

## **Importance and Characteristics of Administrative Documents**

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**Abstract:** This article analyzes the specific features of the administrative document. The characteristics of the administrative document, its entry into force, types, and other aspects different from other documents are analyzed.

In this article, we will talk about the importance and uniqueness of the administrative document. As usual, when talking about the importance and uniqueness of an administrative document, we cover this topic using the information provided in scientific sources. Any form of administrative document has the nature of legality, that is, they are adopted by competent state bodies based on the Constitution and laws and for the purpose of their implementation. Administrative documents, different from other documents, have the following characteristics.

- 1) administrative documents are the expression of the will of the legal authority of the subjects of state power, that is, state bodies or enterprises and institutions that are considered subjects of administrative law. These documents are one of the important means of implementing the goals and functions set by the state for state bodies, and are the main form of execution and issuing of orders. Administrative documents are legally binding documents adopted by subjects of state power in the course of daily and direct management of economic, socio-cultural, administrative and political spheres of the country.
- 2) administrative documents - may be accepted by the executive authority or other competent administrative body of the state.
- 3) administrative documents - have the nature of imperativeness and obligation to the addressee (that is, to which person) and the relevant will of one party (the subject of administrative law) is expressed in them;
- 4) administrative documents - have the character of establishing and regulating rules of conduct, a certain procedure;
- 5) administrative documents - serve as a legal basis for the creation, change and annulment of administrative-legal relations. Therefore, administrative documents are documents issued by an authorized body with legal force, and are a document of unilateral expression of rights by the relevant subject of administrative law (executive authority body, enterprise and institution administration, official). They are documents that have the form specified in the legislation and are aimed at establishing administrative-legal norms and establishing, changing and canceling administrative-legal relations in order to ensure the implementation of tasks and functions in the sphere of the state assigned to administrative bodies.

Administrative documents are a form of written documents prepared and accepted based on the rules established by the above bodies for the implementation of the tasks and functions of the administrative bodies of the state. These administrative documents are essentially the result of the planned and intended actions of the state administrative bodies. An administrative document is accepted by an authorized administrative body (state body, official) within the scope of competence. Administrative document - is accepted unilaterally, that is, by a special body or official who participates in public legal relations<sup>1</sup>. Subjects to whom an administrative document is addressed cannot influence the action of the subject expressing the will of the state. At the same time, the persons or organizations to whom the administrative document is directed may try to determine its validity and legality (for example, by considering the case in court). An administrative document may be considered in a judicial or administrative procedure and found to be contrary to the law<sup>2</sup>.

An administrative document expresses the will of an administrative body authorized by the state, and the powers of the state body are expressed in it. The manifestation of an administrative document is explained by the interests of the state and society, and it is aimed at regulating specific relations, establishing universally binding rules, as well as resolving conflicts that arise in the process of management.

Administrative document - defines mandatory rules of behavior (behavior) in a specific field, legal norms or regulates specific public relations. Defines the scope of exemplary behavior of the subjects in a specific area of the state. It creates a legal basis for the creation, change or annulment of administrative-legal relations or serves as a legal fact in the direct creation, change or annulment of such relations. The legality of administrative documents, i.e., their compliance with the law or legality, is one of the important signs.

Administrative document is a type of legally significant document used in the course of the activities of the administrative bodies (officials) of the state, and does not imply the expression of the unilateral will of the authorities and has legal significance, a reference, summary, report, inspection document, inventory, inspection it is shown through the documents.

It should be taken into account that the administrative document will have a special form and a special procedure for acceptance (approval). Usually, they are accepted in written form, following the established process, i.e. the procedure of project preparation, agreement, discussion, examination, approval, registration and announcement. Administrative documents are usually accepted in written form. But the administrative document can be in oral form. For example, an administrative document in oral form can be used in management relations in the military sphere or in service relations between a leader and an employee directly subordinate to him. An administrative document is not limited only to the field of management. Social relations (for example, financial, labor, environmental) that are the subject of other branches of law are also regulated through an administrative document. The administrative document resolves many issues in order to further clarify legal documents.

Another main feature of administrative documents is their legal significance, that is:

first of all - an administrative document - appears as legal facts, serves as a factual basis for the creation, change or annulment of legal relations, for giving a new color to the legal status of legal subjects (for example, an appointment order in German law - creates the legal status of a civil servant brings<sup>3</sup>);

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<sup>1</sup> Wilfried Erbguth, Annette Guckelberger: Allgemeines Verwaltungsrecht mit Verwaltungsprozess- und Staatshaftungsrecht. 10. Auflage. Nomos, Baden-Baden 2020, ISBN 978-3-8487-6097-8, § 13 Rn. 7.

<sup>2</sup> Dörte Herrmann: Aus dem Leben eines Verwaltungsakts. In: Zeitschrift für das Juristische Studium 2011, S. 25

<sup>3</sup> Annette Guckelberger: Anhörungsfehler bei Verwaltungsakten. In: Juristische Schulung 2011, S.

secondly, an administrative document establishes, changes and cancels legal norms, uniformly regulates relations involving a wide range of individuals, determines the management procedure, the possibility of applying administrative coercive measures, normative or individual documents of management regulate the behavior of one or another subject -regulates the character, by giving him rights or by imposing specific obligations, or by establishing both;

thirdly, the administrative document appears as evidence in a certain legal process (for example, in the consideration of civil, administrative or criminal cases by the courts);

fourthly, the administrative document serves in the implementation of one or other actions, as well as in the implementation of other legal documents or in the implementation of the rights and freedoms of individuals and legal entities. For example, the decision on the state registration of a legal entity enables this person to participate in various civil-legal or administrative-legal relations;

fifth - administrative document legal instruments, including; timely implementation of state policy in the field of administrative law, carrying out administrative reforms, achieving goals in state administration, implementing the functioning of executive authorities, officials, state and local employees; appears as a means of protecting the rights and freedoms of citizens. The characteristics of the administrative document determine its essence and legal nature, as well as the main directions of its impact on social relations.

In addition, it has a number of functions, just as administrative documents have their own characteristics. Functions of an administrative document - it has an effect on the regulation of public relations, ensures the achievement of the set goal and fulfillment of tasks in public legal relations. When adopting an administrative document, the norms established in it affect the state administration itself. Depending on the nature of such influence, the following functions of administrative documents can be indicated:

First, the function of providing public interests. Norms of administrative law are established, first of all, in order to express, protect and ensure public interests. Administrative documents, as the main form of management, are aimed at realizing the interests of the whole society, its social groups, the state and citizens. When adopting an administrative document, executive authorities rely primarily on the interests of citizens, society and the state. In other words, the management process (the process of adoption and execution of management documents) is initiated in order to ensure public interests;

Secondly, the function of material and legal regulation. The administrative document establishes specific relationships based on legislation and gives individual (single) subjects the opportunity to choose specific opportunities and rules of behavior based on the situation. An administrative document serves to achieve a certain result by implementing or supporting specific norms of legal documents;

Thirdly, management-procedural function. The set of procedural actions related to the adoption of administrative documents is the preparation, adoption, state registration, and publication of administrative documents and, in particular, regulatory legal documents, organizing the process of receiving administrative documents. and the procedure for its implementation is clearly established;

Fourth, the playback function. This function of administrative documents ensures the activity of state administration by establishing management actions and the procedure for their implementation;

Fifth, the administrative-procedural function (in the sense of judicial review of illegal actions and decisions). When talking about this function, first of all, the function of protection is meant, that is, the theory of modern administrative law assumes that any administrative document that

violates rights and legal interests can be reviewed in court. Where there is an opportunity to accept an administrative document, it must be possible to review this document in court. The administrative document fulfills this function and creates the ground for administrative justice (administrative trial), which is considered an important legal tool for eliminating deficiencies in the creation of administrative law.

The requirements for administrative documents are also unique. The main condition of administrative documents is their compliance with the legal content of legal documents and the requirements for their adoption. Based on these requirements, the administrative document must be adopted in accordance with the law. The following are the requirements for administrative documents.

- 1) the administrative document must not contradict the Constitution and laws;
- 2) taking into account the division of activity and powers among subjects of state bodies;
- 3) taking into account administrative documents issued by higher state bodies;
- 4) acceptance of administrative documents by the relevant state body (official);
- 5) it must be legally based, that is, it must clearly indicate the basis of the purpose of adopting an administrative document and the legal consequences arising from them;
- 6) that it cannot limit or violate the competence and operational independence of subordinate bodies in the system of administrative bodies;
- 7) that administrative bodies cannot limit or violate the rights and legal interests of citizens and non-governmental organizations established by legislation in all spheres of interaction;
- 8) administrative documents must be adopted in accordance with the established rules (processes) and there are other similar requirements. Administrative documents must be accepted taking into account the documents of higher executive authorities.

The main requirement for administrative documents is their compliance with state policy. Administrative documents should implement state policy, economy, socio-cultural construction, expansion of foreign political and economic relations with foreign countries, and strengthening of the state's defense capabilities in the daily life of the state and society. Based on the principle of legality, administrative documents must meet the following requirements:

- a) must be accepted within the competence given to him by the authorized body;
- b) not only should not contradict legal documents, but also should not harm the rights and legal interests of the state, its bodies, public associations and citizens;
- c) must be accepted in a prescribed manner, and in some cases, in a form established by law or a higher authority;
- d) must be adopted to solve the relevant issue stipulated by the law or other normative document.

The above cases are information about the specific features of administrative documents written on the basis of our scientific sources and their importance. Now, it would be appropriate if we focus on the information given in the scientific sources of foreign countries about the specific features and importance of administrative documents. For this purpose, on pages 38-39 of the book "Ejegodnik publichnogo prava administrativnogo akt" the uniqueness and importance of the administrative document is discussed<sup>4</sup>. According to him, the distinctive features of the documents are as follows:

- Individuality;

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<sup>4</sup> Ежегодник публичного права 2016: Административный акт. – М.: Инфотропик Медиа. 2015 – С. 38-39.

- The fact that it has an external effect, that is, it does not have an interdepartmental nature;
- Brings legal consequences, that is, it is said to cause consequences such as changing, terminating and limiting the rights and obligations of the applicant. This book goes into the definition of each of the given symbols.

To make a general conclusion, an Administrative document should always have an individually defined feature. This characteristic distinguishes an administrative document from a legal norm, which is also one of the forms of public administration activity in the field of public law, aimed at regulating a single case, but aimed at an unknown part of individuals, and therefore an abstract type of regulation (for example: banning demonstrations, road signs installation). These examples use an abstract sentence because they do not say which person is being addressed. If we are talking about the regulation of a specific situation, the addressee is a certain person or an individually identified person, by issuing an administrative document, as a rule, the administrative body requires a certain person to perform some action, allows or prohibits.

An administrative document is a document that establishes the rights and obligations of citizens and legal subjects that are not included in the scope of inter-departmental relations. That is, as a result of the departmental measures taken, it creates a legal consequence that determines, changes or cancels the rights and obligations of the applicant. The direct effect symbol serves to separate the net internal effect. For example, an official always remains a part of public administration, regardless of whether his status is affected or changed by any administrative action. A document defining an obligation to an individual includes a requirement to fulfill an obligation in a narrow sense. An administrative document constituting a right gives the addressee a legal status that did not exist before the administrative document was issued (for example, a permit, license, etc.). A distinctive feature of an administrative document that forms a right is that the desired action enters into force immediately after its announcement and does not require mandatory execution.

Administrative documents resolving disputed legal relations are inevitably aimed at achieving a legal result, or rather, resolving a disputed issue in such a way that it can no longer be the subject of a dispute. At the same time, the main focus is not on the facts or circumstances arising from several factual circumstances of the case, but on the resolution of conflicting legal relations. This type of administrative document does not require execution and will not need it. Because the legal consequences come with the issuance of the administrative document whenever it is issued. Regulatory administrative documents grant rights to individuals or create other conditions that improve their legal status. Of course, it is not for nothing that the administrative document occupies a special place in administrative law. If the administrative document is against the law, the addressee who has been harmed by its legal consequences upon the issuance of the administrative document may apply to the court to protect his rights. But the role of the administrative body in the informal activities cannot be ignored. Because in the era of globalization, the tasks of public administration are becoming more complicated. Existing legal forms are not sufficient for this. The content of the administrative document can be expanded or limited by additional rules. Additional rules are an indispensable tool in the practice of state administration, aimed at embodying the special features of administrative documents. For example, the validity of an administrative document may depend on a certain period or condition. In addition, as an additional rule, additional obligations may be imposed on the content of the administrative document.

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