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Genesis of Administrative Justice and Administrative Procedure in Latvia*

Abstract

In 2021, the administrative courts of Latvia celebrated two significant anniversaries. The first was one hundred years since the adoption of the Act on Administrative Courts, which was the beginning of administrative justice in Latvia. The second significant anniversary – 20 years ago a modern Administrative Procedure Act was adopted and separate administrative courts were established. This article aims to describe the genesis of administrative justice in Latvia during the Interwar Period and after the restoration of Latvia's independence in 1991. Administrative justice a hundred years ago and now is an instrument that ensures the observance of fundamental principles of democracy and the rule of law. Thus, the present day connects us with the time 100 years ago. At the same time, it should be acknowledged that the assessment of the regulation of administrative procedure, as well as the organization of administrative justice, in Latvia, differ significantly between then and

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The author draws attention to the fact that already after the pre-publication of this article, and also with reference to this article, an article that is important in the context of the topic under consideration has been published: I. Deviatnikovaitė, E. Danovskis, I. Pilving. *Evolution of Administrative Justice in the Baltic States in 1918–1940*, "Baltic Journal of Law & Politics", 2022, Vol. 15, Nr. 1, pp. 71-97.

now. The article analyses the reasons why the 1921 Act on Administrative Courts was considered outdated and incomplete as it approached its twentieth anniversary, while the current Administrative Procedure Act, celebrating its twentieth anniversary, is considered to be of a success story. The article also examines the challenges that characteriz administrative justice in the Interwar Period and nowadays, looking for commonalities and differences. The article uses both interwar and contemporary legal sources. The article uses analytical and historical research methods. The article can serve as a source of information for further comparative studies on the genesis of administrative justice in the region.

Key words: centenary of administrative justice, administrative law, state governed by law

The centenary anniversary of administrative justice and the two decades from the promulgation of the Administrative Procedure Act[1] is the proper moment to look back at the genesis of the administrative justice system and the administrative procedure in Latvia. Notwithstanding some criticism where it is due, in general, the performance of administrative courts and the Administrative Procedure Act are highly praised.[2] Huge efforts have been made to accomplish such an outcome. The purpose of the present article is to give an insight into the general picture concerning the development of administrative justice and the administrative procedure in Latvia since their foundation, thus promoting awareness of historical roots and seeking common grounds and differences between the Interwar Period and the present day.

1. Interwar Period

Soon after the proclamation of the state of Latvia on the 18th of November 1918, work on a legislative bill of the judicature of Latvia began. On the 6th December of the same year, the Nation's Council (*Tautas padome* – in Latvian) promulgated the Provisional Bylaws on Latvian Courts and Litigation Procedure (*Pagaidu nolikums par Latvijas tiesām un tiesāšanas kārtību* – in Latvian)[3],

1 Administratīvā procesa likums, "Latvijas Vēstnesis" (hereinafter: LV) 14.11.2001., Nr. 164.

2 See, for instance, E. Levits, *Valsts vara ir instruments, ar kuru jāprot rīkoties*, JV 17.09.2019., Nr. 37 (1095); G. Litvins, *Administratīvā procesa efektivizēšana pilnveidotu privātpersonu tiesību aizsardzību*, JV 07.11.2017., Nr. 46 (1000).

3 Pagaidu nolikums par Latvijas tiesām un tiesāšanas kārtību, "Latvijas Pagaidu Valdības Likumu un Rīkojumu Krājums" 15.07.1919., Nr. 1.

which came into effect on the same day. The said legislative act was considered to be a cornerstone of the judicial organization and operation of all courts – a constitutional document and an enabling law of the judicial system wherefrom all other legislative acts stemmed subsequently.[4]

Pursuant to the Provisional Bylaws on Latvian Courts and Litigation Procedure, the judicial system in Latvia was comprised of magistrate courts, regional courts, the Judicial Panel, and the Senate of Latvia. Alongside the Civil Cassation Department and the Criminal Cassation Department, Article 7 of the Provisional Bylaws on Latvian Courts and Litigation Procedure prescribed the creation of an Administrative Department in the Senate as well. In accordance with Article 1 of the Provisional Bylaws on Latvian Courts and Litigation Procedure, Latvian courts and the institutions associated with them were governed in their activities by those local and Russian laws that were in force in Latvia until the 24th of October 1917, whereas in the Latgale region the courts established by the Provisional Government of Russia were, for the time being, restored and the laws remained that were in effect during the rule of the Provisional Government of Russia. Thus, the adjudication of administrative cases was initially governed by the 30th of May 1917 Bylaws of Administrative Courts of the Provisional Government of Russia[5].

Courts of the newly established state of Latvia were developed in complicated circumstances aggravated by the war and lack of various resources (from judges to premises, furniture, and stationery).[6] Work on forming a panel of judges for Latvian courts began in late 1918;[7] however, a review of administrative cases before the Senate and the Riga Regional Court began only in the fall of 1919.[8] Thus, in Latvia the administrative justice system existed *de iure* almost from the inception of the state alongside the criminal and civil justice system; however, the administrative justice system was enforced *de facto* in Latvia as soon as it was possible in the then circumstances of the state.[9]

Concurrently, work was ongoing on the development of the Act on Administrative Courts. According to the annotation of Kārlis Pauļuks, Minister of Justice, to the said legislative bill, the Russian Bylaws of Administrative Courts

4 K. Veitmanis, A. Menģelsons, *Tieslietu ministrijas un tiesu vēsture. 1918–1938*, Rīga 1939, 19.lpp.

5 *Положения о судах по административным делам.* Собрание узаконений и распоряжений правительства, 1917, № 127, с. 692, [in:] Ю.Н. Старилов (Сост.), *Административная юстиция: конец XIX – начало XX века: хрестоматия*, Часть 2, Воронеж 2004, с. 354-367 , http://www.law.vsu.ru/s tructure/admlaw/perso nal/books/starilov_16.pdf, (18.10.2021).

6 See for example, V. Dāvids, *Latvijas tiesu iestādes valsts desmit gadu pastāvēšanas laikā*, "Tieslietu Ministrijas Vēstnesis" (hereinafter: TMV) 1928, Nr. 10-11, 371.-375.lpp.

7 P. Leitans, *Atmiņas par Latvijas tiesu darbības sākumu*, "Jurists" 1937, Nr. 1-2, 11.sl.

8 Ibidem, as well as K. Veitmanis, A. Menģelsons, *Tieslietu ministrijas*..., 193., 255.lpp.

9 K. Dišlers, *Latvijas administrātīvā procesa ievadjautājumi*, TMV 1936, Nr. 1, 1.lpp.

were amended and supplemented only insofar as it was necessary to adiust them to the circumstances in Latvia, as well as to expand the competence of the court. The Russian Bylaws of Administrative Courts were intended to satisfy an urgent practical need for administrative courts, due to the introduction of local governments in Russia, leaving the issue of expansion of the competencies of the court with respect to complaints appealing decisions and actions of state administrative agencies, until a later time. On the other hand, the state of Latvia was already organized enough so as not to postpone the expansion of the competencies until later. It is also emphasized in the annotation to the legislative bill that the idea of a constitutional (law-governed) state is based on the protection of the rights of its citizens before a court.[10]

On the 4th of March 1921, the Constitutional Assembly (*Satversmes sapulce* – in Latvian) adopted the Act on Administrative Courts[11]. Underlying the said legislative act were the Bylaws of Administrative Courts of 1917 of the Provisional Government of Russia. Furthermore, many articles of the Act on Administrative Courts were a translation from said bylaws of the Provisional Government of Russia.[12] In Russia itself, due to the war and subsequent revolution, the bylaws were not introduced in the end.[13] The Act on Administrative Courts was comprised of 74 articles, and they governed only the administrative procedure in the courts. The legal framework of the legislative act was not exhaustive, and the last article of the act contained a reference: if a court encounters deficiencies with respect to the litigation procedure, then it has to adjust to the provisions of the civil procedure law in regard to this legislative act (Article 74).

The act prescribed that an individual and a legal entity governed by civil law may complain (statement of claim in the modern context) to a court regarding decisions, decrees, actions, and negligence of ministers and state administrative bodies and officials (Article 3). The "decrees" are understood to be not only administrative acts but also certain legislative acts, such as binding regulations

10 Paskaidrojums pēc likuma projekta par administratīvām tiesām. Latvijas Valsts vēstures arhīvs, 1533.f., 1.apr., 2378.l., 13.lp.

11 Likums par administratīvām tiesām, "Valdības Vēstnesis" 21.03.1921., Nr. 64, 1.-2.lpp.

12 J. Kalacs, *Pārdomas par administrātīvo tiesu*, TMV 1937, Nr. 2, 318.lpp.

13 S. Osipova, *Tiesu sistēmas izveide Latvijas Republikā starpkaru posmā.* Satversmes tiesas priekšsēdētājas vietnieces Sanitas Osipovas runa Turaidas muzejrezervātā gadskārtējā konferencē 2018. gada 9. novembrī. https://www.satv.tiesa.g ov.lv/runas-un-raksti/satversmes-tiesas-priekssedetajas-vietniece-sanitas-osipovas-runa-turaidas-muzejrezervata-gadskarteja-konference, (20.10.2021); Ю. Старилов, *Административная юстиция в России до 1917 года: раз-витие теории и формирование законодательства* // Ū. Starilov, A*dministrativnaâ ûsticiâ v Rossii do 1917 goda: razvitie teorii i formirovanie zakonodate'stva*. http://comitasgentium.com/ru/doctrina/publichnoe/administrativnay_usticiya/administrativnaja-justicija-v-rossii-do-191/#_ftnref15, (20.10.2021).

of local governments.[14] The act featured several characteristics inherent in the modern administrative procedure. For example, the act prescribed that the administrative courts not verify the feasibility of decisions and decrees (second paragraph of Article 4). The act stipulated that an administrative court may, notwithstanding instructions from litigants, collect evidence, request necessary documents, interview witnesses, request an expert opinion, resolve upon review on the spot, communicate to litigants what documents they should bring (Article 37), and it should not limit itself to the evidence which the litigants referred (Article 38). Furthermore, the act stipulated that a protest or a complaint shall not suspend the enforcement of the contested decision, decree, or complaint, although the court may decide on the suspension thereof (Article 23).

Even though the title of the act did mention administrative courts, pursuant to Article 1 of the act, in administrative cases the judicial power lay with magistrates, regional courts, and the Senate. Thus, during the Interwar Period administrative justice in Latvia was arranged according to the so-called English principle; namely, a review of administrative cases was assigned to general courts (unlike the other principle of organizing the administrative justice that existed at that time – the French principle, where the review of administrative cases was assigned to special collegiate bodies which were part of the state administrative body and took part in active state administration).[15]

The Act on Administrative Courts provided for systems of three different instances: 1) complaints about parish municipal authorities and officials were reviewed before three instances – magistrates, regional courts, and the Senate (Articles 6, 56); 2) complaints about city and regional municipal authorities and officials were reviewed before two instances – regional courts and the Senate as the appellate instance (Articles 6, 56); 3) complaints about ministers as well as central authorities and their heads were reviewed by the Administrative Department of the Senate (Article 6). A novelty of this act was the fact that the Administrative Department of the Senate was no longer the sole cassation instance while it reviewed several categories of cases on their merits as the only instance.[16] In practice, the majority of cases reached the Administrative Department of the Senate in the first and last instances specifically.[17] The said system of instances or levels was a cause of severe criticism in later years as "too much of a patchwork and without logical rationale"[18]. Besides the foregoing, the Administrative Department of the Senate reviewed cases under the protestation procedure (Article 3(a)) and supervisory procedures as well.

14 K. Dišlers, *Latvijas administratīvā*..., 41.-43.lpp.

15 K. Dišlers, *Latvijas valsts varas organi un viņu funkcijas*, TMV 1925, Nr. 4, 707.lpp.

16 K. Dišlers, *Latvijas administratīvā*..., 20.lpp.

17 J. Kalacs, *Novērojumi likumā par administrativām tiesām*, TMV 1938, 966.-967.lpp.

18 K. Dišlers, *Instanču sistēma administrātīvā tiesā*, TMV 1938, Nr. 1, 137.lpp. See also V. Bukovskis, *Administrātivās tiesas reforma*, TMV 1925, Nr. 7-9, 817.-841.lpp.

Concurrently with said court levels (instances), several collegiate bodies existed based on other legislative acts (for example, the special meeting of the State Control Board, executive tax commissions of the Ministry of Finance, the executive pensions commission of the National Welfare Ministry) the main objective of which was to review complaints of private persons and decisions of which could be appealed before the Administrative Department of the Senate.[19] Professor Kārlis Dišlers was of the opinion that decisions of said institutions were not formally court rulings; however, for example, the decisions of the special meeting of the State Control Board, in their essence, were equivalent to court rulings because it was more similar to a court in terms of its organization and actions.[20] P. Strautiņš, in turn, pointed out that alongside the administrative justice introduced based on the English system, there existed special collegiate institutions organized on the basis of the French system, which had functions of an administrative court vested on the grounds of other legislative acts and which, thus, lead to a fragmentation of the administrative justice system.[21]

Quite soon after the promulgation of the Act on Administrative Courts, the first criticisms appeared in the legal press urging authorities to amend and reform the administrative justice system. Professor Vladimirs Bukovskis wrote that "our administrative court is not an outcome of Latvian law at all: a Russian legislative act from the time when Kerensky ruled has been taken, when the legislative body, undoubtedly, worked quickly but poorly, and only extremely minuscule amendments have been introduced thereto. It is a small wonder that a bad machine starts to perform poorly."[22] The professor emphasized two main problems, among other things: first of all, the clear demarcation of competence between the civil court and the administrative justice system, specifying that in individual cases the civil court and administrative justice issued diametrically opposed rulings on the same matter, and, secondly, the existing procedure of instances in administrative cases.[23] As for the system of instances, the professor proposed to introduce a three-tier court system in all administrative cases consolidating the Administrative Department of the Senate as the cassation instance.[24]

19 K. Dišlers, *Latvijas administratīvā*..., 5.lpp.
20 K. Dišlers, *Instanču sistēma*..., 145.-146.lpp.
21 P. Strautiņš, *Mūsu administrativā justīcija*, TMV 1939, Nr.1, 212.-218.lpp.
22 V. Bukovskis, *Administrātivās tiesas*..., 817.lpp.
23 Ibidem, 818.-835.lpp.
24 Ibidem, 828.-835.lpp. For critical remarks on the law on administrative courts, see also: J. Kalacs, *Piezīmes pie likuma par administrātīvām tiesām*, TMV 1936, Nr. 1, 164.-166.lpp.; Fr. Zilbers, *Pie jautājuma par administratīvo sodīšanu un administratīvām tiesām*, TMV 1937, Nr. 1, 145.-153.lpp.; J. Kalacs, *Pārdomas par*..., 318.-325.lpp.; J. Kalacs, *Novērojumi likumā*..., 964.-976.lpp.

In the summer of 1938, news appeared in the press that on the 15th of July a discussion was held under the auspices of Hermanis Apsītis, Ministers of Justice, on the main principles of a legislative act to be drafted, governing the administrative courts. Jānis Kalacs, Chairman of the Administrative Department; Fricis Zilbers, Chief Prosecutor of the Senate; Senator Rūdolfs Alksnis, Professor Kārlis Dišlers, and Aleksandrs Meņģelsons, Head of the Judicial Department, took part in the discussion. It was resolved that a new legislative act would be drafted, because the old one was allegedly outdated. At the same time, it was emphasized that the administrative courts, in general, had great significance in consolidating the awareness of law and proper functioning of the state administrative body, because it was possible to achieve satisfaction through a court in every case when the state or municipal authorities or their officials, in their actions and decisions, had allowed for unlawful or wrongful actions. Representatives of the Administrative Department of the Senate (similar to today[25]) had appreciated that in recent years decisions of the authorities had become more balanced and better reasoned. The most important matter that was discussed was the issue of establishing instances of the administrative courts. It was concluded in this regard that only one instance was necessary – the Senate, which would review all matters only from the point of view of legality, whereas the adjudication of matters on their merits would remain in the competence of the state or municipal supervisory authorities.[26]

On the 11th of February 1938[27] and the 5th of October of 1939,[28] amendments were made to the Act on Administrative Courts. They comprised the most urgent and nondeferrable modifications, leaving the principal amendments until a later time.[29]

In May 1940, the Ministry of Justice completed the work on a new legislative bill on the administrative procedure which remained unadopted. The legislative bill stipulated several crucial changes in comparison with the Act on Administrative Courts of 1921; for example, the new act prescribed an authority for enforcing the administrative procedure either, whereas the judicial

25 "From today's perspective, those administrative acts that the court had to evaluate in the early stages of its functioning are incomparable with those administrative acts that are currently issued. The currently issued administrative acts are more balanced and better reasoned." V. Krūmiņa, *Administratīvais process – pirmsākumi, attīstība un tendences*, JV 07.11.2017., Nr. 46 (1000).

26 See, for instance, Izstrādā likumu par administrātīvām tiesām, "Jaunākās Ziņas" 16.07.1938., Nr. 157; Būs jauns likums par administrātīvām tiesām, "Dzelzceļnieks" 01.08.1938., Nr. 15, 12.lpp.

27 Pārgrozījumi un papildinājumi likumā par administratīvām tiesām, "Likumu un Ministru kabineta noteikumu krājums" (hereinafter: LMKnotK) 25.02.1938., Nr. 5, 111.-112.lpp.

28 Pārgrozijumi un papildinājumi Likumā par administrativām tiesām, LMKnotK 14.10.1939., Nr. 26, 503.-504.lpp.

29 Tieslietu ministra paskaidrojums pie pārgrozījumiem un papildinājumiem likumā par administrātīvām tiesām, TMV 1938, Nr. 2, 529.lpp.

power over administrative cases would belong to a single court only – the Administrative Department of the Senate, which, save for certain cases, would adjudicate complaints under a cassation procedure without verifying the case in its substance.[30]

2. After Restoration of Independence

To understand the situation with the administrative procedure that Latvia was in right after the restoration of independence, it is necessary to give at least a brief insight into the notion of administrative procedure during the Soviet period. As the former State President Egils Levits (2019–2023) has aptly described, "after the restoration of independence, the legal system of Latvia was the Soviet legal system, albeit, slightly cracked, and these cracks were obvious in light of Mikhail Gorbachev's reforms already"[31]. For the administrative procedure, the issue was both the absence of a relevant legal framework and a lack of understanding of the administrative procedure. Lawyers educated in the Soviet legal space found it hard to understand the notion of the administrative procedure because human rights were of a declarative nature, and the overpowering idea was that the state administration could wrong in principle.[32] Both in the corridors of power and among the general public there was a common view that the administrative law and cases of administrative violations are the same.

On the 18th of June 1988, amendments were made to the Civil Procedure Code of the Soviet Socialist Republic of Latvia, based on the Act of the Union of Soviet Socialist Republics on the Procedure for Appealing Unlawful Actions of Officials whereby Civil Rights are Infringed before a Court.[33] Article 239[1] of the new Civil Procedure Code provided for the right of persons to appeal actions of officials before a court, whereas amendments made to the article on the 1st of March 1990 provided for the right to appeal unlawful actions of state administrative bodies as well.[34] It was a novelty that marked the road to a state ruled by law.[35] However, it was only the first small step towards an administrative procedure congruent with a law-governed state, because only a small part of the decisions of the state administration was subjected to judicial

30 V.V., *Likumprojekts par administrativo procesu*, TMV 1940, Nr. 4, 715.-723.lpp.

31 E. Levits, *Latvijas tiesību attīstība kopš 1990.gada – no padomju sistēmas uz modernu Eiropas Savienības dalībvalsts tiesību sistēmu*, "Augstākās Tiesas Biļetens" 2018, Nr. 17, 56.lpp.

32 D. Gailīte, *Administratīvais process – pirmie desmit*, JV 04.02.2014., Nr. 5 (807), 2.lpp.

33 T. Jundzis, *Tiesību reformas tautas atmodas periodā (1986–1990)*, [in:] *Latvijas tiesību vēsture (1914–2000)*, ed. D.A. Lēbers, Rīga 2000, 445.lpp.

34 Ibidem.

35 Ibidem.

control, and the proceedings were conducted pursuant to the general provisions of the civil procedure, including the principle of adversarial proceedings. The abovementioned lack of understanding about the necessity and essence of the administrative procedure in itself was also prevalent..

Thus, upon restoring the independence of Latvia, the introduction of an administrative procedure was one of the required legal reforms. The purpose of the legal reform was to pull the state out of the swamp of political and legal customs of the Soviet occupation regime and to restore the legal system of Latvia to the Western European space of political and legal culture.[36] Upon comparing the situation Latvia was in after the proclamation and restoration of its independence, one must agree with the assessment of Egils Levits "that even the legal system of Tzarist Russia and subsequently, for a brief moment after the February Revolution of 1917, the legal system of democratic Russia were more compatible with the new political system of Latvia as an independent and democratic state than the Soviet system"[37].

Egils Levits, a politician at the time, played a significant role in the development of the administrative procedure in Latvia and made a huge effort after the restoration of the independence of Latvia to promote among politicians and lawyers of Latvia the idea of the need for an administrative procedure that the Soviet legal system was oblivious about.[38] During the period between 1992 and 1994, Egils Levits drafted a legislative bill concerning the administrative procedure and submitted it to the government three times; the bill, even though it did not gain understanding and support among government officials, was partially transformed at a later time into Cabinet of Ministers Regulation No 154 "Rules of Procedure of Administrative Acts" adopted in 1995[39].[40] This was the first legal framework establishing an administrative procedure according to the standards of a state governed by law.[41] Conversely, in the court, cases that were triggered by relationships governed by administrative law were still reviewed based on the general principles and rules of the civil procedure subject to certain exemptions and supplements, which were stipulated in Chapters 22-25 of the Civil Procedure Code of Latvia.[42]

36 E. Levits, *Valsts vara*...

37 E. Levits, *Latvijas tiesību*..., 822.lpp.

38 Administratīvā procesa izveide Latvijā: no idejas līdz likumam un administratīvajām tiesām, JV 04.02.2014., Nr. 5 (807).

39 Ministru kabineta 13.06.1995. noteikumi Nr. 154 "Administratīvo aktu procesa noteikumi", LV 04.07.1995., Nr. 100 (383).

40 Administratīvā procesa izveide...

41 Par Administratīvā procesa likumu. Administratīvā procesa likuma izstrādes darba grupas ziņojums Ministru kabineta 1997.gada 15.jūlija sēdē, LV 22.07.1997., Nr. 186 (910).

42 N. Salenieks, *Par administratīvo procesu tiesā*, JV 19.03.1998., Nr. 10/11 (78/79).

Concurrently with the concept of the Administrative Procedure Act developed by Egils Levits, another concept of a legislative bill was proposed, the author of which and head of the working party of the draft bill of the Administrative Procedure Act was Dr. Iur. Jānis Načisčionis.[43] The working party intended to compile an extensive legal framework in the legislative bill including an internal procedure of the state administration and litigation of administrative violations;[44] however, the then minister of justice preferred the concept developed by Egils Levits. A new working party was established in 1996 to develop the Administrative Procedure Act, which worked on it right until 2001, when the legislative act was adopted. The working party was led by Arvīds Dravnieks, and it also involved Egils Levits, Veronika Krūmiņa, Normunds Salenieks, Jautrīte Briede, Uldis Pētersons, Ilmārs Bišers, whereas Dace Mita and Gunta Višņakova worked on it in Parliament (Saeima). Several of them became administrative court judges after the establishment of the administrative courts.

An important source that provides insight into the challenges posed by the said period and the intentions of the administrative procedure is a report of the working party presented at the meeting of the Cabinet of Ministers on the 15th of July 1997.[45] In the report, it is stated, among other things, that the previous inherited practice of the administrative procedure in Latvia is crucially different from the practice of administrative procedure in a state ruled by law; most of the fundamental principles of the administrative procedure are disregarded in the everyday routine of the authorities and courts altogether or applied inconsistently, whereas parts of these fundamental principles are not known at all.[46] Having evaluated possible advantages and drawbacks, the working party agreed on a concept of developing a legislative bill that would encompass both the administrative procedure before an authority and a court. If the section of the legislative bill concerning the administrative procedure at the authority was, to a certain extent, based on the Cabinet of Ministers Regulation No 154, then

43 Administratīvā procesa izveide...

44 R. Balodis, A. Kārkliņa, E. Danovskis, *Latvijas konstitucionālo un administratīvo tiesību attīstība pēc neatkarības atjaunošanas*, "Latvijas Universitātes Žurnāls "Juridiskā zinātne" 2012, Nr. 3, 57.lpp.; A. Dravnieks, *Administratīvais process Latvijas Republikā divdesmitajā gadā pēc tiesiskās iekārtas atjaunošanas*, [in:] *Administratīvā procesa likums*, 5. izd., Rīga 2012, VII–VIIIlpp., 3.atsauce. For more on this concept, see J. Načiščionis, *Konceptuāli par Administratīvā procesa likuma projekta struktūru*, JV 06.12.1996., Nr. 27 (41).

45 Par Administratīvā procesa likumu... See also all publications in JV 19.03.1998. Nr. 10/11 (78/79); A. Dravnieks, *Ir likuma projekts, par valsts un indivīda attiecībām*, JV 13.02.2001., Nr. 3 (196); A. Dravnieks, *Kurš tad īsti lobē administratīvo procesu*, JV 20.11.2001., Nr. 36 (229); V. Krūmiņa, *Ievads Latvijas Republikas Satversmes VI nodaļas komentāram: tiesu varas evolūcijas Latvijā*, 21.-22. lpp. http://tzpi.lu.lv/files/2014/08/Ievads_6_V_Krumina.pdf, (01.11.2021).

46 Par Administratīvā procesa likumu...

the section concerning the administrative procedure at the court was developed anew, based on the legal framework governing the civil procedure and modifying it according to the specifics of administrative judicial procedure. As regards the institutional model of the administrative justice, either the establishment of specialized administrative courts or integration of the administrative justice within courts of general jurisdiction was considered alongside the establishment of committees of appeal or tribunals for various categories of cases, similarly to the United Kingdom. In the end, preference was given to an autonomous administrative district and administrative regional court, as well as the Department of Administrative Cases under the Senate.[47]

The Administrative Procedure Act was adopted on the 25th of October 2001; however, it came into effect on the 1st of February 2004, concurrently with the launching of the administrative courts. In order to remedy the abovementioned issue of application of the law contrary to the principles of a democratic state ruled by law, special selection and training of administrative judges were conducted. The development of the administrative courts marked a crucial turning point not only in the history of the Latvian judicial system but in the entire legal system: the administrative courts considerably changed the mode of operations (modus operandi) of the state administration, as they created a completely different understanding of legality and human rights.[48] The most essential problems that the administrative courts faced at the start were a lack of judges in courts of lower instances and an unpredicted overwhelmingly huge number of cases that led to comparatively long timeframes of adjudication. In order to resolve the issue of such an overload of administrative courts, court houses of the Administrative District Court were created in provinces in 2009, retaining a single administrative court of the first level (instance).

The Administrative Procedure Act has been amended eight times. In five out of those eight amendments, a legal framework has been added that had a profound effect on the development of the administrative procedure in terms of its concept.[49] The amendments were introduced with the involvement of administrative judges and their input concerning existing deficiencies and possibilities of improvements to the law was invaluable. The latest amendments to the Administrative Procedure Act concern the introduction of an e-case.

47 Administratīvā procesa izveide...; V. Krūmiņa, *Administratīvo tiesu pirmie pieci gadi*. https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiTo83_2uDwAhXR_ioKHcwPD_YQFjAAegQIAxAD&url=http%3A%2F%2Fat.gov.lv%2Ffiles%2Fuploads%2Ffiles%2Fdocs_en%2Fconferences%2Fadm5gadi%2Fv_krumina.doc&usg=AOvVaw0xckiVPumWEZrdmj_f-K9_, (20.10.2021).

48 E. Levits, *Valsts vara*...

49 V. Krūmiņa, *Administratīvais process*...

Finally, nowadays, similarly to the Interwar Period, administrative cases of certain categories are being reviewed by one, two, or three levels (instances) of court; furthermore, at present there are various combinations of the procedure for appeal (review of a case only before a district court, only before a regional court, or only before the Senate; review of a case before a district court and the Senate; or review of a case before a regional court and the Senate). There are certain categories of cases which are reviewed on their merits by the Senate as the sole court instance.[50] The opinion of Professor Vladimirs Bukovskis is supported by what he wrote in 1925 that the Senate is poorly equipped to review a case on its merits.[51] To this end, the argument that only the Senate is competent enough and has sufficient authority for cases of certain categories does not hold water. Vladimirs Bukovskis has already given a retort to the said argument as well: if courts of lower instances are given jurisdiction over civil cases even if a dispute would be about millions, there is no reason to deviate from this principle in the administrative procedure either.[52]

Conclusion

1. Until the present, there have been two legislative acts promulgated by the Latvian legislator in independent Latvia: the 1921 Act on Administrative Courts, and the Administrative Procedure Act before. In the first instance, upon the twentieth anniversary approaching, a new legislative bill was developed because the legislative act in force at the time was recognized to be outdated and excessively deficient. Whereas, in the second instance, the current Administrative Procedure Act is highly praised in general. Possibly, the reasons for the difference can be sought in the fact that the Act on Administrative Courts adopted in 1921 was borrowed from another state with insignificant modifications, whereas the currently Administrative Procedure Act was developed specifically for the situation in Latvia, taking into account the best examples of that time, placing also much emphasis on the selection and education of judges.

2. The common grounds of the Interwar Period and our time are the understanding of the need for the administrative justice system and the administrative procedure in a democratic state ruled by law; however, there is no continuity between the Act on Administrative Courts of 1921 and the legislative bill on the administrative procedure developed in 1940 and the currently effective Administrative Procedure Act. During over five decades

50 Piemēram, tā dēvētās vēlēšanu lietas atbilstoši Saeimas vēlēšanu likuma (LV 06.06.1995., Nr. 86) 54.panta pirmajai daļai.

51 V. Bukovskis, *Administrātivās tiesas*..., 829.lpp.

52 Ibidem, 830.lpp.

between these periods, the relationships to be governed by the administrative law and the institutional system of the state administration had changed along with significant developments in the understanding of human rights and the administrative procedure.

3. The administrative justice system faced its challenges in each of these periods – initially, they were organizational, related to creating a panel of judges, the creation of permanent case law on principal matters, and, finally, cultivation thereof in nuances. The legal relationships governed by administrative law nowadays have become ever more complicated, whereas the legal framework applicable – ever more layered. However, the challenge to apply the legal framework governing the procedure in view of the role of the administrative court in a democratic state ruled by the law remains the same, along with the fact that compliance with standards of procedure is not an aim in itself, it is aimed at the accomplishment of specific objectives. Both in the Interwar Period and nowadays, administrative justice in Latvia has ensured respect for the fundamental principles of a democratic state governed by the rule of law in certain relations between the state and private individuals. Administrative justice thus plays an important role in safeguarding the values of a democratic and law-governed state.

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Summary

Genesis of Administrative Justice and Administrative Procedure in Latvia

The administrative justice system and the administrative procedure is an indispensable part of a democratic state governed by law. This conclusion has been an underlying concept in introduction of the administrative justice and the administrative procedure in Latvia both during the Interwar Period and after the restoration of independence. Until the present, there have been two legislative acts promulgated by Latvian legislators in independent Latvia: the 1921 Act on Administrative Courts, and the currently effective Administrative Procedure Act. In the first instance, upon the twentieth anniversary approaching, a new legislative bill was developed already because the then effective legislative act was recognized to be outdated and excessively deficient. Whereas, in the second instance, the currently effective Administrative Procedure Act is highly appraised in general. The reasons for the difference can be sought in the fact that the Act on Administrative Courts adopted in 1921 was borrowed from another state with insignificant modifications, whereas the currently effective Administrative Procedure Act was developed specifically for the situation in Latvia taking into account the best examples of that time, placing also much emphasis on the selection and education of judges. During the Interwar Period, the administrative justice system was organized in Latvia differently from the present one: during the Interwar Period, the administrative justice was integrated into the system of courts of general jurisdiction, whereas nowadays there are autonomous administrative courts – the Administrative District Court and the Administrative Regional Court, as well as the Department of Administrative Cases under the Senate. An arguable similarity, conversely, can be found in the fact that during the Interwar Period there existed, just like there exists nowadays, various procedures of appeal in administrative cases (review of a case in one, two, or three court instances); furthermore, in addition to the foregoing, various combination of the procedure of appeal exist now. The administrative justice system has faced its challenges in each of these periods – initially, they were organizational, related to creating a panel of judges, the creation of permanent case law on principal matters, and, finally, cultivation thereof in nuances. The legal relationships governed by administrative law nowadays have become ever more complicated, whereas the legal framework applicable – ever more layered. However, the challenge to apply the legal framework governing the procedure in view of the role of the administrative court in a democratic state ruled by the law remains the same, along with the fact that compliance with standards of procedure is not an aim in itself, it is aimed at the accomplishment of specific objectives.