

# TRENDS OF REFORMING THE ADMINISTRATION TOWARDS THE DEVELOPMENT OF MODERN ADMINISTRATIVE PROCEDURES

Islam Pepaj<sup>\*</sup>, Mirlinda Batalli<sup>\*\*</sup>

<sup>\*</sup> Faculty of Law, University of Prishtina "Hasan Prishtina", Prishtina, Republic of Kosovo

<sup>\*\*</sup> *Corresponding author*, Faculty of Law, University of Prishtina "Hasan Prishtina", Prishtina, Republic of Kosovo

Contact details: University of Prishtina "Hasan Prishtina", Str. "George Bush", No. 31, 10000 Prishtina, Republic of Kosovo



## Abstract

**How to cite this paper:** Pepaj, I., & Batalli, M. (2024). Trends of reforming the administration towards the development of modern administrative procedures [Special issue]. *Journal of Governance & Regulation*, 13(2), 297–306.  
<https://doi.org/10.22495/jgrv13i2siart6>

Copyright © 2024 The Authors

This work is licensed under a Creative Commons Attribution 4.0 International License (CC BY 4.0).  
<https://creativecommons.org/licenses/by/4.0/>

**ISSN Print:** 2220-9352  
**ISSN Online:** 2306-6784

**Received:** 27.10.2023  
**Accepted:** 28.05.2024

**JEL Classification:** H1, H7, K1, K3, K4  
**DOI:** 10.22495/jgrv13i2siart6

This article deals with the development of new trends in administrative procedure in the context of administrative legislation with a specific view of the Republic of Kosovo. This article analyses the status of the development of administrative procedures in a general aspect with a specific view in the Republic of Kosovo toward the further need for new trends and simplification of procedures in light of social changes and in harmony with European standards that intend the protection of the public interest and protection of rights of natural and legal persons. Data study presumes on factual approach, an examination of the current legal framework ruling the administrative system, different government, and non-government reports on the effective functioning of the administrative procedures, empirical studies of the researched issue, managed cases, and other relevant issued papers. This research article presents an important implication seeking to promote the new models of an administrative system towards an administration that advances the rights of the party in the procedure by simplifying the procedures and providing more efficient and inexpensive services for citizens. For several decades, a dynamic development of the European Administrative Space (EAS) has been recognized, which can be best characterized as the growth of administration at the European Union (EU) level, with the consequent gaining of new powers (Siuciński, 2020). This study assumes that legal provisions from the administrative field should be more dynamic, adapting to the recent changes and transformation of social relations, especially the development of information technology (IT), enabling more modern, efficient and non-bureaucratic procedures.

**Keywords:** Administrative Procedure, Transparency, Principles, Efficiency, Digitalization

**Authors' individual contribution:** Conceptualization — I.P. and M.B.; Methodology — I.P. and M.B.; Writing — Original Draft — I.P. and M.B.; Writing — Review & Editing — I.P. and M.B.; Supervision — I.P. and M.B.

**Declaration of conflicting interests:** The Authors declare that there is no conflict of interest.

## 1. INTRODUCTION

The primary topic to be referred to in the article is the analysis related to the contemporary trends in the development of administrative procedures in

harmony with social and legislative changes. This study attempts to identify a causal and sustainable connection between the development of society, productive forces, and innovative trends towards legislative changes in the field of administrative

norms. This paper is focused on the study of the normative and empirical analyses of the provisions of the general administrative procedure in the Republic of Kosovo, respectively in the study of relevant legislation regulating the administrative procedure, such as one of the most important procedures in fulfilment of the rights and the legitimate interests of the subjects of the procedure.

While in the past, the administrative procedural norms have been more focused on strengthening the position of the agency that exercises administrative power, nowadays these norms are more formulated towards the position of private natural and legal persons as interested parties in the proceedings.

Until recently there have been views that administrative power exercises only the state or public administration bodies. Barnes (2016) states that "every country needs a system of making initial administrative decisions, a system of administrative adjudication, and a system of administrative rulemaking. These systems give rise to a large number of bewilderingly diverse administrative procedures" (p. 1).

In modern conditions and circumstances, administrative procedures are increasingly regulated with procedural norms that are focused on advancing the position of the parties, as the main participants of the administrative procedure. As della Cananea (2022) stated it is evident that administrative procedure legislation possesses an admixture of commonality and diversity. This combination makes comparative legal studies of administrative procedures both interesting and important.

Also, nowadays there is a tendency to increase the number of administrative agencies because of the continuous increase in the number of citizens' demands and expectations.

Kalen (2008) argues that:

"The long-standing difficulty of distinguishing between legislative (substantive) rules and non-legislative rules, when coupled with the doctrines of finality, ripeness and deference to agency interpretations all converge to demonstrate the need for clarity to ensure that new administrations will enjoy sufficient flexibility to modify such documents and change course" (p. 657).

This paper aims to provide knowledge about the new procedural administrative rules so that the interested parties are kept in step with the changes that the new administrative procedure legislation has provided in Kosovo. The era of administrative reforms involves the need for the implementation of the application of modern technologies to enable the development of non-bureaucratic and simplified administrative procedures to enable the provision of efficient, fast, and accessible services to citizens. Pollitt argues that administrative convergence is a concept that at first glance is clear, agreed upon and understood, yet convergence towards a common model implies a reduction of the variability and disparities in the administrative agreements. The complexity of this mechanism makes possible the operationalisation of the European Administrative Space (EAS) and points out towards the difficulty of introducing similar administrative practices when several durable differences in the public management reform occur (Pollitt, 2001).

Such innovations, we consider having great practical importance for both lawyers and interested parties in administrative procedure, but also for broad opinion, because now some substantial issues are regulated differently from the previous law.

This paper also claims to point out whether: is Law on General Administrative Procedure (LGAP) in harmony with international standards regarding respect for human rights; whether the innovations provided to the new law on administrative procedure were needed; the silence of the administration as one of the most important innovations of the new law will produce positive or negative practical effects; whether it is necessary from this procedural institute to expand the administrative staff that will deal with the requirements of the parties and increasing the efficiency of the administration.

In the first part of the study, the trends of developing modern administrative procedures in general terms will be addressed. The second part of the research will focus on the analysis of the provisions of the LGAP entering into force in June 2017, in order to address the advantages and shortcomings of this law in relation to the prior legislation.

The study aims to answer the following research questions:

*RQ1: Why is a good system of administrative procedures needed in the era of new developments and trends? What are the main reform trends in public administration for the development of modern administrative procedures, with a special focus on the Republic of Kosovo?*

*RQ2: In what way are the European principles of good administration indicated in the LGAP? What are the advantages and consequences of the modernization of administrative procedures in Kosovo in the context of improving public services and facilitating business and investments?*

*RQ3: How are legislation and the implementation of the LGAP conducted and how are other international experiences in reforming public administrations and how can they be applied in the context of Kosovo to achieve a successful modernization?*

*RQ4: Are there any continuing challenges that citizens or administrative agencies are still facing and what are the main ones that the public administration of Kosovo faces in trying to modernize administrative procedures and adopt new practices in its administration?*

These questions require deep research and analysis to understand how the process of reforming the administration in Kosovo is developing and whether it has any positive impact on the development of modern administrative procedures.

The rest of the paper is structured as follows. Section 2 reviews the literature. Section 3 presents the research methodology. Section 4 provides the research results and discussion. Section 5 concludes the paper.

## 2. LITERATURE REVIEW

The history of administrative proceedings in Europe dates back to the acquis of the 19th-century Spanish, Prussian, and Austro-Hungarian regulations in administrative matters. Actually, that can be classified as a 'prehistory' or by using the proposed term as a wave 'zero' of codifications. Austrian

General Administrative Procedure Act (*Allgemeines Verwaltungsverfahrensgesetz*, AVG) was the inspiration for similar solutions in Central Europe in the 20s and 30s. The Genesis of this on the micro-scale was the case law of the first, modern administrative court (Siuciński, 2020). As every component of the rule of law needs reform, administrative laws also need initiatives for reform. The administrative laws need to be amended and updated based on the time requirements and circumstances to make sure they function well (Musleh, 2023).

However, in modern public governance as stated by professor Kovač, “European Administrative Space (EAS) is a notion, highly acknowledged and respected in certain times and countries as a joint set of fundamental good administration principles and standards. However, it is a complex concept in progress, both theoretically and practically” (Koprić & Kovač, 2017, p. 9). The evolution towards the EAS understands convergence on a common European model and may be seen as a normative program, an accomplished fact, or a hypothesis. Another important question is to be raised: What is “convergence” and what criteria can be used to decide whether an EAS exists? (Olsen, 2003). Europeanization of public administration, as part of the general process of Europeanization, represents the result of the interactions with the systemic nature of the European policies, aimed at reforming and developing the public sector. Therefore, as it is natural, the evaluation, by means of adequate indicators and socio-economic models, of the impact of Europeanization on public administration becomes a necessary and useful approach, inscribing in the preoccupations of the actual research (Matei & Matei, 2008).

Commissioner Johannes Hahn stressed:

“Modern public administrations play an important role to ensure not only the recovery but also to set the course for the future. Therefore, they need to function in a modern and agile way, being one step ahead when it comes to the green and digital transition so they can best serve citizens and businesses” (European Commission, 2021b).

Also, Commissioner Elisa Ferreira added “NextGenerationEU provides unprecedented resources to the Member States to undertake unprecedented investments and reforms” (European Commission, 2021a, p. 1).

However, we can state that progress is a complex concern that in some cases may be quite difficult for some state administrative procedures’ systems, where the development of public administration has a specific feature. As recognized, the Treaty of Rome (1957) and the Maastricht Treaty (1992) do not offer a standard of public administration procedures to be adopted by the European Union (EU) Member States.

As in many other areas, public administration ideas and arrangements in one political setting (past or present) can be used in the development of policies, administrative arrangements, institutions and ideas in another political setting (Dolowitz & Marsh, 2000).

However, in general, we may address the issue of joint principles of administrative procedures law among the EU country’s legislations such as responsibility, efficiency and effectiveness, consistency and reliability, and transparency.

The Law of the General Administrative Procedure of Kosovo (LGAPK) in Chapter II has defined the general principles of the administrative procedure which are in harmony with the legislation of the EAS. These principles also present an innovation from the repealed legislation in Kosovo, especially regarding the principle of objectivity and impartiality, the principle of legitimate and reasonable expectations, the principle of gratuity of the proceeding, and others (Law No. 05/L-031 on General Administrative Procedure, 2016, Article 4-13).

There are many ways to achieve change in development cooperation and the change being pursued may impact institutional arrangements, policies, systems and/or processes. Whether complex or not, the process of producing change — the reform — should be one of continuous improvement, drawing from review and reflection. Reform is not just about changing institutional arrangements, policies, systems and processes. It is a mindset that demands constant attention (Organisation for Economic Co-operation and Development [OECD], 2023).

It has however been the EU courts that have made the major contribution to the development of EU administrative law principles. They have read principles such as proportionality, fundamental rights, legal certainty, legitimate expectations, equality and procedural justice into the treaty, and used them as the foundation for judicial review under Articles 263 or 267 of the Treaty on the Functioning of the European Union (TFEU) (Craig, 2010).

On the other hand, as an important issue that has been elaborated by many European countries in relation to modern and democratic administrative processes, there is also the institute of administrative silence. In this regard, Kovač et al. (2020) stated that:

“The tension between silence as rejection (negative) and silence as approval (positive) is to be found not only at the level of the EU procedural law but also at the level of the national administrative law of the Member States” (Kovač et al., 2020, p. 3).

Currently, there is a relative view of the different legitimate alternatives regarding administrative silence in European states, claiming that the modern trend of considering administrative silence as an encouraging institute in the administrative policy-making process is contentious and it faces resistance in terms of practice.

However, in Kosovo, the applicable LGAP that entered into force in 2017 has determined a positive change in relation to the party’s position regarding administrative silence. According to Article 100 of Law No. 05/L-031 on General Administrative Procedure of 2016:

“If the party has requested the issuance of a written administrative act and the public organ does not notify the party of its administrative act within the original deadline and fails to notify of the extension or fails to notify the act within the extended deadline, defined in accordance with Articles 98 and 99 of this Law, the request made by the party shall be considered to be fully granted”.

These changes represent an improvement of the party’s position in the procedure compared to

the repealed legislation where administrative silence was considered a rejection of the party's request.

Until now no particular administrative standard has become apparent, and diversities are still in place. However, national administrative legislation has been modified in harmony with European guidelines. The differences that are still in place are affected by many circumstances, including the type of the governing system, the process of reform of public administration, decentralization, incorporation, etc. Therefore, the comparable provisions for the different EU public authorities can increase the uncertainty by parties in the procedures and citizens in general. In this regard, for the national administrations is of the utmost importance to enhance the profile of European unification through revising the current and conventional mechanisms and procedures to raise the level of administrative capability.

## 2.1. Trends for developing modern administrative procedures

The administrative procedure can be defined as an overall procedural action undertaken by the administrative agency to issue a legitimate and regular act. The administrative procedure is a guarantee for the protection of the rights of the party in the procedure through issuing the administrative act. The administrative procedure is conducted in several stages where it should be guaranteed to comply with the principles of administrative procedure to protect the general interest and the rights of the party in the procedure.

In recent years in many European countries there appears to have been more attention to reforming the administrative procedures through the introduction of the legislation that regulates such procedures. The modern situation may represent a perfect chance for legislative activities to modernize the administrative procedures focusing particularly on improving the position of the party in the procedure. The modernization of administrative procedures should be considered the most important strategy of the agendas of the governments of the European countries, aiming to respect all the general and special procedural principles with the aim that the administrative acts are as little as possible the object of examination in the appeal procedure or in the procedure of the administrative conflict.

The administrative procedure innovation is considered a social development built on the use of information technology (IT), transformation of policies, modernizing of services and proficiencies of the management toward worldwide productivity and effectiveness.

The development of IT and the rapid transformation of social relations imposes the need to modernize administrative procedures in the direction of new dimensions of functionality, transparency, competencies, and attractiveness in public administration.

For several decades, a dynamic development of the EAS has been recognized, which can be best characterized as the growth of administration at the EU level, with the consequent gaining of new powers (Siuciński, 2020). This process was the result of extended attempts to standardize the decision-

making of administrative bodies, and it indicated substantial political and legal arrangements.

Today, we are in the midst of another challenge to the legitimacy and viability of the modern administrative state, what professor Gillian Metzger recently termed as "anti-administrative", encompassing political and theoretical attacks on the legitimacy of administrative agencies, proposed legislation to restrict agency rulemaking authorities, and growing constitutional scepticism among some jurists about the scope of agency authority (Metzger, 2017). Administrative procedures appear a challenge from the point of fairness, taking into consideration that the administrative agency is a party in the process together with a physical or legal person. There is an increasing effort that feature of good and worth administration is an essential prerequisite in order to improve wealth, welfare and state consistency. Therefore, it is of utmost importance that in an administrative process, objective rights and public interest are considered as priority. The laws on administrative procedures should consider constitutional obligations and restrictions with specific views in the European Charter of Human Rights and International Obligations, the legal order of the *acquis communautaire* of the EU as well as in the general standards of modern public administration.

There is a growing consensus that in order to enhance prosperity, human well-being and the territorial cohesion of the EU, quality of governance or quality of institutions is a fundamental precondition (Heichlinger et al., 2018). In modern democratic states, three main broad goals can be singled out for administrative procedures, namely to provide a formal guarantee to the rights of the individuals through a practical application of the principle of legality; to provide a formal guarantee to the public interest through demanding transparency in public decision-making and consequently allowing for the administrative action to be controllable; and to create the conditions for capital investments and economic development through providing a guarantee of that administrative, and by extension, any public decision will be predictable and will respect the legitimate expectations of individuals (Rusch, 2009).

From the legal and social point of view the principles of "good administration" have become apparent as a comprehensive indicator for modernization of administrative procedures. The concept of good administration redefines administrative operations and citizen-administration relationships. It responds to the expectation and requirement of a balanced approach to safeguarding the public interest while respecting the rights and interests of the citizens. Good administration is at the service of the community and promotes social trust in the executive power; it thus contributes to political stability and fosters economic development and social wealth. In contrast, malfunctioning administration is an obstacle to productive investments and can lead to citizen resistance and protest against the state and in the worst case to a failing state (SIGMA, 2012).

A modern system of administrative procedures and implementation of standard principles is considered a crucial remedy for more responsible, transparent, and functional administration.

In response, the administrative law of global governance seeks to address the consequences of globalized interdependence for efficiency, public accountability and legitimacy. Participation, transparency, or reasons giving are procedural requirements expected to be met at the global level (Kingsbury & Stewart, 2015). Most OECD countries have made policies to reduce administrative burdens — cutting red tape — a political priority. Red tape is particularly burdensome to smaller companies and may inhibit entrepreneurship (OECD, 2014). The process of simplification of administrative procedures, re-planning; decrease of administrative burdens and quick delivery of e-government services signifies an indicator of new trends in the development of administrative procedures.

The development of modern administrative procedures nowadays is considered as the implementation of new dimension technologies or IT equipment in relation to the development of new capacity buildings and proficiencies of public officials targeted at improving their worldwide efficiency. This advancement signifies a fundamental change in the process of decision-making, toward the strengthening of output and affordability of public agencies in new challenging situations. Therefore, the main goal of the agencies should focus on preparing, unifying, organizing, monitoring and evaluating the results of the undertaken actions in order to enable a modern strategy for the development of administrative procedures. Nowadays, public authorities have to adapt to rapid changes in the economy, information technology and humanity in general promoting efficient, fast and fair administrative developments for the parties involved with the aim of presenting as few cases of administrative silence as possible, which can damage both the party and the image of a public authority. The lack of a basic system of administrative procedures along these lines leads to the ever-increasing complexity of administrative operations. For services and civil servants as much as for citizens, this entails higher administrative costs, a lack of transparency and, worse, may even become a source of corruption (Rusch, 2014).

The administrative agencies progressively recognize the importance of reforms in the development of administrative proceedings as mechanisms for open governance, delivery of more efficient services, and reduction of the level of corruption and expenditures for both parties in the procedure. In most European countries the reform of administrative procedures is developed to strengthen the transparency and responsibility of the public officials as well as to increase the level of ethics among them.

In many countries in Europe, the objectives related to administrative procedure regulation have been focused on reinforcing the protection of the parties' rights and enhancing governmental proficiency. For a couple of years, the Europeanization of administrative law has once again been at the top of the political agenda (Ruffert, 2017). This is a result of the European Parliament's desire for a general European administrative law act. In the meantime, the European Parliament promulgated the resolution of 9 June 2016 for an open, efficient, and

independent EU administration (2016/261 (C 86/126)), originating from the resolution of 15 January 2013 comprising recommendations to the EU Commission on a General Law of Administrative Procedure. Approving of codification of administrative procedures on EU level states Article 298 of the TFEU, providing that: "in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration" (Consolidated version of the Treaty on the Functioning of the European Union, 2012, section 1). European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall establish provisions to that end (Consolidated version of the Treaty on the Functioning of the European Union, 2012, section 2).

The heterogeneity of administrative procedure legislation quickly becomes evident when considering the size and the nature of various provisions. In some cases, particularly in Eastern European countries such as Bosnia, Latvia, Poland, Serbia, and Slovenia, the intent has been to adopt a comprehensive code of fair and efficient administrative procedure, with several hundred provisions. In other countries, including Italy and the Netherlands, legislation instead defines only general principles and rules (della Cananea, 2022). The presence of such administrative rules proves there is a need for the further development of the general standard rules, taking into account the substantive aspect of the current administrative legislation as well as the examination of an actual examination.

## 2.2. Innovations of the administration reform in the Republic of Kosovo through the Law on General Administrative Procedure

As mentioned above, in the Republic of Kosovo, the administrative procedure is regulated by the "Law on General Administrative Procedure" (Law No. 05/L-031 on General Administrative Procedure) entered into force in June 2017. The organization and general content of the LGAP have marked similarities with the provisions of the laws that regulate this field in several European countries such as Germany (Germany: Administrative Procedure Act, 1976), Italy (The Italian Administrative Procedure Act, Law N. 241, 1990), Portugal (Decree-Law no. 442/91, 1991), Spain (Law 30/1992 on the Legal Regime of Public Administrations and the Common Administrative Procedure, 1992), etc. As in most of these countries, as in Kosovo, the legal regulation of the administrative justice system referred to as the LGAP of 2017, aims to achieve the functioning of an efficient administration with the aim of realizing the public interest on the one hand, and individual interests on the other hand. To achieve this goal, in the spirit of LGAP, the administrative procedure in Kosovo consists of five main phases such as: initiation of the procedure; investigation; issuance of the first instance decision; appeal procedure; and execution or enforcement of the decision.

Like most European countries, the Republic of Kosovo, considering the recommendations of the institutions of the European Union, in 2016 paid

significant attention to the reform of administrative procedures through Law No. 05/L-031 on General Administrative Procedure.

In this part of the research, the innovations brought by LGAP will be analyzed only in relation to the administrative opposition, as a regular legal remedy in addition to the administrative complaint, as well as the institute of the silence of the administration (administrative act approved in silence).

However, regardless of new developments in public administration in relation to the new legislation, in addition to cases of non-harmonization of special legislation with the LGAP has also identified inconsistencies between the requirements of good administrative behaviour and practice. Judged by the proceedings reviewed, authorities across the region are struggling to meet demand for the legal duration of the procedure. In Kosovo, the administrative acts of the procedures do not always contain the appropriate references to the legal remedies that are available. The legal remedies that are foreseen by the administrative appeal and by the court are not completely effective, due to the “ping-pong” effect of sending cases here and there inside the administration, as well as between the administration and the judiciary. A single administrative issue can be dealt with repeatedly by different levels within the administration and by the judiciary. Furthermore, procedural errors may result in the annulment of the act administrative, even if the error may not have affected the outcome of the procedure. Defined measures in the LGAP intended to combat the “ping-pong” effect have not yet led to the desired results in practice (SIGMA, 2021).

### **2.3. Innovations of Law on General Administrative Procedure regarding the administrative opposition**

The object of the administrative objection according to Article 136 of Law No. 05/L-031 on General Administrative Procedure of 2016 is the real act. Meanwhile, Article 69(1) of Law No. 05/L-031 on General Administrative Procedure of 2016 clarifies that:

“Real act is any action of a public body within the scope of administrative law, which is not an administrative act or an administrative contract, and which may infringe a right or legal interest of a person (such as public information, statements, keeping evidence, issuing certificates, execution actions and other factual actions)”.

The party, in the administrative objection, may request: the termination of the implementation of a real act; withdrawing and correcting a public statement; declaring the illegality of a real act and eliminating its consequences; as well as the performance of a real act, which the party is entitled to and for which is applied unsuccessfully (Law No. 05/L-031 on General Administrative Procedure, 2016, Article 136(1)). Referring to the provisions of the LGAP, the party can use the administrative objection as a legal remedy also related to access to documents. In this regard, Article 105(1) of Law No. 05/L-031 on General Administrative Procedure of 2016 clarifies that:

“Every interested person has the right to receive from a public body, certificates on the facts

for which the body is charged by law to keep official records, as well as copies, abbreviations or extracts unified with the original, of the documents under his administration”.

In this case, upon the request of the interested person for access to these documents and unless otherwise provided by law, the authentication, copy, abridgement or consolidated extract shall be issued without delay, but in any case, no later than five days from submitting the request. In case of refusal or inaction of the public body, the interested person can file an administrative objection. However, if the certificate issued for access, as discussed above, is not in accordance with the data from the official evidence, in this situation, the interested person can file a complaint.

In addition, the administrative objection as a legal remedy can be used by the member of the collegial body (unless otherwise provided by law), for the purpose of declaring the illegality of the procedural action or inaction and can also extend to seek a prohibition to repeat the same action or omission in the future, if such a risk exists. Objection because of this situation does not suspend the administrative procedure during which the contested action or inaction occurred and does not affect the legality of the administrative act issued by the collegial body, because of this administrative procedure Law No. 05/L-031 on General Administrative Procedure, 2016, Article 136(2)). Also, the administrative objection can be submitted by a party in relation to a public service of general interest requesting the public regulatory body to exercise its supervisory authority over the public service provider, in order to ensure that the complaining party will benefit from the service to which he is entitled and that the service provider will fulfil the obligations (Law No. 05/L-031 on General Administrative Procedure, 2016, Article 133).

The party may also file an administrative objection against the execution actions if they exceed the mandatory part of the act being executed, or when they are alleged to be illegal. In this situation, the administrative objection is examined (within five days from submission) directly by the superior body of the body competent for execution and its submission does not suspend the continuation of execution (Law No. 05/L-031 on General Administrative Procedure, 2016, Article 156(3) and (4)).

The administrative objection is addressed to the competent public body, in the case of a real act, namely to the regulatory body, in the case of an objection related to a public service of general interest. The objection can be submitted within 15 days from the day when the party became aware of the disputed real act, but no later than six months from its execution, i.e. within two months from the submission of the request for the execution of a real act, in case of non-action from the public body. Objection to a real act or non-performance of a required real act is examined by a separate organizational unit or a collegial body of the competent public body. Then this unit or collegial body decides with an administrative act within 15 days of the submission of the objection (Law No. 05/L-031 on General Administrative Procedure, 2016, Article 137). In this case, the

administrative act issued by the body which examined the objection becomes the object of judicial review, that is, the final act, where the same party has the right to challenge it in court through the administrative conflict procedure.

#### **2.4. Innovations of Law on General Administrative Procedure related to administrative silence (administrative act approved in silence)**

Administrative silence is a complex phenomenon lacking a universal definition. In the simplest manner, administrative silence can be defined as a nonfulfillment of an obligation to act by a public administration. Such a broad definition covers various categories of administrative silence — from a silence that is subject to legal consequences (strictly prescribed by law) to silence that is not recognised as such in law but that is negatively assessed by society as blameworthy inaction (Jurkowska-Gomulka et al., 2020).

Among the most important innovations that LGAP has brought is the institute of “administrative silence”, which consequently has brought a new standard in the Kosovar administrative justice system. Silence of the administration is the situation when the competent body does not issue the administrative act within the specified period (Batalli & Pepaj, 2015).

Referring to the provisions of the LGAP regarding the silence of the administration, it means that: if the party has requested the issuance of an administrative act and the public body does not notify the party of the administrative act within the period of 45 days (Law No. 05/L-031 on General Administrative Procedure, 2016, Article 100) as well as it does not notify the postponement or does not notify about the act within the postponed deadline, in this case, the request made by the party is considered accepted in full and the administrative act requested by the party is considered as having been approved (if that is not provided otherwise by a separate law). In this situation, we have the case of an administrative act approved in silence, and the party in this case has the right to request from the competent body a written confirmation of the content of the administrative act approved in silence. However, all provisions of the LGAP regarding legal consequences, legality, repeal and annulment of administrative acts, as well as legal remedies, are also applied, appropriately, to administrative acts approved in silence.

Among the many distinct aspects of administrative silence, an excessive length of administrative proceedings seems to be the most often recognised and the most widely analysed in legal writings (Kotulski, 2015; Sever et al., 2016).

Complaints against administrative silence can be addressed directly to the superior body. If the complaint is addressed to the competent body (the public body that issued or has the authority to issue the act), it forwards it, without delay, to the superior body, together with the case file and a written report on the reasons for silence. The complaint against administrative silence is examined directly by the superior body, immediately requesting the competent body to submit without delay the entire case file and a written report on the reasons for administrative silence. The superior

body first examines whether the complaint is admissible and, only if the complaint is admissible, examines the party’s request, as submitted to the competent body. The superior body decides on the request based on the subject of the case, or if necessary, conducts additional administrative examinations, or may even order the competent body to conduct such administrative examinations and notify it of the results of the examination. Except when it is provided otherwise by law, the superior body resolves the case with its own final act (Law No. 05/L-031 on General Administrative Procedure, 2016, Article 133(1), (2), and (3)). Complaints against administrative silence may be submitted no earlier than seven days and no later than two months after the expiration of the deadline for notification of the administrative act.

### **3. RESEARCH METHODOLOGY**

This article studies applicable legislation in the administrative field with a specific view of the LGAP. Legal methodology is applied to analyze legal systems and procedures, and legal documents, including laws, regulations, and court decisions, to understand how the system works in practice to identify weaknesses in the administrative procedure and to propose solutions for further improvements. Through the use of a legal method, we examined how the principles of administrative procedure have been established and implemented by public agencies and the rights for effective legal remedies.

The literature review includes the analysis of available documentation and literature related to the research topic. This includes scholarly articles, government reports, previous research studies, and other published documents dealing with administration reform and modern administrative procedures. The literature review is an important way to identify important issues and establish the theoretical basis of the research.

Analysis methods are used to determine how much so far this law has contributed to the development of new trends in the administrative procedure in Kosovo. Analytical studies involve the use of statistical methods to analyze data related to administrative procedures. In Kosovo, analytical studies have been used to identify tendencies and outlines in the administrative procedure, which has helped to advance reforms and improvements. Through the analysis of official documents, including laws, regulations, public policies, and official reports, researchers can extract important information about the administrative structures and procedures in the research countries. This can help verify information and identify changes that have been made in administration.

Through the empirical method, a practical approach is studied considering the effects that the implementation of these provisions has produced in the sphere of administrative governance.

The role of the social method is related to the impact of new administrative trends in improving the lives of citizens through the reduction of procedural expenses, increasing efficiency and accountability in the administration, since the new legislation has advanced the position of the party in the procedure in many aspects, especially

regarding the institute of administrative silence. One of the key social methods used in Kosovo is stakeholder analysis. This involves identifying the different stakeholders involved in the administrative procedure and analyzing their interests and authority relations.

Using available online resources was another way of collecting data for research. This includes using online databases, articles available online, and other electronic platforms to gather information on the research topic.

The comparative method has served to compare the trendiest development of administrative procedures in different countries, influencing the principles of good administration at the European level. Comparing the respective administrative legislation and procedures of the different countries, we used a conventional methodical context.

A sort of methodology has been used to analyze and improve the administrative procedure in Kosovo. Legal methodology, analytical studies, and social methodology have all played an important role in identifying difficulties in the administrative procedure and proposing resolutions to improve it.

#### **4. RESULTS AND DISCUSSION**

The research regarding the trends of reforming the administration towards the development of modern administrative procedures in general aspect with a specific view in Kosovo is a very actual and important topic. This research analyses recent developments in the field of public administration in Kosovo and discusses how the country is trying to improve administrative procedures to improve the business climate, efficiency of administration and accountability to citizens.

The results of this research can be divided into several key points:

One of the main trends in the public administration of different states, especially the one in the transition phase, is the digitalization and automation of many administrative processes. This aims to reduce the use of physical documentation helps to reduce corruption and increases the transparency of processes.

Kosovo, like other countries, is using technology to provide better services to citizens and businesses. This includes various mobile applications and online platforms that allow citizens and businesses to perform administrative procedures more easily and quickly.

Kosovo has begun to involve the public and other interested parties in the process of reforming the administration. This involvement is important to ensure that reforms are straightforward and that they respond to the needs and expectations of citizens and businesses.

The discussion about this topic should also include the challenges and obstacles that different states including Kosovo have faced during this reform. Some of the potential challenges include old administrative culture, lack of financial resources to invest in technology and training, and resistance to change within the administration.

Another important point for discussion is the impact of these reforms on economic development. An efficient and modernized administration is

essential for attracting investment and increasing economic activity in the country.

Also, it is important to discuss the role of international partners and regional cooperation in this process. The experience and assistance of international institutions and other countries can be important for the success of reforms in public administration.

Improving public administration is critical to increasing credibility with citizens and businesses, as well as helping to create a favourable environment for investment and economic development.

In the discussion, it is worth reflecting on the experiences and lessons that can be learned from countries that have gone ahead in reforming the administration. A successful intervention can serve as a model for others and help develop good practices internationally. The research suggests that digitization and automation are challenges and opportunities that will continue to impact public administration and society. For the future, it is important for countries to continue to invest in technology and develop clear strategies to meet the challenges of modern administration. International cooperation and exchange of experiences can be efficient ways to take care of these issues at the global level.

The research on the trends of reforming the administration towards the development of modern administrative procedures shows that there is a lot of potential for improving public services and improving administrative accountability. Despite the challenges that come with this transition, the research sheds important light on the impact and way forward for the administration and society at large.

#### **5. CONCLUSION**

In the administrative procedure, along with other legal procedures, human rights and freedoms must have their central position within the governance system of a democratic country. These procedures must be adapted to serve the needs of individuals, overcoming the concept of the administration as a "state authority", and at the same time remain as procedures within the current constitutional and legal frameworks. In 2016, the Republic of Kosovo took an important step in this direction by approving the LGAP as a result of the demands of the time as well as changes in social relations in general, and administrative ones in particular.

The research shows that the Republic of Kosovo has made progress in improving public administration and developing modern administrative procedures. Digitalization and automation of processes are the key steps in this direction, and this has brought positive changes in the efficiency and transparency of the administration.

The reform in public administration has a direct impact on the economic development of Kosovo. A more efficient and responsive administration of business helps attract investment and increase economic activity. This can contribute to increasing employment and improving the standard of living of citizens. An important aspect is public involvement and public consultations in the administration reform process.



This brings more transparency and accountability to citizens and other stakeholders. The implications of this research extend to both policymakers and practitioners. Governments should continue to invest in technology-driven reforms to create a more citizen-centric and business-friendly environment. The active involvement of citizens and businesses in shaping administrative procedures is crucial for sustainable progress.

However, it is important to mention that this research has its limitations. The analysis was based mainly on open and documented sources and did not include an in-depth field study. Resource and time constraints may have limited the depth of analysis of some aspects of the administrative reforms. In the conducted research, there were some limitations such as information based on open sources has been limited, and research may have had difficulty incorporating all different perspectives and interests. Also, the limited time and resources for this research may have limited the depth of the analysis. In addition, limitations encountered during research may include time limitations for data collection and limitations of access to important sources of administrative information. Also, the impossibility of including all perspectives and interest groups can lead to a partial perception of reality and affect the inclusion of important aspects in the analysis of trends. In the future, further research could summarize a broader perspective of the effects of administrative reforms in different sectors and could include further field analysis to identify specific challenges and risks that may be encountered in modernization efforts. The research offers an essential perspective for improving

the efficiency and adaptability of institutions in a changing environment of technology and society. This research contributes to the identification of innovative ways for the advancement of public services and the positive impact on socio-economic development.

Ultimately, this research aimed to increase understanding and awareness of the importance of administrative reforms in terms of modern administrative procedures. Changes in administration are complex processes, but they have the potential to improve services to citizens, increase efficiency and accountability, and create a more favourable environment for economic and social development. It is hoped that this research will serve as a contribution to the larger debate and activity in this important area of public policy.

Research suggests that public administration reform is an ongoing process that requires ongoing commitment and development of technology and administrative capacity. For the future, it is important to deepen the research into some concrete challenges, such as corruption, the use of new technologies, and strengthening the capacities of administration employees. In conclusion, the research on the trends of reforming the administration towards the development of modern administrative procedures shows that the country is on the right path towards the development of modern administrative procedures. However, challenges still exist, and continuous efforts are required to achieve the goals of the administrative reform. The research includes an important basis to continue analysing and following developments in this field and to help improve public administration in the future.

## REFERENCES

- Barnes, J. (2016, April 29-30). *Towards a third generation of administrative procedures* [Paper presentation]. Conference on Comparative Administrative Law. [https://law.yale.edu/sites/default/files/area/conference/compadmin/compadmin16\\_barnes\\_towards.pdf](https://law.yale.edu/sites/default/files/area/conference/compadmin/compadmin16_barnes_towards.pdf)
- Batalli, M., & Pepaj, I. (2015). E drejta administrative — Konflikti administrativ [Administrative law — Administrative conflict]. In *Doracak për përgatitjen e provimit të jurispruencës* [Handbook for the preparation of the bar exam] (pp. 767-803). Ministry of Justice. <https://md.rks-gov.net/desk/inc/media/08D6773A-2B78-4065-8640-9EED8A066CAA.pdf>
- Consolidated version of the Treaty on the Functioning of the European Union. (2012). *Official Journal of the European Union*, C 326, 47-390. <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>
- Craig, P. (2010, December). *Directorate general for internal policies. Policy department C: Citizens' rights and constitutional affairs. Legal affairs. EU administrative law - the acquis* (PE 432.745). European Parliament's Committee on Legal Affairs. [https://www.europarl.europa.eu/RegData/etudes/note/join/2010/432745/IPOL-JURL\\_NT\(2010\)432745\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/note/join/2010/432745/IPOL-JURL_NT(2010)432745_EN.pdf)
- Decreto-Lei no. 442/91 [Decree-Law no. 442/91]. (1991). *Diário da República*, 263/1991, 5852-5871. Presidência do Conselho de Ministros [Presidency of the Council of Ministers]. <https://diariodarepublica.pt/dr/detalhe/decreto-lei/442-1991-316935>
- della Cananea, G. (2022, October 31). Administrative procedure in Europe. *The Regulatory Review*. <https://www.theregview.org/author/gdellacananea/>
- Dias, K., & Grigaitė, K. (2022, April). *Implementing country specific recommendations in national recovery and resilience plans - reforms related to public administration, the judicial system and business environment*. (Directorate-General for Internal Policies PE 699.529). European Parliament. [https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/699529/IPOL\\_IDA\(2022\)699529\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/699529/IPOL_IDA(2022)699529_EN.pdf)
- Dolowitz, D. P., & Marsh, D. (2000). Learning from abroad: The role of policy transfer in contemporary policy-making. *Governance*, 13(1), 5-23. <https://doi.org/10.1111/0952-1895.00121>
- European Commission. (2021a). *Supporting public administrations in EU Member States to deliver reforms and prepare for the future*. [https://commission.europa.eu/system/files/2022-12/supporting\\_public\\_administrations\\_in\\_eu\\_ms\\_to\\_deliver\\_reforms\\_0.pdf](https://commission.europa.eu/system/files/2022-12/supporting_public_administrations_in_eu_ms_to_deliver_reforms_0.pdf)
- European Commission. (2021b, November 24). *Commissioners Hahn and Ferreira at the conference on public administration*. [https://commission.europa.eu/news/commissioners-hahn-and-ferreira-conference-public-administration-2021-11-24\\_en](https://commission.europa.eu/news/commissioners-hahn-and-ferreira-conference-public-administration-2021-11-24_en)
- Germany: Administrative Procedure Act [Verwaltungsverfahrensgesetz (VwVfG)] (1976). Refworld. <https://www.refworld.org/legal/legislation/natlegbod/1976/en/63421>

- Heichlinger, A., Thijs, N., Hammerschmid, G., & Attström, K. (2018, July). *Public administration reform in Europe: Conclusions, lessons learned and recommendations for future EU policy*. Publications Office of the European Union. <https://op.europa.eu/en/publication-detail/-/publication/bc3d7e8e-e5b1-11ea-ad25-01aa75ed71a1/language-en>
- Jurkowska-Gomulka, A., Kurczewska, K., & Kurzępa-Dedo, K. (2020). Understanding administrative silence: A view of public officers from the Subcarpathia. *Public Administration Issues*, 6(Special issue 2), 98–117. <https://ssrn.com/abstract=3791961>
- Kalen, S. (2008). The transformation of modern administrative law: Changing administrations and environmental guidance documents. *Ecology Law Quarterly*, 35(4), 657–720. <https://www.jstor.org/stable/24114957>
- Kingsbury, B. & Stewart, R. (2015). *Hacia el derecho administrativo global: fundamentos, principios y ámbito de aplicación* [Towards global administrative law: Foundations, principles and scope of application]. Global Law Press.
- Koprić, I., & Kovač, P. (2017). *European administrative space: Spreading standards, building capacities*. NISPAcee Press. <https://www.nispa.org/files/publications/proceedings/NISPAcee-Proceedings-2016-Zagreb.pdf>
- Kotulski, M. (2015, November 3). *Bezczynność a przewlekłe prowadzenie postępowania administracyjnego* [Inaction and lengthy administrative proceedings]. Prawo. <https://www.prawo.pl/samorzad/bezczynnosc-a-przewlekle-prowadzenie-postepowania,101941.html>
- Kovač, P., Tolsma, H. D., & Dragos, D. C. (2020). In search of an effective model: A comparative outlook on administrative silence in Europe. In D. Dragos, P. Kovač, & H. Tolsma (Eds.), *The sound of silence in European administrative law* (pp. 3–29). Palgrave Macmillan.
- Law No. 05/L-031 on General Administrative Procedure. (2016). *Official Gazette of the Republic of Kosovo*, 20/21. <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=12559>
- Ley 30/1992, de 26 de noviembre, de Régimen Jurídico de las Administraciones Públicas y del Procedimiento Administrativo Común [Law 30/1992, of November 26, on the Legal Regime of Public Administrations and the Common Administrative Procedure]. (1992). <https://www.boe.es/buscar/act.php?id=BOE-A-1992-26318>
- Matei, A., & Matei, L. (2008). Globalization and Europeanization – a projection on a European model of public administration. *Theoretical and Applied Economics*, 4(4), 33–52. [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1310129](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1310129)
- Metzger, G. E. (2017). 1930s Redux: The Administrative State Under Siege. *Harvard Law Review*, 131(1). <https://harvardlawreview.org/2017/11/1930s-redux-the-administrative-state-under-siege/>
- Musleh, W. (2023). Administrative law initiatives and reforms. *Ohio Northern University International Law Journal*, 1, Article 5. <https://digitalcommons.onu.edu/ilj/vol1/iss1/5>
- Olsen, J. (2003). Towards a European administrative space? *Journal of European Public Policy*, 10(4), 506–531. <https://doi.org/10.1080/1350176032000101244>
- Organisation for Economic Co-operation and Development (OECD). (2014). *OECD regulatory compliance cost assessment guidance*. [https://www.oecd-ilibrary.org/governance/oecd-regulatory-compliance-cost-assessment-guidance\\_9789264209657-en](https://www.oecd-ilibrary.org/governance/oecd-regulatory-compliance-cost-assessment-guidance_9789264209657-en)
- Organisation for Economic Co-operation and Development (OECD). (2023). *Making development co-operation reform happen: Lessons and tools*. <https://www.oecd.org/dac/2023-development-co-operation-reform-lessons-tools.pdf>
- Pollitt, C. (2001). Clarifying convergence. Striking similarities and durable differences in public management reform. *Public Management Review*, 3(4), 471–492. <https://doi.org/10.1080/14616670110071847>
- Ruffert, M. (2017). The model rules on EU administrative procedures: Adjudication. *Review of European Administrative Law*, 10(1), 155–160. [https://www.uitgeverijparis.nl/scripts/read\\_article\\_pdf?editie=199912&id=1001321763](https://www.uitgeverijparis.nl/scripts/read_article_pdf?editie=199912&id=1001321763)
- Rusch, W. (2009, March 26–27). *Administrative procedures in EU member states* [Paper presentation]. Conference on Public Administration Reform and European Integration, Budva, Montenegro. <https://www.sigmaweb.org/publicationsdocuments/42754772.pdf>
- Rusch, W. (2014). Citizens first: Modernisation of the system of administrative procedures in South-Eastern Europe. *Hrvatska i Komparativna Javna Uprava*, 14(1), 189–228. <https://hrcak.srce.hr/file/191719>
- Sever, T., Đanić, A., & Kovač, P. (2016). Effective legal protection against the excessive length of administrative decision-making: The cases of Slovenia and Croatia. *NISPAcee Journal of Public Administration and Policy*, 9(1), 135–166. <https://doi.org/10.1515/nispa-2016-0007>
- Siuciński, R. (2020). *Administrative procedure as a key factor in development of control over administrative power – A European perspective*. *Juridical Tribune*, 10(3). <http://www.tribunajuridica.eu/arhiva/An10v3/5.%20Robert%20SIUCINSKI%20-%20Lucrarea%201.pdf>
- Support for Improvement in Governance and Management (SIGMA). (2012). *Good administration through a better system of administrative procedures*. [https://www.sigmaweb.org/publications/Comments\\_LawAdminProceduresKosovo\\_JN\\_Oct2012\\_Eng%20%20.pdf](https://www.sigmaweb.org/publications/Comments_LawAdminProceduresKosovo_JN_Oct2012_Eng%20%20.pdf)
- Support for Improvement in Governance and Management (SIGMA). (2021). *Zbatimi i ligjeve për procedurën e përgjithshme administrative në Ballkanin Perëndimor* (Nr. 62) [Implementation of the laws on the procedure of administrative general in the Balkans west (No. 62)]. <https://www.sigmaweb.org/publications/Implementation-laws-administrative-procedure-SIGMA-2021-Albanian.pdf>
- The Italian Administrative Procedure Act, Law N. 241. (1990). <http://www.parliament.am/library/varchakaniravaxatum19/Italy.pdf>