 104/2009, 101/2010, 78/2011-other law, 101/2011, 38/2012-CC decision, 121/2012, 101/2013, 2014-CC decision, 117/2014, 106/2015, 63/2016-CC decision.

¹⁶ Notably, a new Public Attorney's Office Act (*Official Gazette RS*, No. 55/2014) was adopted in 2014, where the former institution of "Public Attorney's Office" was renamed into "Attorney General's Office". In line with this change, the author believes that an appropriate change should be introduced in the Administrative Disputes Act, which still includes the institution of "the Public Attorney's Office".

property rights and interests of the Republic of Serbia, autonomous province or local self-government unit, the dispute is initiated by the competent public attorney's office (Article 2 para.1 of the Public Attorney's Office Act).¹⁷ The explicit position of the former Public Attorney of the Republic of Serbia speaks in favor of this understanding: "Moreover, we believe that it would not be expedient for anyone, except the defendant body itself, not even the Public Attorney's Office, who represents state bodies and special organizations in administrative disputes where the legality of administrative acts that these state bodies and special organizations pass as government bodies is examined, deciding on administrative matters within its competence. As these state bodies and special organizations were educated specifically for the purpose of performing administrative activities and resolving administrative matters, in which they make decisions that are subject to judicial control in administrative disputes, they are most directly informed about the disputed legal relationship and thus professionally and otherwise prepared to participate in an administrative dispute, which is actually a continuation of the same administrative procedure where those bodies issued a decision whose legality is being examined in an administrative dispute".¹⁸ In the above context, when talking about the prosecutor and his/her active legitimacy to participate in the procedure, it is important to emphasize that it should not be equated with the question of the merits of the claim filed in a lawsuit¹⁹, given that active legitimacy is exclusively a procedural presumption of participation in the procedure.

Generally speaking, the plaintiff is a dissatisfied party who is discontent with the decision rendered in the general administrative procedure. However, under the presented legislation, the aforementioned state bodies have active legitimacy to act as a parties in administrative disputes even though they did not participate in the previous administrative procedure. The rationale is to be sought in the protection of the public interest, the protection of property rights and interests of the Republic of Serbia, the autonomous province and local self-government units, given that these state bodies were essentially established for the protection of these rights and interest in administrative and any other court proceedings. The Administrative Court has stated in its practice that a lawsuit cannot be filed with the Administrative Court by a person who was not a party in the procedure of passing the disputed decision, as well as when that decision did not refer to any of the person's rights or legal interests²⁰. The author also points out the legal position taken by the Administrative Court pertaining to a company exercising public powers which have been entrusted to it by the law; such a company cannot be a prosecutor in an administrative dispute against an act of a second instance body because it acted as a first instance body in administrative matters; in effect, the first-instance body has no legal interest in filing a lawsuit and, thus, no legitimacy in the administrative dispute because the administrative act did not violate any of its rights or legal interests.²¹ The Administrative Court is also of the opinion that the first instance body is not allowed to initiate an administrative dispute

¹⁷ Under Article 2 (para.1) of the Attorney's Office Act, the Attorney's Office is a body that performs activities aimed at ensuring the legal protection of property rights and interests of the Republic of Serbia, autonomous provinces or local self-government units.

¹⁸ Olga Jovicic, "Representation in the administrative dispute of the Republic of Serbia, its bodies and organizations and other legal entities whose financing is provided in the budget of the Republic of Serbia or from other funds of the Republic of Serbia", *Bulletin of the Republic Public Attorney's Office*, 1/2012, 39.

¹⁹ Administrative Court, Uiss-478/74 of 23 Aug. 1974. *Collection of court decisions*, book I/3, decision no.412, 1976

²⁰ Decision of the Administrative Court 24 U 14240/2014 of 4.12.2014, Paragraf Lex, Electronic legal database.

²¹ Decision of the Administrative Court, 9 U 26434/2010 of 28 July 2011, Paragraf Lex, Electronic legal database

against the second-instance decision of administrative bodies deciding on appeals against decisions of first-instance bodies because it has no legitimacy in a specific situation to review decisions of immediately higher bodies.²² Unlike civil proceedings, there is no intervener on the prosecutor's side in an administrative dispute. Having in mind the administrative court practice, a person who wants to interfere in an administrative dispute on the prosecutor's side has a procedural position of a prosecutor and the court will treat him accordingly (Pljakić, 2011: 192).²³

When it comes to the prosecutor's role, the author believes that special attention should be paid to the legal wording "if he considers that an administrative act has violated a right or a legal interest" (Article 11 para.1 ADA), which is not always easy to determine in practice. Thus, a person may have a dilemma whether he/she has the active legitimacy at all to initiate a lawsuit and participate in the proceedings. The provisions of the 1952 ADA defined it as "direct personal interest based on law", giving a closer definition of the above wording. Although this formulation is no longer part of our positive law, the author considers that courts should take into account the provisions of the former ADA.

2.2. Defendant

Pursuant to the applicable Administrative Disputes Act, the defendant in an administrative dispute is the body whose administrative act is contested, or the body which did not pass an administrative act upon the request or complaint of the party (Article 12 ADA). Thus, all legal entities which are issuers of administrative acts that may be the subject matter of administrative disputes may have the legal standing of a defendant in an administrative dispute proceedings; it includes ministries, administrations and inspectorates, institutes, agencies, secretariats and directorates, authorities of autonomous provinces and local self-government units, non-governmental bodies, public companies and institutions, and other organizations that exercise public authority (e.g. the Republic Election Commission, the Bar Association, Anti-Corruption Agency, etc.). When it comes to an administrative dispute that is being initiated due to the silence of the administration (Article 15 ADA)²⁴, the body that should have issued an administrative act, or did not decide on an administrative act under the conditions provided by law, has passive legitimacy. The defendants in an administrative dispute may be the ministries (which is often the case in practice) and administrative bodies within the ministries of the Republic of Serbia, local governments, the Republic Pension and Disability Insurance Fund, other funds and foundations, public companies established by the Government of the Republic of Serbia and the Government of the Autonomous Province of Vojvodina.

2.3. Interested parties

The interested party is "the person to whom the annulment of the disputed administrative act would be directly detrimental" (Article 13 ADA). Therefore, bearing in mind the previously mentioned legislation and the fact that the annulment of the disputed

²² Decision of the Administrative Court, Uv. 19/2014 of 15.5.2014. Paragraf Lex, Electronic legal database

²³ Ljubodrag Pljakić, *Practicum for Administrative Dispute with Commentary, Judicial Practice and Forms for Application in Practice*, INTERMEX, Belgrade, 2011, p. 192.

²⁴ Article 15 of the Administrative Dispute Act (ADA): "An administrative dispute may also be initiated even when the competent authority has not issued an administrative act on the request or complaint of the party, under the conditions provided by this Act."

administrative act would cause damage to a third party, the law recognizes such a person as a party to the dispute, thus ensuring that the person can protect his/her rights and interests acquired in law. Given that the obligatory parties in an administrative dispute are the plaintiff and the defendant, it is clear that the interested person is a possible party that may or may not participate in the procedure.

The possibility of an interested person's participation in an administrative dispute proceedings was first envisaged in Article 29 of the Administrative Disputes Act (1922)²⁵. When participating in a dispute (which is not often the case in practice), the interested party participates on the side of the defendant, considering that their legal interests are identical (in terms of the nature of the administrative matter); it means that the defendant and the third interested party are against the amendment or annulment of the administrative act.²⁶ Due to the parties' status in the procedure, the Administrative Court is obliged to provide the interested person with all relevant documents (a transcript of the lawsuit, the defendant's answer to complaint, submissions, summons for an oral public hearing) and to deliver a judgment or decision on how to use legal remedies. In practice, in one-party administrative matters where an administrative dispute is initiated by a party filing a lawsuit (which is often the case in practice), there is usually no interested person. In multi-party administrative matters, a third interested person is much more often a party in administrative proceedings, where the annulment of the administrative act would be directly to the detriment of the rights or legal interests acquired by the disputed administrative act. The author also points out that an interested person can appear in one-party administrative matters in case an administrative dispute is initiated by a competent state body, i.e. a competent public prosecutor or public attorney's office, to protect the public interest or property interests of the state, an autonomous province and a local self-government unit.

The practice of the Serbian Administrative Court shows that the procedure before the court is terminated in the event that an interested person who has the status of a party in that procedure dies during the administrative dispute proceedings.²⁷ When it comes to the interested person, the current Administrative Disputes Act states that "the procedure completed by a final judgment or a court decision will be repeated upon the party's lawsuit [...] if the interested person is not enabled to participate in the administrative dispute" (Article 56 para.1 item 6 ADA). To participate in an administrative dispute, it is necessary that the party requesting a retrial at least makes it likely that he/she has a legal basis for retrial.²⁸ Given the above, but also in order to respect the principle of procedure economy, it is important to determine at the outset who the stakeholders are in a particular case. The person concerned is not an intervener in the administrative dispute but a party directly affected by the subject matter of the administrative dispute. An interested person may not only initiate an administrative dispute but may also appear in an ongoing administrative dispute. It is important to emphasize that the Serbian Administrative Court does not recognize the status of an interested person. Hence, the author points to the practice of the Croatian Administrative Court, which stated: "In an administrative dispute against the decision on dismissal of the Secretary of the Assembly, the person who was

²⁵ Article 29 of the Administrative Disputes Act (1922): "In any case, the court has the opportunity to hear the persons who would be harmed by the annulment of the administrative act", Paragraf Lex, Electronic legal database.

²⁶ "Therefore, the interested person in the sense of Article 13 of the ADA is always the person who is satisfied with the disputed administrative act, whose interest is to defend the disputed administrative act, and not to attack it." (Zoran Tomić, Commentary on the Law on Administrative Disputes, *Official Gazette RS*, Belgrade, 2012, 385.)

²⁷ Decision of the Administrative Court, 2Uv 390/2017 of 12.12.2017, Paragraf Lex, Electronic legal database.

²⁸ Decision of the Administrative Court, III-9 Cf. 183/2012 of 4 April 2013, Paragraf Lex, Electronic legal database.

appointed to that position after that dismissal does not have the capacity of an interested person".²⁹ In another case, the court ruled that "a person intervening with the prosecutor in an administrative dispute has a procedural position of the prosecutor and not of the interested person as referred to in Art. 15".³⁰

3. PARTICIPATION OF THE PARTIES IN ADMINISTRATIVE DISPUTE PROCEEDINGS

Article 74 of the Administrative Disputes Act (ADA) stipulates that the provisions of the law governing civil proceedings, and in that sense every person, shall be applied to the procedure of resolving administrative disputes not regulated by this law. Parties who have active or passive party legitimacy according to the law governing civil proceedings may also participate in the procedure before the administrative court. The principles of party autonomy and dispositiveness also apply in administrative disputes. Thus, the prosecutor and the interested person can, in principle, take action in the dispute, and they can also hire a proxy who will take action in their name and on their behalf. It is important to emphasize that in administrative disputes (possibly in the proceedings that precede it) there are basically administrative matters that are very professional and specialized. It is clear that a party can benefit much more from hiring a lawyer, given that a person with such a title will better represent the party's interests than the party itself as an ignorant party.

A prosecutor who is a fully capable legal or natural person is free to decide independently whether to take action independently in the proceedings before the administrative court or to hire a proxy, which often happens in practice, since the dissatisfied parties hire an attorney at law³¹ to act in their name and on their behalf (Article 4 of the Advocacy Act). The attorney would first draw up a lawsuit initiating an administrative dispute, and then participate in an oral public hearing, if the administrative court schedules it to determine the facts, taking into account the provisions of the Civil Procedure Act (Article 85 of the CPA).³² Every adult or a person who has married or become a parent, and thus acquired full contractual capacity, is able to independently take actions in an administrative dispute in the role of a plaintiff or an interested person. When it comes to persons who have partial contractual capacity, it is valid for them that they can take actions in the procedure only within the limits of their legal capacity.

When the competent public prosecutor's³³ office or the public attorney's office appear as a plaintiff in an administrative dispute, no special question arises regarding the manner of their participation in the procedure because these are state bodies established for the purpose of protecting the public interest, i.e. property rights and state interests of autonomous

²⁹ Decision of the Administrative Court of Croatia, US-381/83 of 30.03.1983. *Bulletin of the Administrative Court of Croatia*, No. 10/83

³⁰ The High Judicial Council, U. 2784/2001 of 12 April 2002, Paragraf Lex, Electronic legal database.

³¹ An attorney at law is a person who is registered in the directory of lawyers and has taken the oath on office and practicing law (Article 4, para.1, item 2, Advocacy Act (*Official Gazette RS*, No 31/2011 and 24/2013-CC decision).

³² The attorney of a natural person may be a lawyer, a blood relative in the direct line, a brother, sister or spouse, as well as a representative of the official legal aid unit of the local self-government unit who has passed the bar exam. The attorney of a legal entity may be a lawyer, as well as a law graduate who has passed the bar exam and is employed by that legal entity (Article 85 para. 2 and para. 4 of the Civil Procedure Act).

³³ According to the Constitution, the organization of the Public Prosecutor's Office exists as the highest public prosecutor's office in the Republic of Serbia, headed by the Republic Public Prosecutor's Office, four appellate offices, twenty-five higher offices and fifty-eight basic public prosecutor's offices. (Bogoljub Milosavljević, *Constitutional Law with the Text of the Constitution of the Republic of Serbia and the Act on the Constitutional Court and Organization of Justice*, 7th updated edition, Belgrade 2018. p.159)

provinces or local self-government units. As already emphasized, the ADA does not regulate the issue of representation in addition to the Civil Procedure Act, the issue of public prosecutor's office or attorney's office but, as *lex specialis*, we take into account the Public Prosecutor's Office Act and the Attorney's Office Act, the Provincial Assembly decision on the Attorney's Office of the Autonomous Province of Vojvodina, as well as the decisions of local self-government units.

As for the defendant, taking into account the above, the defendant is the body whose administrative act is disputed, or the body which at the request or complaint of the party did not pass an administrative act; thus, the question of their participation in the procedure is indisputable for several reasons. Namely, since the defendant is always the body that passed the disputed administrative act against which the plaintiff initiates an administrative dispute, it is assumed that such a body (whose main activity is to adopt administrative acts and decide on rights, obligations and legal interests) has enough professional knowledge to defend before the Administrative Court the position stated in the administrative act that is being challenged. The prerequisite legal conditions (in terms of knowledge, skills, characteristics, attitudes and abilities) required for the lection of a civil servant³⁴ speak in favor of the above, as well as the competitive selection procedure; hence, it is difficult to imagine that there is a need and justification for a proxy to appear instead of the defendant body in the administrative dispute.

When talking about the participation of an interested person in an administrative dispute, that person is free to choose whether to participate in the procedure independently or to hire a proxy. Accordingly, having in mind that the ADA does not specifically regulate procedural institutes on issues related to the aforesaid representation, validity and credibility of the power of attorney, the relevant provisions of the Civil Procedure Act (CPA) should be taken into account. However, in order to provide for legal certainty and efficiency of administrative court proceedings, the author considers that it would be better to regulate all issues of this special judicial control of administrative acts in a single legislative act, while allowing for the application of the CPA in case an issue is not regulated by the ADA. First, the author takes the position that, when interpreting the provisions on representation, it is necessary to take into account the specifics of the administrative dispute, but also the formulation of the provision which allows for interpretation because it refers to the appropriate provision governing representation in civil proceedings. Second, the author warns of numerous and obvious differences between administrative dispute proceedings and civil proceedings. As the roles of civil and administrative courts are not the same, in situations where the legislator refers to the application of civil procedure provisions, administrative courts are obliged to find an appropriate civil procedure provision which they will apply in the administrative dispute proceeding. Furthermore, the author emphasizes that the entire administrative dispute needs to be conducted in accordance with the Administrative Disputes Act and its principles. As already pointed out earlier in this paper, in most administrative dispute cases where the plaintiff is represented by a lawyer/an attorney, it is necessary to pay attention to the costs of the procedure, as well as to who is obliged to pay those costs. The fees for engaging a lawyer/proxy are prescribed in the Tariff on Remuneration and Reimbursement of Attorneys'

³⁴ A civil servant is a person whose position consists of tasks within the scope of state administration bodies, courts, public prosecutor's offices, the State Attorney's Office, services of the National Assembly, the President of the Republic, the Government, the Constitutional Court, and services of bodies elected by the National Assembly, IT, financial, accounting and administrative affairs (Article 2, para. 1 of the Civil Servants Act).

Fees³⁵ (hereinafter: Lawyers' Tariff), which states that a party has certain financial obligations to his/her attorney. In accordance with tariff numbers 42, 43, 44 and 45, a lawyer can charge the amount of 16,500 RSD for drafting a complaint and filing a lawsuit, the amount of 30,000 RSD in case of customs and foreign exchange procedures, and the amount of 36,000 RSD for filing a submission in the so-called other disputes before the Administrative Court. The fees for representation in court hearings range from 18,000 RSD and 31,000 RSD to 37,500 RSD (respectively), while the fees for representation in appeal proceedings range from 33,000 RSD to as much as 72,000 RSD. In accordance with tariff number 46 ("Representation of several parties"), when the lawyer in the dispute represents several parties, his/her reward is additionally increased by 50% for each action he/she undertakes for each subsequent party. On the other hand, unlike other proceedings where the court fee is conditioned by the value of the subject matter of the dispute, in administrative disputes it seems to be rather symbolic, given that the court fee for filing a claim (lawsuit) with the Administrative Court is 390 RSD while the fee for the final decision is 980 RSD.³⁶ Considering that the current ADA does not regulate the issue of reimbursement of costs, the relevant provisions of the Civil Procedure Act are applied accordingly; thus, as a rule, the party that loses the dispute in its entirety is obliged to reimburse the opposing party for costs; if the party partially succeeds in the dispute, the court may determine that each party bears its own costs or that one party reimburses the other (proportionate share of costs)³⁷. This also applies to the costs of the interested person when participating in the procedure as a party; if that person decides to hire a lawyer, he/she is entitled to reimbursement of costs in proportion to the success of the proceedings. The costs of the dispute are decided by the Administrative Court. It is also important to emphasize that Article 60 of the former ADA (1996) stated that "in administrative disputes each party bears its own costs", which was a rigid legal solution which paid no attention to the outcome. Thus, the author believes that the wording contained in the current ADA is much better.

The benefits of quality representation in all court proceedings, including administrative disputes, are enormous. Quality representation allows the parties to avoid "wandering" in the legal space, and facilitates the detection of possible irregularities in the proceedings. As the parties are often unfamiliar with the specifics of the procedure, the attorney will acquaint the client with all the specifics of the case in a valid way and instruct the client about his/her procedural rights and duties. Considering that the law prescribes different deadlines within which certain actions can be taken, but also other features that require excellent handling of complex issues, it is clear that hiring a proxy can help foreigners to exercise their rights and legal interests before the court. For example, in France, administrative proceedings are conducted at three levels: the administrative courts and courts of first instance, the administrative courts of appeal, and the State Council and the Court of Cassation, which decide only on matters of law and not on matters of facts. Legal representation before the courts of the first instance is not obligatory. In the second instance, the law prescribes the obligation to be represented by a lawyer, which is not the case in practice. Given the other features that require excellent knowledge of complex legal issues, it is clear that the engagement of a proxy can help a party in exercising their rights and legal interests before the court.

³⁵ Tariff on Remuneration and Reimbursement of Attorneys' Fees, *Official Gazette RS*, No. 121/2012, 99/2020 and 37/2021.

³⁶ Article 21 and Article 30 of the Court Fees Act, *Official Gazette RS*, No. 28/1994, 53/1995, 16/1997, 34/2001, 9/2002, 29/2004, 61/2005, 116/2008, 31/2009, 1017/2011, 93/2012 and 93/2014.

³⁷ Articles 150-167 of the Civil Procedure Act, *Official Gazette RS*, No. 72/2011, 49/2013-CA decision, 74/2013-CA decision, 55/2014, 87/2018 and 18/2020.

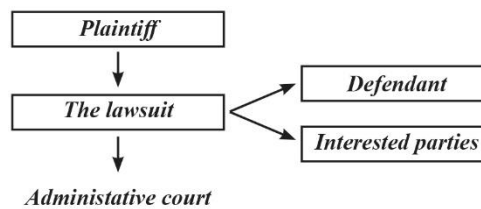


Fig. 1 Graphic Representation of an Administrative Dispute

4. OTHER PARTICIPANTS IN ADMINISTRATIVE DISPUTE PROCEEDINGS

In addition to the "obligatory" persons in administrative dispute proceedings (the plaintiff and the defendant) and "optional" interested persons as secondary parties, other persons in administrative dispute proceedings may be the legal representatives or proxies of the parties, witnesses, expert witnesses, interpreters, translator, etc.

When talking about *witnesses*, we take into account the appropriate provisions of the Civil Procedure Act. Namely, a witness is a person who has direct or indirect knowledge of the facts established in the proceedings before a court or administrative body. Every person who is called as a witness is obliged to respond to the summons and to testify, unless otherwise provided by law. As a rule, witnesses are heard directly at the hearing, but there are exceptions to this rule; so, the court may decide to present evidence by reading a written statement of the witness stating the findings of important disputed facts, where the witness has learned about them, and his relationship with the parties to the proceedings, whereby the written statement of the witness must be certified by the court or by a person exercising public authority. It should be noted that persons summoned as witnesses must refuse to respond to questions pertaining to confidential information (that the party has entrusted to him as his attorney, that the party or another person has entrusted to the witness as a religious confessor, the facts learned by the witness as a lawyer, a doctor or in the exercise of another occupation) if there is a duty of professional secrecy. A witness may also refuse to answer certain questions if there are justified reasons for that, especially if his/her answer to those questions would expose him/her to severe shame, significant material damage or criminal prosecution of the witness or his/her blood relatives in the direct line (regardless of the degree) and in the collateral line up to the third degree, his/her spouse or extramarital partner or relatives by affinity up to the second degree (even if the marriage has been dissolved), as well as his guardian or protégé, adoptive parent or adoptee. A witness who does not understand the official language of the proceedings will be heard by ensuring the assistance of an interpreter. If the witness is deaf, he/she will be asked questions in writing; if he is mute, he will be called to provide a response in writing. If the witness cannot be heard in that manner, an interpreter will be provided (Articles 244- 258 of the CPA).

An expert witness is a professional person who must meet certain criteria in order to be able to provide his/her expertise. First, a natural person may be appointed as a expert witness if he/she meets the general conditions for work in state bodies as prescribed by the law; in addition, he/she has to meet the special conditions prescribed in the Court Experts Act (2010): to have a specific field of expertise, to have at least five years of work experience in the profession, to have professional knowledge and practical experience in a particular field of expertise, and to be worthy to perform expert work (Article 6 of the Court

Experts Act).³⁸ The Administrative Court will present evidence with expertise if an expert has knowledge that the court does not have relevant facts and is required to establish or clarify a fact (in practice, the court most often hires permanent court experts in the field of economics, finance and construction). The party that proposes the presentation of evidence by an expert witness is obliged to indicate the subject matter of expertise in the proposal, and may also propose a certain person as an expert witness. As a rule, the expertise is performed by one expert, and if the expertise is complex, the court may appoint two or more experts. The court determines the subject matter of the dispute, the subject matter of expertise, the deadline for submitting findings and opinions in writing, the personal name or the name of the person entrusted with expertise, as well as data from the register of experts, whereby the deadline for submitting findings and opinions to the court cannot be longer than 60 days. The written finding of the expert must contain an explanation stating the facts and evidence which the finding is based on and the expert opinion, information on where and when the expertise was performed, information on persons who attended the expertise or persons who did not attend and were duly summoned, and information on attached documents. Each party has the right to submit objections to the given finding and opinion of the expert; each party is also entitled to hire another expert from the register of experts who will make objections or submit a new finding and opinion in writing. At the hearing, the court discusses the objections and tries to reconcile the findings and opinions of the experts. If more than one expert is appointed, they may submit a joint finding and opinion, if they agree on the findings and opinion. If the findings and opinions differ, each expert shall present his/her findings and opinion separately (Articles 259-273 of the CPA)

A court interpreter is a person who has a high knowledge of a certain foreign language, a sign language or other form of communication with deaf, mute or blind persons. In court proceedings, the interpreter is invited to translate for foreigners or other participants who do not understand the Serbian language and the Cyrillic script which are in official use in the Republic Serbia, the language of the national minority that is in official use, as well as to interpret court proceedings for deaf, blind or mute persons. The request for entry in the register of permanent court interpreters is submitted to the Ministry of Justice. We may distinguish between court interpreters for certain foreign languages and court interpreters for tactile signing for blind, deaf or mute persons (Article 256 of the CPA).

A translator may be a person who has a higher education and meets the statutory requirements for employment as a civil servant; he/she also has to meet the following special conditions: to have an appropriate higher education for a particular foreign language; to have comprehensive knowledge of the language from or into which the written text is translated; to know the legal terminology used in the language from or into which the text is translated; and to have at least five years of experience in translation from/into the specific language³⁹.

5. PUBLICITY IN ADMINISTRATIVE DISPUTE PROCEEDINGS

The Administrative Disputes Act prescribes that in an administrative dispute the court decides on the basis of facts established at an oral public hearing. The court may decide without holding a public hearing only if the subject matter of the dispute is such that it

³⁸ See: Article 6 of the Court Experts Act, Official Gazette RS, No. 44/2010.

³⁹ Article 3 of the Rulebook on Permanent Court Interpreters, Official Gazette of RS, No. 35/2010, 80/2016 and 7/2017, Ministry of Justice, Belgrade, <https://www.mpravde.gov.rs/>

obviously does not require direct hearing and special determination of facts. In that case, the parties have to expressly agree to this. Although the law prescribes resolving the subject matter of a dispute in an administrative dispute on the basis of facts established at a public oral hearing; unfortunately, in practice, it is still more an exception than the rule. The ADA also prescribes special cases when the hearing has to be held. Thus, Article 34 (para.1) of the ADA stipulates that “the court panel will always hold a hearing due to the complexity of the dispute, or to clarify the situation”. In Article 30 (para.2 and para. 3) of the ADA, the legislator points out that the hearing is mandatory if two or more parties with opposing interests participated in the administrative procedure, as well as when the court determines the factual situation for the purpose of adjudicating the case in full jurisdiction. Relying on the linguistic interpretation of legal provisions, we may draw a demarcation line between the wordings “the hearing is mandatory” and “the panel shall hold a hearing”, whereby the latter implies the court's discretionary assessment that the case is complex and that the hearing shall be held to clarify the situation.

Article 35 (para.1) of the ADA prescribes that the hearing is public, which means that the hearing may be attended by any interested person. Publicity of the debate is a principle, but it can be excluded in specific cases for reasons provided by law, including the protection of the interests of national security, public order and morals, the protection of the interests of minors, and the protection of privacy of participants in the procedure. The general public may be excluded for the whole debate or for a certain part of the debate. The exclusion of the public is decided by the court panel whose decision must be explained and made public. It is clear that the legal provision envisaged in Article 35 (para.1) of the ADA represents the practical application of Article 32 para. 3 of the Constitution of the Republic of Serbia, which refers to the public hearing as a segment of the right to a fair trial, as one of the fundamental rights protected by international law. The affirmation of this right raises the quality of legal protection of citizens to a level that corresponds to European standards, enables democratization of the entire society and the exercise of other human rights. In effect, the course of proceedings, the content of the hearing, as well as the publicity of proceedings (except in cases explicitly enumerated by the law) imply that all parties in the proceedings have to be absolutely prepared (the plaintiff, the defendant and the interested person, whose relationship is controlled and directed by the presiding judge of the panel, who can ask questions related to clarifying the facts). For this reason, plaintiffs are advised to hire attorneys.

6. CONCLUSION

As previously noted, the administrative dispute is the basic and most important means to judicially check the legality of the work of administrative authorities. Given the specificity of the procedure and the specificity of the administrative dispute, the author considers it necessary to reduce the accordant application of the Civil Procedure Act to the bare minimum. In order to facilitate the participation of different parties and other participants in the administrative procedure, the author believes that it is necessary to regulate the delivery, the hearing, the position of all parties to the administrative dispute, as well as the roles of attorneys and legal representatives in a much more detailed way. It should also be borne in mind that the administrative dispute and the additional judicial protection for citizens in cases where their rights to protection against decisions of public authorities cannot be exercised in another court proceeding; as such, it is provided for in the European Convention for the Protection of Human

Rights and Fundamental Freedoms the rights and legal interests which belong to them under the Constitution and the law⁴⁰. Given that administrative law is extensive, covering diverse and often completely different administrative areas, it is difficult to assume that a legislative act including only 79 articles can fully cover this matter, particularly considering the fact that the Administrative Court decisions are binding and final, and that extraordinary legal remedies may be filed against them (in cases specified by the law).

In addition, the author explains why the representation by proxy should be provided to a wider circle of people in administrative disputes, and a restrictive stance should not be taken/ why there should be no restrictions on the parties' final choice in accordance with the principles of autonomy and dispositiveness. The parties themselves shall choose who will best represent their interests, as well as whether they will be represented at all. All things considered, we cannot say that the issue of administrative dispute parties is fully regulated in the applicable law: nor can we defend (in terms of parties) the position that it is wise to apply the provisions of the Civil Procedure Act. Namely, in administrative dispute proceedings we cannot strive for the ideal of equality of the parties that exists in civil proceedings because litigation is not preceded by the procedure before public authorities, which is the case with administrative disputes.

Serbia belongs to the group of countries with the longest tradition of judicial control of the administration. Over time, the state has created a specialized judiciary in this area and the legal framework focusing on the matter of judicial control of the administration. There is no doubt that the roles of parties and their valuable participation in administrative dispute proceedings will eventually become clearer, which would ensure not only the exercise of the abstract right to control of the administrative power by the court but also the right to a fair trial guaranteed by the Constitution.

In the end, although it has been criticized by the author (for comprising only 79 articles), the Administrative Disputes Act (2009) clearly defines who can be the plaintiff, the defendant and the interested person in a comprehensive and understandable way, taking into account the rights, obligations and legal interests of natural and legal persons, state bodies and organizations, local communities and groups of persons who do not have the status of a legal entity, but also the public interest and property rights and interests of the Republic of Serbia, autonomous provinces and local self-government units. Thus, it contributes to strengthening citizens' trust in administrative judiciary but also promotes the rule of law principle.

REFERENCES

- Auby, J.M., Drago R. (1962), *Traite de contentieux administratif, I*, Librairie générale de droit et de jurisprudence/LGDJ, Paris, 1962
- Colin, F., Messe, M-L. (2014). *L'essentiel du contentieux administratif*, Librairie générale de droit et de jurisprudence, Paris, 2014
- Dimitrijević, P. (2014). *Upravno pravo (Administrative Law)*, 2. izmenjeno i dopunjeno izdanje, Atlantis, Nis.
- Marković, R.(2002). *Upravno pravo (Administrative Law)*, Slovo AD, Beograd, 2002.
- Mayer, O. (1895). *Deutsches Verwaltungsrecht*, Duncker und Humblot, Leipzig, 1895.
- Milkov, D. (2013). *Upravno pravo, III (Administrative Law)*, Pravni fakultet Novi Sad, 2013.

⁴⁰ The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) is a document of the Council of Europe adopted in Rome on November 4, 1950, signed and ratified by the Republic of Serbia. The signing of the Convention implies the readiness of the state to accept the obligation to respect the envisaged rights and freedoms, as well as to recognize the jurisdiction of the European Court of Human Rights (ECtHR).

- Milosavljević, B. (2018a). *Ustavno pravo sa tekstom Ustava Republike Srbije i Zakonom o ustavnom sudu i organizacija pravosuđa* (Administrative Law, including the text of the Constitution of the Republic of Serbia and the Act on the Constitutional Court and the Organization of the Judiciary), 7. ažurirano izdanje, Projuris, Beograd, 2018, str. 135-136.
- Milosavljević, B. (2018b). *Upravno pravo* (Administrative Law), 11. ažurirano izdanje, Projuris, Beograd 2018, str. 51
- Petrov, V., Simović, D. (2020) *Ustavno pravo* (Constitutional Law), 3. izmenjeno i dopunjeno izdanje, JP Službeni glasnik, Beograd, 2020.
- Tomić, Z. (2012). *Komentar zakona o upravnim sporovima* (Commentary on the Administrative Disputes Act), Službeni glasnik, Beograd, 2012.
- Tomić, Z. (2015). *Opšte upravno pravo* (Administrative law – general part), Pravni fakultet Beograd, 2015.
- Jovičić, O. (2012). Zastupanje u upravnom sporu Republike Srbije, njenih organa i organizacija i drugih pravnih lica čije se finansiranje obezbeđuje u budžetu Republike Srbije ili iz drugih sredstava Republike Srbije (Representation in the administrative dispute of the Republic of Serbia, its bodies and organizations and other legal entities whose co-financing is provided from the budget of the Republic of Serbia or from other funds of the Republic of Serbia), *Bilten Republičkog javnog pravobranilaštva*, 1/2012, Beograd.
- Pljakić, Lj. (2011). *Praktikum za upravni spor sa komentarom, sudskom praksom i obrascima za primenu u praksi* (Practicum for Administrative Dispute Proceedings, including commentary, judicial practice and legal forms to be applied in practice), INTERMEX, Beograd, 2011.

Legal acts

- European Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, Paragraf Lex, Electronic database
- Ustav Republike Srbije (Constitution of the Republic of Serbia), *Službeni glasnik Republike Srbije*, br. 98/2006
- Ukaz o proglašenju Zakona o upravnim sporovima (Decree on the promulgation of the Administrative Disputes Act), br.257 od 29.12.2009. god.
- Zakon o upravnom sporovima (Administrative Disputes Act), *Službeni glasnik RS*, br. 111/2009
- Zakon o upravnim sporovima (Administrative Disputes Act), *Sl. List SRJ*, br.46/96
- Zakon o opštem upravnom postupku (General Administrative Procedure Act), *Službeni glasnik RS*, br. 18/2016 i 95/2018-autentično tumačenje
- Zakon o uređenju sudova (Courts Organization Act), *Službeni glasnik RS*, br. 116/2008, 104/2009, 101/2010, 31/2011-dr.zakon, 78/2011-dr.zakon, 101/2011, 101/2013, 106/2015, 40/2015-dr.zakon, 13/2016, 108/2016, 113/2017, 65/2018-odluka US, 87/2018 i 88/2018-odluka US
- Zakon o državnim službenicima (Civil Servants Act), *Službeni glasnik RS*, br. 79/2005, 81/2005-ispr., 83/2005-ispr., 64/2007, 67/2007-ispr., 116/2008, 104/2009, 99/2014, 97/2017, 95/2018 i 157/2020.
- Zakon o sedištim i područjima sudova i javnih tužilaštava (Act on the Seats and Areas of Courts and Public Prosecution Offices), *Službeni glasnik RS*, br. 101/2013)
- Zakon o pravobranilaštvu (the Public Attorney's Office Act), *Službeni glasnik RS*, br. 55/2014.
- Zakon o sudskim taksama (Court Fees Act), *Službeni glasnik RS*, br. 28/1994, 53/1995, 16/1997, 34/2001, 9/2002, 29/2004, 61/2005, 116/2008, 31/2009, 1017/2011, 93/2012 i 93/2014.
- Zakon o sudskim veštacima (Court Experts Act), *Službeni glasnik RS*, br. 44/2010.
- Zakon o advokaturi (Advocacy Act), *Službeni glasnik RS*, br. 31/2011 i 24/2013-odluka US
- Tarifa o nagradama i naknadama troškova za rad advokata (Tariff on Remuneration and Reimbursement of Attorneys' Fees), *Službeni glasnik RS*, br. 121/2012, 99/2020 i 37/2021
- Pravilnik o stalnim sudskim tumačima (Rulebook on Permanent Court Interpreters), *Službeni glasnik RS*, br. 35/2010, 80/2016 i 7/2017
- Pravno shvatanje Odeljenja za upravne sporove Vrhovnog suda Srbije od 28.4.1982. (Legal Opinion of the Department for Administrative Disputes of the Supreme Court of Serbia, dated April 28, 1982), *Bilten Upravnog suda*, br.4/2008, Beograd

Case law

- Rešenje Upravnog suda RS (Decision of the Administrative Court) 24 U 14240/2014 od 4.12.2014.
- Rešenje Upravnog suda RS (Administrative Court Decision), 9 U 26434/2010 od 28 July 2011.
- Rešenje Upravnog suda RS (Administrative Court Decision), Uv. 19/2014 od 15.5.2014.
- Rešenje Upravnog suda RS (Administrative Court Decision), 2Uv 390/2017 od 12.12.2017.

Rešenje Upravnog suda RS (Administrative Court Decision), III-9 Cf. 183/2012 od 4.4. 2013.

Rešenje Upravnog suda Republike Hrvatske (Decision of the Administrative Court of Croatia), US-381/83 od 30.03.1983, Bilten Upravnog suda Hrvatske, br. 10/83

Odluka Upravnog suda (Administrative Court decision), Uiss-478/74 od 23.8.1974. god., *Zbirka sudskih odluka*, knjiga I/3, odluka br.412, 1976, Paragraf Lex elektronska baza podataka

Odluka Visokog saveta sudstava/VSS (The high Judicial Council), U. 2784/2001 od 12 April 2002, Paragraf Lex elektronska baza podataka

Odluka Visokog saveta sudstava/VSS (The high Judicial Council), Uvp.1br. 732/86 od 25.02.1987. Paragraf Lex elektronska baza podataka

STRANKE U UPRAVNOM SPORU

Rad je posvećen razmatranju pitanja ko može biti stranka u upravnom sporu, zastupanje i zaštita prava stranaka pred Upravnim sudom koji je kao sud posebne nadležnosti osnovan Zakonom o sedištima i područjima sudova i javnih tužilaštava i Zakonom o uređenju sudova, a koji je sa radom počeo 1. januara 2010. godine. U radu se ispituje ko je tužilac, ko tuženi, a ko zainteresovano lice u upravnom sporu, pravila o zastupanju stranaka pred ovim specijalizovanim sudom, kao i aktuelna sudska praksa koja je uspostavljena od strane Upravnog suda.

Ključne reči: *stranka, tužilac, tuženi, zainteresovano lice, Upravni sud, upravni spor, zastupanje stranaka*