

# Administrative Acts and Procedures I

# ADMINISTRATIVE PROCEDURE


- Administrative activity and administrative procedure
- Activity of administrative bodies with external effect resulting in the issuance of administrative or normative act, as well as action or omission with actual consequences for persons (Art. 3).
- Administrative procedure is the activity of administrative body directed at the adoption of administrative act (Art. 19).
  - How AA and AP relate to each other?
  - Is AP always an AA?
  - Is AA always an AP?
  - What is the aim of all administrative procedures?

# Administrative Procedure

- Link between procedural and substantive rules
- Substantive rule
  - Right to pension
- Procedural rule
  - Pension award procedures
- Constitutional significance of procedure
  - Procedural fairness in the field of administration
  - Foreseeability of state action affecting public rights/human rights
- Is the admin act lawful, if procedural actions were unlawful?
  - Primary nature of substantive rules
  - Subsidiary nature of procedural rules

# Stages of Admin Procedure

- Commencement
  - (Written) application by individual
  - Initiative of the administrative body
    - Required by law
    - Necessity deriving from law
    - Discretionary power reserved to AB
- Conduct
  - All activities for the resolution of the case
- Conclusion
  - Adoption of administrative act
- Exceptional situations: AA without AP
  - Prevention of immediately imminent danger
  - Elimination of the consequences of harm that has already occurred
  - Other cases prescribed by law

- 
- Administrative body
  - Participants
    - Addressee
    - Third persons
  - Other persons
  - Representation
  - No parties, no dispute among the participants

# Conduct

- AB examines the request and decides if it can be granted
  - Determines the essential facts and circumstances, collects evidence
  - Decides the applicable law
  - Conducts site examinations
  - Engages experts
  - Hears the applicant, witnesses
  - Decides the legal consequences
- Procedural principles:
  - *Ex officio* establishment of facts
    - Duty to examine comprehensively, completely & objectively
  - Duty to act speedily
  - Duty to provide access to materials of the AP
  - Duty to provide help & support during AP
  - **Duty to hear**