

Challenges in Defining the Elements of a Normative Administrative Legal Act

Kakha Kurashvili

Faculty of Law, Caucasus International University, Tbilisi, Georgia

(Presented by Academy Member Shengeli Pitskhelauri)

Abstract. Legal Science, as a discipline that studies the essence of the legal order and its development, interprets laws and analyzes legal practice carried out both by courts and by administrative authorities. One of the important functions of Legal Science is the analysis of doctrine and the advancement of new viewpoints aimed at regulating social relations within specific legal frameworks. Based on the foregoing, it may be concluded that one of the most essential functions of Law is regulation. Social relations are subject to constant change, which is associated with political and socio-economic transformations occurring within the state, while law serves as an effective regulator of social relations. As a social phenomenon built upon an economic foundation, law being oriented toward changes in the social order, is likewise dynamic. The novelty of the research lies in refining, for the purpose of systematic interpretation, of the formulation of specific provisions of legislative acts of a complex nature by introducing the element of “regulation” into the legal definitions of a normative act and a normative administrative legal act. This approach aims to render these concepts formally and legally coherent, thereby facilitating their subsequent reflection in academic literature. © 2026 Bull. Georg. Natl. Acad. Sci.

Keywords: normative, act, concept, element, regulation

Introduction

Law consists of legal norms, which represent the initial elements of the legal system (T. Alpaidze, 2008). A legal norm is a rule of conduct established or sanctioned by a State, the observance and enforcement of which is ensured through State coercion. Legal norms are contained in legal acts and, considering their normative character, may exist in the form of legislative normative acts or subordinate normative acts, the general procedure for the adoption and issuance of which is determined by the Organic Law (Constitution of Georgia, 1995). A legal act may also exist in the form of either a

normative act or an individual act (Organic Law of Georgia on “Normative Acts”, 2009).

The Organic Law of Georgia on Normative Acts defines the concepts of normative and individual acts, according to which: “A normative act is a legal act adopted (issued) by an authorized State or Municipality body (official) under the legislation of Georgia. It contains general rules for its constant or temporary and multiple application. An individual legal act is intended for one-time application and it should comply with a normative act. An individual legal act is adopted (issued) only on the basis and within the scope of a normative act” (Organic Law

of Georgia on “Normative Acts”, 2009). As can be seen, in both of the aforementioned cases, the element of “regulation” is absent from the legal definitions, which is the focus of the given study.

Discussion and Results

Lawmaking activity, as a general rule, constitutes the work of the State’s legislative authorities. At the same time, in states where power is distributed, legislative authority may be delegated to the executive branch in accordance with the principles of democracy (Punder, 2009). Dividing lawmaking activity between the legislative and executive authorities is expedient for ensuring comprehensive legal regulation in all spheres of public life (Turava & Tskepladze, 2010). Considering the multiplicity and dynamic variability of the sphere of governance, the lawmaking activities of state administrative bodies provide regulation of all types of social relations (Kaplunov, 2000).

2. In the functioning of administrative bodies, their daily activities are regulated by the provisions of the General Administrative Code of Georgia. Meanwhile, the Law of Georgia on Normative Acts, originally adopted in 1996, ensured that the lawmaking processes in the country were subject to a unified legal regulatory framework. Against the backdrop of democratic developments in the country, changes in the functions of administrative bodies and their orientation toward the protection of human rights brought the issue of amending these legislative acts to the forefront. Accordingly, a new edition of the Organic Law of Georgia on Normative Acts was adopted in 2009 and came into full force on January 1, 2011.

According to legal experts, it would have been possible to consolidate the above-mentioned legislative acts into a single law – the “Organic Law of Georgia on Legal Acts” – in order to simplify the normative regulation process; however, at this stage, the proposal was rejected. Consequently, when applying specific regulations to legal acts or discussing particular issues, it is necessary to

reference the relevant provisions of both legislative acts – the Organic Law of Georgia on Normative Acts and the General Administrative Code of Georgia – and, in some cases, to coordinate them with each other subsequently (Abashvili, 2010).

Doctrine on the legal forms of activity, in order to better convey the individual forms of activity, uses general models and concepts to offer the administrative body as the flexible instrument for resolving specific issues. The system of activity instruments is based on the objectives of public administration rather than on the legal forms of activity. Alongside the material content defined by the norm, the formal element – the legal forms of activity – creates significant legal boundaries, ensuring a uniform process conducted on the principle of equality. The system of legal forms of activity is grounded in the legal consequences associated with these forms, as well as in the objectives and functions of public administration, thereby enabling the administrative body to achieve its intended goals (Khubua & Kalichava, 2018).

According to doctrinal approaches regarding the legal forms of public administration activity, the understanding of the modern social-legal State alters the role of a State and emphasizes its special function of ensuring public welfare. This leads to the transformation of the state’s administrative-legal instruments for maintaining order into instruments for ensuring welfare. The decisive factor is the governance objective, framed in the form of state tasks. Accordingly, the current distinctions among legal forms, such as administrative acts, administrative contracts and other informal forms of governance are shifting toward classification, based on the purpose of the tasks. At this stage, it is not feasible to abandon the systematization of existing legal forms and replace them with new forms of task of execution that reflect the diversity of state functions. One perspective focuses on the function of the legal forms of activity, which depends solely on the function assigned to a legal form of activity, regardless of its content. However, this

approach does not allow for a clear differentiation among the forms. Evaluating legal forms of activity according to the field regulated by law highlights the dominant position of administrative acts in administrative law practice (Khubua & Kalichava, 2018).

The procedures for the adoption and implementation of subordinate acts by state or municipal bodies/institutions, public legal entities (excluding political and religious associations), as well as any other person exercising public-law powers under the legislation of Georgia, are determined by the General Administrative Code of Georgia. Among the acts defined by the General Administrative Code of Georgia, our focus is on the elements of the concept of a normative administrative legal act; whereas among the acts defined by the Organic Law of Georgia on Normative Acts, our focus is on the elements of the concept of a normative act.

According to the General Administrative Code of Georgia: “An individual legal act is an act issued by an administrative body under the administrative law establishing, modifying, terminating, or confirming the rights and obligations of a person or limited group of persons. Normative administrative act is a legal act issued by an authorized administrative body under a legislative act that includes a general code of conduct for permanent, temporary or multiple applications” (General Administrative Code of Georgia, 1999).

According to this definition, for an action carried out by an administrative body in a specific case to be considered as an individual administrative-legal act, it should formally and legally contain the elements of the concept: 1. Administrative body; 2. Basis in administrative legislation; 3. Individual legal act; Regulation (Kurashvili, 2019).

As for the normative administrative-legal act, it is issued by the executive authority on the basis of delegated powers. The scope of this legal form of activity is limited to those subjects, who have been endowed with such authority by the legislator. A normative administrative-legal act is a legal form of

activity of an administrative body, issued on the basis of law and for its implementation, directed toward an indefinite circle of persons and establishing a general rule of conduct for repeated application (Turava et al., 2020). What distinguishes a normative administrative-legal act from an individual administrative-legal act is its general and abstract character. A normative administrative-legal act sets a general rule of conduct directed, at the time of issuance, toward an indeterminate number of participants in an indeterminate variety of relations (Khubua & Kalichava, 2018), and formally and legally contains the elements of the concept: 1. Administrative body; 2. Basis in administrative legislation; 3. General rule of conduct.

An authorized administrative body is defined by the law that endows it with the power to issue such an act. The right to engage in administrative lawmaking is a key element of this body’s competence, since a primary function of the executive authority is both law enforcement and normative activity, which serves the purpose of implementing legislative acts. Accordingly, the normative acts of an executive body are considered in compliance with subordinate acts (Turava, 2020).

The general legal grounds for the authority to issue a normative administrative-legal act are established in the Constitution of Georgia, the Organic Law of Georgia on Normative Acts, and the General Administrative Code of Georgia. The content, purpose, and scope of the authority to issue a normative administrative-legal act are defined in the same legislative act on the basis of which the normative administrative-legal act is issued. This framework serves the purpose of enabling the administrative body to act within the will of the legislator and to implement it effectively (Turava, 2020).

The conceptual element – general rule of conduct distinguishes a normative administrative-legal act from an individual administrative-legal act. This act establishes a general rule of conduct directed, at the time of its issuance, toward an inde-

terminate number of participants in an indeterminate variety of relations (Turava, 2020).

The analysis clearly shows that the elements of the concept of an individual administrative-legal act defined by the General Administrative Code of Georgia convey, in a more specific and precise manner, the requirements for the elements of an individual administrative-legal act as understood under the Organic Law of Georgia on Normative Acts, thereby clarifying the definition. It is noteworthy that the conceptual elements of the definition of a normative administrative-legal act, should be considered as the general legal grounds for the authority to issue the act. Specifically, while the element defined by the General Administrative Code of Georgia implies norm-creating activity based on delegated powers, the Organic Law of Georgia on Normative Acts also encompasses legislative activity carried out by the highest legislative bodies of the state. Special emphasis demands the virtue of the conceptual elements, both legislative acts (the General Administrative Code and the Organic Law on Normative Acts) formally and legally recognizing the existence of three elements.

Based on the objectives of this article, it should be noted that a legal norm, whether normative or individual, functionally includes the element of regulation, which constitutes its very purpose of existence. This is an indisputable fact, supported both in academic literature and in legislative acts: for example, “a normative administrative-legal act is a legal form of activity of an administrative body, which is of a regulatory nature” (Turava & Tskepladze, 2010); or “the draft of a normative act must be sent to the administrative bodies, whose authority includes the regulation of the legal relationship provided for by this normative act or part thereof” (On Amendments to the Organic Law of Georgia “On Normative Acts”, 2009); or “on the basis of a claim by the Public Defender, disputes concerning the normative act regulating a referendum or elections, and the referendum or elections conducted based on this norm, are reviewed for compliance with the Constitu-

tion” (Constitution of Georgia, 1995). However, in academic literature, the definition of the concept generally includes only the three elements mentioned above, which is essentially conditioned by the legislative definition of a normative administrative-legal act.

In this regard, the reasoning of the Administrative Chamber of the Supreme Court of Georgia is also noteworthy: “A normative act is an instrument available to an administrative body for the exercise of governance, issued in accordance with the law, on its basis and for its implementation. Accordingly, a normative act represents a regulatory framework of legal relations that can be applied alongside legislation. The necessity of issuing a normative act arises from the need to reflect and specify the rights, obligations, and standards established by law in subordinate acts, which in turn facilitates the implementation and enforcement of the law”. Case N-BS1403 (K-18).

Conclusion

Considering all the above-mentioned, from the perspective of formal-legal correctness, it is advisable to introduce “regulation” as a defining element in the concept of a normative administrative-legal act, regardless of the authority for its adoption/issuance. Accordingly, it is recommended to add a fourth element: regulation – to the definition both in the General Administrative Code of Georgia and in the Organic Law of Georgia on Normative Acts: a general rule of conduct established by an administrative body, unilateral, mandatory and strictly defined, aimed at ensuring legal regulation. This element of the concept of a normative administrative-legal act describes its nature as a measure directed toward the legal regulation of social relations, i.e., it establishes, modifies, terminates, or confirms the legal status of a person. Accordingly, based on legislative definitions, the elements of the concept of a normative administrative-legal act should be defined as follows: 1. Administrative body; 2. Basis in administrative legislation; 3. General rule of conduct; 4. Regulation.

სამართალი

ნორმატიული ადმინისტრაციულ-სამართლებრივი აქტის ცნების ელემენტების განმარტების პრობლემატიკა

კახა ყურაშვილი

კავკასიის საერთაშორისო უნივერსიტეტი, სამართლის ფაკულტეტი, თბილისი, საქართველო

(წარმოდგენილია აკადემიის წევრის შენგელი ფიცხელაურის მიერ)

სამართლის მეცნიერება, როგორც მართლწესრიგის არსის და მისი განვითარების შემსწავლელი მეცნიერება, განმარტავს კანონებს და აანალიზებს როგორც სასამართლოს, ისე მმართველობის ორგანოების მიერ წარმოებულ იურიდიულ პრაქტიკას. სამართლის მეცნიერების ერთ-ერთი მნიშვნელოვანი ფუნქციაა მოძღვრების ანალიზი და ახალი მოსაზრებების წამოყენება, რომელიც მიზნად ისახავს გარკვეული სამართლებრივი ჩარჩოებით მოაწესრიგოს საზოგადოებრივი ურთიერთობები. აღნიშნულიდან გამომდინარე შეიძლება დავასკვნათ, რომ სამართლის უმნიშვნელოვანეს ფუნქციას წარმოადგენს მოწესრიგება. საზოგადოებრივი ურთიერთობები მუდმივად ცვალებადია, რაც დაკავშირებულია სახელმწიფოს შიგნით მიმდინარე პოლიტიკურ და სოციალურ-ეკონომიკურ ცვლილებებთან, ხოლო სამართალი წარმოადგენს საზოგადოებრივი ურთიერთობის ეფექტურ რეგულატორს. როგორც ეკონომიკურ ბაზისზე დაშენებული სოციალური მოვლენა, საზოგადოებრივი წესრიგის ცვლილებებზე ორიენტირებული სამართალიც ცვალებადია. კვლევის სიახლეა, სისტემური განმარტების მიზნით, დაიხვეწოს კომპლექსური ხასიათის საკანონმდებლო აქტების კონკრეტული ნორმების ფორმულირება – ნორმატიული აქტის და ნორმატიული ადმინისტრაციულ-სამართლებრივი აქტის ლეგალურ დეფინიციებში „მოწესრიგების“ ელემენტის შემოტანის გზით, რაც ფორმალურ-სამართლებრივად გამართულს გახდის ამ ცნებებს და შემდგომში ასახავს პოვნებს სამეცნიერო ლიტერატურაში.

REFERENCES

- Abashvili, Z. (2010). *Adgilobrivi tvitmmartvelobis normatiuli aktebi* [Normative acts of local self-government] (pp. 7-8).
- Alpaidze, T. (2008). *Shesavali samartalmtsodneobashi* [Introduction to jurisprudence] (p. 186). LLC "Poligraf Tbilisi." ISBN 978-9941-0-0816-0.
https://dspace.nplg.gov.ge/bitstream/1234/114148/5/Shesavali_Samartalmcodneobashi_2008_Gateqstebuli.pdf
- Kaplunov, A. I. (2000). *Administrativnoe pravo (obshchaia chast') : uchebnoe posobie* [Administrative law (general part): A textbook] (V. P. Salnikov, Ed.; topic 13, p. 134). St. Petersburg.
- Khubua, G., & Kalichava, K. (Eds.). (2018). *Administratsiuli metsnierebis sakhelmdzghvanelo* [Textbook of administrative science] (4, 278-279, 279-281, 260). Institute of Administrative Sciences, TSU, Tbilisi.
- Kurashvili, K. (2019). *Politsiis preventsiuli da administratsiul samartaldarghvevaze reagirebis ghonisdziebis samartlebrivi pormeis gamijvna* [Differentiation of the legal forms of preventive police measures and measures responding to administrative offenses] (p. 96) Doct. Thesis. Caucasus International University, Tbilisi.
- Punder, H. (2009). Democratic legitimation of delegated legislation—A comparative view on the American, British, and German law. *International & Comparative Law Quarterly*, 58(2), 353-378.
<https://www.cambridge.org/core/journals/international-and-comparative-law-quarterly/article/abs/democratic-legitimation-of-delegated-legislation-a-comparative-view-on-the-american-british-and-german-law/2648DC7E8992B8B0C350FA3718B8BF71>
- Sakartvelos konstitutsia* [Constitution of Georgia]. (1995). Art. 4, art. 60.
<https://matsne.gov.ge/ka/document/view/30346?publication=36>
- Sakartvelos organuli kanoni "Normatiuli aktebis shesakheb"* [Organic Law of Georgia "On Normative Acts"]. (2009). Art. 2, art. 19, para. 4. <https://matsne.gov.ge/ka/document/view/90052?publication=42>
- Sakartvelos uzenaesi sasamartlos administratsiul sakmeta palatis 2019 tslis 5 tebervlis ganchineba, sakme N BS-1403(K-18)* [Ruling of the Chamber of Administrative Cases of the Supreme Court of Georgia, February 5, 2019, Case No. BS-1403(K-18)]. <https://www.supremecourt.ge/ka/fullcase/25479/0>
- Sakartvelos zogadi administratsiuli kodeksi* [General Administrative Code of Georgia]. (1999). Art. 2, paras. "d" and "e." <https://matsne.gov.ge/document/view/16270?publication=45>
- Turava, P. (2020). *Zogadi administratsiuli samartali* [General administrative law] (3rd ed., pp. 187, 188, 188). Iuristebis Samkaro, Tbilisi.
- Turava, P., Pirtskhalashvili, A., & Kardava, E. (2020). *Administratsiuli tsarmoeba sajaro samsakhurshi* [Administrative proceedings in public service] (p. 120). GIZ, Tbilisi.
- Turava, P., & Tskepladze, N. (2010). *Zogadi administratsiuli samartlis sakhelmdzghvanelo* [General administrative law textbook] (pp. 83, 260). Sezani, Tbilisi.

Received March, 2026