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CONSTITUTIONAL-JUDICIAL CONTROL OF ADMINISTRATION THROUGH CONSTITUTIONAL COMPLAINT WITH REVIEW OF THE JUDICIAL SYSTEM OF BOSNIA AND HERZEGOVINA

Summary

In comparison to many other countries in which all legal documents and/or substantive actions of administrative bodies can be the subject of constitutional complaint, in the law of Bosnia and Herzegovina, only individual legal documents of judicial authority may be the subject of dispute through appeal which embodies general characteristic of the constitutional complaint. Appeal is not permitted against individual documents or actions of other state organs, thus administrative bodies as well.

However, control of constitutionality of administrative documents by the Constitutional court is possible indirectly: through appellate questioning of substantive and legal issues of the legally binding administrative-judicial decision which determined legality of final administrative decision. Decision rendered by the court replacing certain administrative decision may also be the subject of appeal, provided that such administrative decision has breached constitutional rights and freedoms. As a rule, should the Constitutional court of BiH, within its procedure initiated with submission of appeal, decide that there has been a breach of constitutional rights and freedoms in the judicial decision which ended the respective administrative dispute, not only administrative-judicial decisions (judgements and decisions) are revoked, but often are individual legal documents of the state and republic/cantonal administrative bodies revoked as well.

Likewise, should the substantive document, i.e. administrative action, constitute the breach of constitutional rights and freedoms of citizens and such citizens use all available effective legal remedies against such document or decision, appeal may be submitted directly disputing certain document or actions of state body. Should, in specific case, there be no effective legal remedies available to citizens, appeal may be used to directly dispute administrative actions.

Key words: constitutional complaint, administrative document, administrative actions, constitutional rights and freedoms, appeal, Constitutional court of Bosnia and Herzegovina.

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