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THEORY AND PRACTICAL PROBLEMS OF ADMINISTRATIVE COURT PROCEEDINGS ON ADMINISTRATIVE LEGAL DISPUTES IN THE REPUBLIC OF AZERBAIJAN

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ABSTRACT OF A THESIS

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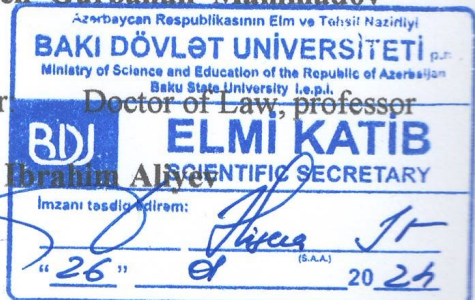
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GENERAL CHARACTERISTICS OF THE THESIS

The relevance of the topic and the degree of elaboration.

Mutual relations between the citizen and the government, the state and its institutions have always attracted the attention of mankind as a problem. H. Grotius, B. Spinoza, J. J. Rousseau, I. Kant, D. Diderot and many other thinkers analyzed numerous facts about the arbitrariness of state power and set forth opinions about the importance of limiting it, and put forward important theoretical provisions of teachings about the legal state. B. Spinoza, who was one of the first to determine the theoretical foundations of the democratic state, wrote: "*The state will be strong when it guarantees every citizen not only his life, but also his interests*".¹The representatives of progressive theories about the origin of the state saw in its existence general welfare (H. Grotius), general security (Hobbes), general freedom (J.J. Russo). I. Kant considered the state to be a group of people subject to legal laws and wrote that a state that does not follow legal laws may lose its credibility.

The state carries out its control function by precisely determining the limits of behavior of both citizens and state bodies and civil servants, through the law, which is a necessary tool of state administration. The law that performs the control function in the regulation of socio-political processes and management relations ensures the legal activity of the state apparatus by creating a certain legal framework for the powers of the administrators over the governed.

It should be noted that "state-citizen relations" with a centuries-old history, being an important institution of political and legal thought, is one of the fundamental foundations of the legal state. The ability of citizens to influence the political authorities was recognized as one of the important criteria that helps to form their trust in the state. Democracy, respect for human rights and freedoms are necessary conditions for the establishment of a legal state. And the formation of real mechanisms for the protection of the rights, freedoms and interests of citizens, general (public) interest, and the formation of a complete legislative system are defined as one of its strategic tasks.

¹ Khrapanyuk V.N. State and Legal Theory. Baku: Ganun, 2007, p. 45

After the Republic of Azerbaijan regained its state independence, the further development of society required the implementation of reforms in the field of law, the formation of a legal and judicial system based on completely new progressive and democratic values, and the legislative base. The first national Constitution developed under the leadership of national leader Heydar Aliyev, valued human and civil rights and freedoms as the highest value, reflected the guiding principles of their legal protection and defined their protection as the duty of legislative, executive and judicial authorities. Chapter 3 entitled "Basic human and civil rights and freedoms" of the Constitution defined the content of each of the rights and freedoms that belong to people from the moment of birth, as well as the mechanism of their guarantee and protection. It has been established that disputes arising from the violation of human and civil rights and freedoms are decided by the courts.

Courts perform one of the main functions of the state in supporting public order and peace in society, ensuring the rule of law, and reliable resolution of disputes. In modern time, reforms carried out in the field of ensuring and protecting human rights and freedoms, including the adoption of new legislative acts, improvement of the existing legislation, creation of a new judicial system, determination of uniform rules of procedure of administrative bodies, judicial control over the activity of administrative bodies, adaptation of the rights protection mechanism and national legislation to the international standards of the European legal space, occupy an important place among the reforms carried out in the country.

The presence of highly organized administrative court proceedings, which ensures the rights and freedoms of citizens and legal entities, is characterized as one of the important features of the legal state. It is a legal defense tool aimed at ensuring that administrative bodies operate within the framework of the law.

Currently, the reforms implemented in the country are based on modern ideas about the establishment of relations between the state and society, administrative bodies and citizens. Accordingly, the reform measures revealed the need for a new approach to "citizen-state" relations, elimination of social discontent, and

determination of new solutions for the legal and efficient functioning of administrative bodies. Administrative court proceedings were formed as one of the independent types of court proceedings. It has established itself as an important driving force for the formation of the mechanism of responsibility of administrative bodies and rules of administrative behavior. For this reason, in the research work, the accountability mechanism, which begins with the legal expression of public condemnation and is accompanied by the influence mechanism in the form of the judiciary, is considered as an important guarantee mechanism of legality, objectivity and efficiency in the activity of administrative bodies.

One of the points that determines the relevance of the topic is the fact that in modern times, administrative court proceedings are in the stage of formation as an independent form of court proceedings in our republic, and administrative-procedural legislation is a dynamic area of the national legislative system that is being formed. Thus, the existence of certain problems in the process of organization and implementation of administrative court proceedings and the need to search for progressive methods for their elimination also testifies to the relevance of the research topic.

Although individual aspects of the institution of administrative judicial proceedings on administrative legal disputes are studied by specialists of the former Soviet Union and foreign countries, the topic has not been comprehensively studied in our national legal science from a theoretical and practical point of view. On the one hand, this can be explained by the lack of administrative court proceedings and administrative procedural legislation, the structure and content of administrative law in the former Soviet Union, which our country was a part of for a long time, and on the other hand, the fact that the national legislation in this area is quite new.

As it is known, it could be said that there were no scientific works related to the administrative process until the 60s of the 20th century, in the Soviet Union, where our republic was subordinated. The exclusion of the administrative process and administrative court proceedings from the attention of the legislator and scientific studies was due to the legal doctrine of that time. General administrative law

was repressive for the state in order to be able to take measures against its citizens. The Soviet legal doctrine did not accept the responsibility of the state towards individuals, proceeding from legal thinking, which is completely far from the idea of a legal state. Therefore, although the concepts of "administrative law" and "administrative responsibility" formally existed, they had no ideological and political basis for real development. For this reason, the conducted scientific researches were episodic in character and dedicated only to the study of certain aspects of the problem. However, the importance of these studies as an important source of the political-legal opinion and administrative legislation of that period cannot be denied. In connection with this, the theoretical basis of the research work was formed by the local and foreign scientific literature of the modern period, as well as scientific works belonging to the Soviet era. The essence, content, features, functions, etc. of administrative court proceedings, the works of many local and foreign experts who have the same opinion, as well as conflicting opinions, were analyzed, and full information about the process, structure, and a number of other important issues of the formation of the theoretical history of administrative court proceedings was obtained in the research process.

A comprehensive study of the topic serves to reveal the scientific provisions of great theoretical and practical importance, first of all, such as the formation of a real enforcement mechanism for the implementation, protection and defense of human rights and freedoms, ensuring the principles of conflict, impartiality and legality, effectively combating violations of law, corruption and procrastination in the activities of administrative bodies. The main provisions of the administrative legal doctrine formed under the influence of the Council of Europe were also analyzed, the principles of the administrative process in international practice, types of administrative claims, etc. has been investigated in the research process.

The nature, content and role of administrative court proceedings in the legal state, features, modern models and development trends, as well as aspects of procedural legislation in this area and directions for improvement were comprehensively analyzed in the dissertation research.

The dissertation research examines the institution which is a discussed topic in the historical aspect, and analyzes its characteristics, structure, functions, normative base, principles, models, and also the current experience of foreign countries in this field. Attempts are made to determine the development prospects of the legislation by examining the judicial experience in this field.

During the study of the thesis topic the following lawyers' scientific works were adressed: Turkish lawyers G.M.Metin, H.N.Yashar, Y.T.Yasin, O.I.Ustun, T.B.Yıldırım, T.I.Turgut, R.N.Çaghlayan, T.B.Balta, A.E.Akyazan, O.E.Karahanoghulları, A.Sh.Gozubuyuk, lawyers of CIS countries L.A.Nikolayev, S.N.Makhina, D.N.Bakhrakh, A.K.Solavyova, Y.N.Starilov, A.N.Tunina, Y.A.Tikhomirov, N.Y.Khamaneva, A.B.Zelentsov, E.B.Luparyov, A.A.Dyomin, I.V.Panova, European lawyers R.Qneyst, A.V.Dicey, H.W.R. Wade, P.P.Craig, S.A.De Smith, R.Brazier, P.F.Benoit, F.F.Ridley, T.R.S.Allan, A.W.Robson and so on.

The object and subject of the research. The object of the research work includes the republican legislation on administrative court proceedings, court experience, current theoretical and practical problems in this field, social relations arising in connection with the organization and activity of administrative court proceedings and also normative acts and administrative-procedural legislation regulating these relations. Due to the fact that the republican legislation in the indicated area is still in the formative stage, the administrative court proceedings act as the object of the research work. Because any problem that arises in the process of organization and operation of administrative court proceedings first of all requires the improvement of its legal mechanism and the correct definition of development prospects.

The subject of the research involves a comprehensive scientific analysis of the theoretical and practical problems, characteristics, elements, development trends and perspectives of the administrative court proceedings in the Republic of Azerbaijan, as well as a comparative analysis of the administrative court proceedings models that exist in the modern era.

Goals and objectives of the research. The main goal of the research work involves the comprehensive study of the nature, facilities, place and role of administrative court proceedings, which is one of the complex institutions of administrative law and process, its place and role in the modern legal state and the national legal system, and the problematic issues of its legal regulation and formulation of its conceptual theoretical and practical bases, as well as providing proposals and recommendations aimed at determining the directions of development of the republican legislation in this field.

For this purpose, it is important to fully investigate the potential of administrative court proceedings, the ways of turning them into an effective means of judicial control, their functions in the legal state, and uncovering the contradictions and gaps in the legal regulation mechanism.

To achieve the goal of the research work, the following tasks were set:

- defining the concept, essence, functions and connection of the modern legal state of administrative court proceedings;
- analysis of the role of administrative court proceedings as an institution of judicial control and a set of legal-procedural tools in the unified application of the rules of administrative proceedings in the country, in the formation of a positive relationship between the administrative body and the citizen, and in the formation of public trust in the activity of administrative bodies;
- defining the different and similar aspects of administrative court proceedings from administrative justice;
- study of modern concepts, models and elements of administrative court proceedings;
- investigation of the characteristics of the evolution and modernization process of administrative court proceedings, which is one of the important attributes of the legal state in the process of globalization and integration into the European legal space;
- determining the potential of administrative court proceedings in the fight against corruption, ensuring the rule of law, and preventing social conflicts;

- examining the place and role of administrative court proceedings in the structure of the administrative process;
- study of the subject of administrative court proceedings, legal construction of administrative legal dispute;
- investigation of development features of administrative court proceedings in foreign countries, etc.

It should be noted that the specified tasks of the research serve to develop scientific arguments and justify the relevant theoretical propositions, as well as to determine the development prospects of the republican legislation for the improvement of the legal regulation mechanism by uncovering problematic issues.

The research methods. During the research of the dissertation, from general legal methods - systematic analysis, generalization of normative, scientific and practical materials, historical approach; from special scientific methods - comparative jurisprudence, statistical analysis typical for logical and non-legal sciences, etc. methods were used.

The main provisions for the thesis defence are the following:

1. Modern administrative law demonstrates the tendency of a deeper study of the means of ensuring the rights and freedoms of Man and citizen, their protection against arbitrariness of executive authorities in the process of activity of administrative bodies. These features testify to the fact that at present the new administrative law is based on the principles of the legal state and is aimed at ensuring the supremacy of law in relations between the state and The Citizen. It is from this point of view that administrative legal proceedings constitute one of the most pressing issues currently included in the topical subject of administrative law.

2. Judicial control, which is the most effective way to ensure the legal activities of administrative bodies in a legal state, not only protects citizens from their arbitrariness, but, accordingly, encourages them to refrain from behavior contrary to public interest. Administrative legal proceedings are a necessary attribute of the modern legal state, capable of ensuring the legal elimination of legal collusions arising both in the field of ensuring the rights and freedoms of citizens and in the field of

judicial control over the legality of administrative acts. Through this branch of legal proceedings, the state guarantees the protection of the rights and interests of the citizen from unreasonable interference by the authorities. Judicial control over the activities of administrative bodies is conditioned by the resolution of a dispute, which is the specific purpose of the administration of Justice. This means that judicial control over the activities of administrative bodies is embodied in the restoration of violated rights and interests of citizens.

3. Administrative process is a special type of legal process, it is manifested in judicial review, which is carried out to resolve administrative legal disputes through administrative legal proceedings, regulated by administrative procedural norms. Its procedural and legal basis is the administration of justice for administrative disputes. The main goal of the administrative process is the restoration of violated rights and interests of participants in administrative legal relations. The decision made by the court to resolve an administrative dispute in the administrative process performs legal, political, ideological, social and economic functions. By its decision, the court resolves the socio-legal conflict between the citizen and the administrative body, ensures the rights and interests of the subjects of law protected by law. It also carries out law enforcement function, law improvement function by eliminating gaps in the legislation in force. Apart from these, the judicial act also acts as a legal fact for individual legal regulation, the emergence, change or termination of legal relations.

4. In order to avoid negative phenomena such as subjectivity, arbitrariness, procrastination in the activities of administrative bodies, administrative legal proceedings carry a number of tasks aimed at strengthening legality and discipline in the activities of administrative bodies, ensuring transparency and thereby preventing social conflicts in society. These tasks of administrative legal proceedings, conditioned by the essence of the legal state, are carried out in the administrative process through the following main functions: administration of Justice; restoration of violated rights, freedoms and personal and public (general) interests protected by law and control over the activities of administrative bodies; legal and

psychological impact on administrative bodies and enterprises to which administrative functions are entrusted; assignment of the duty of proof to administrative bodies in order to compensate for inequality in the procedural status of the parties to the dispute; assistance to the participants in the process by the court in eliminating formal errors in the claims filed, clarifying unclear claims, replacing false claims with appropriate ones, completing incomplete factual information, as well as providing explanations that are important in terms of identifying and evaluating the circumstances of the case; strengthening legality and discipline in the field of Public Administration, ensuring the; elimination of collusions between legal norms; interpretation of administrative legal norms; protection of national interests; prevention of corruption; formation of ethical rules of administrative behavior, etc.

5. In order to eliminate existing shortcomings in the legal regulation of administrative proceedings, as well as to ensure its development as an independent branch of legal proceedings, it is necessary to carry out appropriate reforms both at the level of constitutional legislation and administrative procedural legislation. First of all, it must find its fixation as an independent branch of legal proceedings at the level of constitutional legislation. Then it would be appropriate to develop a scientific concept of administrative court proceedings, to provide a more professional approach.

6. In order to eliminate the dependence of the IPC of the AR on civil procedural provisions, the legal regulation of this branch of legal proceedings should be carried out as much as possible within the structure of the code itself, while the reference norms should be minimized. The text of the IPC of the AR contains the tasks and scope of application of the legislator on administrative proceedings, the basic concepts, tasks of administrative proceedings, the concept of administrative disputes, the rules of relevance and protocol, deadlines, the legal status of persons participating in the case and other participants in the process, etc. the concepts should be defined and its structure revised.

7. Although the concept of "means of defense" is used in the current administrative procedural legislation, neither the concept nor

the system of these means has been defined. In our opinion, the concept and system of these means should be determined and this system should include: cancellation or amendment of an administrative act; imposition of an appropriate obligation on the administrative authority in connection with the adoption of an administrative act; restoration of subjective rights and freedoms; payment of compensation for damage; coercion to fulfill the required obligation (duty).; imposition of an obligation to eliminate the consequences of execution, etc.

8. Although the legislation in force provided for the suspension of the execution of an administrative act, it did not provide for the possibility of a complaint against it. In our opinion, it is necessary to eliminate this circumstance. Because, when we say "equality" in legal proceedings, it is primarily explained as contentious legal proceedings. This principle is necessary so that it manifests itself at each stage of the process, in relation to each procedural action, that the parties have equal opportunities. The fact that the parties have equal opportunities in the proceedings implies that they also have equal rights and obligations in the proceedings. In order to suspend the execution of the act as a temporary measure of Defense, the plaintiff expresses his procedural position in his appeal to the court. In terms of ensuring that the parties have equal opportunities in the process and that the defense measures do not lead to violations of the rights and freedoms of other persons, in our opinion, the defendant's opportunity to appeal against the suspension of the execution of the administrative act should also be envisaged.

9. When formulating the concept of an administrative dispute, it would be appropriate to cover disputes arising not only from administrative legal relations, but also from general legal relations. This is because an administrative Act issued by administrative authorities in the order of administrative proceedings is a measure taken in order to regulate or resolve certain (specific) issues related not only to administrative legal relations, but to the general (public) legal sphere. An administrative-legal dispute is a material-procedural administrative legal relationship between an administrative body and an individual, characterized by the presence of contradictions arising from a conflict of

interests protected by law, violation of rights. We believe that a unified theoretical and methodological approach to the concept of an administrative dispute should be formed. Disputes arising from the acts of not only the administrative bodies defined in the classification, but also enterprises that adopt acts of common interest, in some cases having an administrative function, should be considered as administrative disputes. The formation of a unified theoretical and methodological approach to the concept of an administrative dispute can serve to improve the mechanism of legal regulation of subjective rights and legally protected interests, including public ones.

10. Interests protected by law act as the driving force of people's activities, their specific attitude to the reality surrounding them, an attempt to master some subject and make it suitable for satisfying their needs. We believe that the following characteristics are inherent in the interests that are violated or are supposed to be violated, which are the basis for initiating administrative proceedings: these interests must be protected by law; these interests can be both material and moral in nature; violation of these interests must have a direct or indirect effect on the plaintiff.

11. It would be appropriate to expand the subject of an administrative legal dispute and to relate the following issues to its subject: subjective rights, duties and freedoms; personal interests protected by law and common interests arising from public demand; legality of administrative acts; expediency of administrative acts; adoption of administrative acts within the limits of the authority of administrative bodies; adoption of administrative acts; property claim related to the resolution of administrative disputes; request for payment of compensation for damage caused, etc.

12. The fact that the legislation provides for a direct appeal to the Administrative Court for the resolution of an administrative dispute leads to a prolongation of the resolution of the dispute, an increase in the moral and psychological tension of the plaintiff, and an aggravation of the workload of the courts. It may be more expedient for the courts to act in the consideration of administrative disputes not as a primary, but as a second instance. In our opinion, in the mechanism of legal regulation of administrative proceedings, as a

mechanism for pre-trial settlement of a dispute, the provision of an objection to the administrative body itself, which adopted the administrative act, can be significant both in terms of flexible resolution of the dispute and in terms of reducing the workload of the courts. An alternative defense mechanism can be considered as a system based not only on the multiplicity of means of defense, but also on their effectiveness and functionality, allowing a quicker and more prompt resolution of the dispute, reducing the workload of administrative courts, acting as a possibility of transition from non-procedural means of Defense to procedural means of Defense.

13. The scope of belonging of administrative courts should be expanded, it is allowed to remove an administrative claim from the decisions and actions of any body that can adopt an act on public service. It would be appropriate to apply the "universal" (general) rules of relevance in our republic, which have proven themselves in international practice.

14. It would be appropriate to include the article "parties" in the IPC of the AR and determine the content of the article as follows: the plaintiff and defendant act as parties in the administrative process. Citizens of the Republic of Azerbaijan, foreigners and stateless persons may be claimants in an administrative case. The administrative body acts as a defendant in the administrative process.

15. It is necessary to make certain changes in the structure of the IPC of the Republic of Azerbaijan in order to form a mechanism of Legal Regulation characterized by a more compact, systematic and logical integrity. We propose to define the structure of IPC of the Republic of Azerbaijan in the following two sections: the first section should be called "general rules" and include: general rules, basic concepts (legislation on administrative proceedings, its duties and force, administrative dispute, administrative claim, administrative process, administrative proceedings, administrative action, etc.); duties and basic principles of administrative proceedings; procedural deadlines (rules for determining and applying, calculation, expiration, omission, suspension and restoration); the composition of the court, judicial relevance and its

types; persons participating in an administrative case and other participants in the process; evidence and proof, etc.

The second section, entitled "types and rules for the implementation of legal proceedings on administrative cases", may cover the following issues: types of administrative claim proceedings; procedure for filing an administrative claim; procedure for content of an administrative claim and making additions to it; Procedure for suspending and terminating proceedings on the case; procedure for securing a claim; measures to satisfy a claim (defense; proceedings on appeal, Cassation complaints and proceedings in connection with newly opened cases; execution of a court decision.

The scientific novelty of the study is determined by the fact that it is the first monographic research work dedicated to the comprehensive study of the theoretical and practical problems of administrative court proceedings on administrative legal disputes in the Republic of Azerbaijan and the determination of the development prospects of the related legislation.

On the basis of a complex analysis of theoretical sources and empirical materials on the subject of the dissertation, many concepts and results are presented as innovation or an element of innovation, and new rules for solving a number of issues of important empirical-theoretical importance are proposed. By studying the legal content, characteristics, elements of administrative court proceedings, as well as its main models existing in international practice, a number of theoretical provisions that can enrich the methodological base of the subject are presented for defense.

In order to determine the important role of the studied mechanism in the modern legal state, its potential was thoroughly investigated in the research work, and then was characterized as a protection and control mechanism in the legal state, as well as a mechanism of responsibility of administrative bodies.

In the research process, the development perspectives of administrative procedural legislation were determined by studying national legislation and international norms, court practice and judicial generalization on administrative court proceedings.

The theoretical and practical importance of the research is determined by the fact that the terms and definitions obtained as a result of the research can be used in developing of the scientific concept of administrative court proceedings. The theoretical results put forward in the dissertation work can enrich the methodological base of administrative court proceedings, and can be used in the preparation of methodological tools for pedagogical activity, in conducting scientific research, as well as in the process of teaching "Administrative process" and "Administrative law" subjects. In the research work, the concepts given to the administrative court proceedings, its important elements, as well as the defined classification criteria, the scope of the subject, etc. may be included in the administrative procedural legislation as a definitive norm in the future.

The data obtained in the dissertation as a result of the comparative analysis of the experience of foreign countries can act as a theoretical source about the main features of progressive models when determining the development perspectives of administrative court proceedings.

The obtained results, the suggested proposals can serve to determine the main directions of reform measures for the transformation of administrative court proceedings into a democratic mechanism with real control potential, to improve administrative procedural legislation and court practice, to eliminate gaps in the legislation, and to ensure a perfect court proceedings mechanism.

Approbation and application of the research The main provisions, conclusions and practical recommendations of the dissertation were reflected in the journals, in the materials of the scientific-practical conferences held at the national and international level.

The name of the institution where the dissertation work was performed. The dissertation work was performed at the "State and legal theory, civil law and civil process" department of the Institute of Philosophy and Law of Azerbaijan National Academy of Sciences.

The structure of the Dissertation work. The dissertation consists of an introduction, 10 (ten) paragraphs including four

chapters, a conclusion and a list of used literature. Excluding the list of used literature, the total volume of the dissertation consists of 514929 (five hundred fourteen thousand nine hundred twenty-nine) characters without spaces. The volume of separate structural units of the dissertation is as follows:

- Title page - 321 (three hundred twenty one) signs;
- Contents - 1306 (one thousand three hundred six) signs;
- Introduction - 20210 (twenty thousand two hundred and ten) signs;
- Chapter one - 89688 (eighty nine thousand six hundred eighty eight) signs;
- Chapter two - 80608 (eighty thousand six hundred eight) signs;
- Chapter three - 122455 (one hundred twenty-two thousand four hundred fifty-five) signs;
- Chapter four -160183 (one hundred sixty thousand one hundred eighty three) signs;
- Conclusion- 40527 (forty thousand five hundred twenty seven) signs.

CONTENT OF THE DISSERTATION WORK

Introduction substantiates the relevance of the selected topic, highlights its scientific development level, determines the goals and objectives of the research, formulates the main propositions put forward for defence of the thesis, and explains the theoretical and empirical significance of the work.

The first chapter of the dissertation entitled "**Theoretical-legal problems of administrative court proceedings in a modern legal state**" consists of two paragraphs. The first paragraph of this chapter entitled "**The concept, nature and organic connection of administrative court proceedings with the legal state: scientific-theoretical problems**" states that as a result of the change of the social and political structure, the nature of the state, the need for administrative reforms arose, which conditioned the establishment of a new judicial and legal system adequate to the current socio-

economic conditions. One of the main directions of administrative and judicial reforms is to change the relations between state bodies and civil society, to create appropriate legal influence mechanisms to replace the "administrative state concept" with the "legal state concept", and to reflect the global thought to reconsider the role of the state in the life of modern society.

According to the author, the development of any field of law, including administrative law, is related to the increase in the number and complexity of the tasks set before it by the development characteristics of social life and the era. Since only theoretical and empirical legal studies are not sufficient for the effective resolution of legal conflicts arising in society, the relations between the state and civil society, the study of fundamental problems and the determination of provisions and forecasts related to the improvement of legal mechanisms are important. One of such fundamental issues is the connection between the rule of law and administrative court proceedings.

The applicant considers that as a form of ensuring the functioning of the legal state administrative court proceedings can be analyzed from two aspects: 1) as a set of legal-procedural means aimed at protecting citizens' subjective general rights, freedoms and interests protected by law through the consideration and resolution of administrative legal disputes in specialized courts; 2) as an institution of judicial control over general administration, rulemaking and law enforcement activities.

Currently, the legislation of the republic provides several mechanisms for the protection of the rights of citizens from the illegal administrative act and action (inaction) of the administrative body that has the power of authority (for example, the administrative complaint institute, the ombudsman institute, etc.), one of which is administrative court proceedings. Establishing in legislation the mechanism of judicial protection of the rights and interests of citizens against the illegal actions and decisions of administrative bodies is an important factor in the development of the legal state.

The researcher distinguishes the following main features of judicial control over the activity of administrative bodies based on the analysis of the current legislation and numerous scientific opinions: 1)

such judicial control is carried out by independent judicial bodies that are neither organizationally nor functionally dependent on the controlled object; 2) acting as an independent, mutually balancing branch of power through such judicial control, the judicial power acts as a guarantee of legality and abuse of power in the activities of administrative bodies; 3) such judicial control is carried out within the framework of the judicial process and is regulated by the norms of administrative procedural law; 4) judicial and administrative bodies act as mandatory participants in the special type of procedural relations that arise in the process of implementing such judicial control; 5) administrative legal dispute is the basis of such judicial control; 6) this type of judicial control has a dual purpose: ensuring the protection of the rights and interests protected by law of natural and legal persons and preventing arbitrariness in the activity of the administrative body in order to protect public interests.

The author states that increasing the number of administrative courts, expanding the administrative court system, and informing the public about the role of administrative court proceedings in civil society can also contribute positively to the improvement of administrative court proceedings.

According to the applicant, the jurisdiction of the administrative courts should be expanded, it should be allowed to file an administrative lawsuit against the decisions and inactions of any institution that can adopt an act related to public service.

Enhancing the legal culture of citizens, implementing educational measures that provide for the explanation of the laws that define the rights, the possibility of appeal to the court and the procedure for those whose rights or legal interests are violated by the actions or acts of administrative bodies, contribute to the development of civil society and the transformation of administrative court proceedings into an efficient functioning mechanism. By involving the officials of the relevant administrative bodies in the restoration of violated rights and legitimate interests, effective protection of human and civil rights and freedoms, which is the highest goal of the state, can be achieved by increasing the authority of the state and the progressive development of state-citizen relations.

The researcher notes that in the Republic of Azerbaijan, where the idea of a legal state has been realized, personality, citizen and society relations are based on democratic principles and confidence relationships between citizens and the state are developing on an increasing line, administrative court proceedings have been accepted as a necessary attribute of a legal state. In modern times, the efficiency of judicial protection in the sphere of common law relations directly depends on the solution of the problem of administrative court proceedings. Therefore, many aspects of it should be studied thoroughly. First of all to define administrative court proceedings as a legal institution.

The second paragraph of the first chapter of the dissertation considers **the place and role of the administrative court proceedings in the structure of the administrative process**. According to the author, the formation of administrative court proceedings as a complex institution of administrative law and the regulation of the rules of administrative proceedings are one of the main directions of reform in the field of administrative law and regulate the process of applying the ideology and principles of the modern legal state to administrative law relations. As a form of ensuring the functioning of the legal state, administrative court proceedings act as an institution of judicial control over the activities of administrative bodies and as a norm-creating and law-enforcing activity that provides for the verification of the legality of administrative acts, actions (inaction), and the restoration of violated rights and legitimate interests.

Applicant considers that, the connection of the name of the court proceedings (civil proceedings, criminal proceedings), realized over regulation of relations originated from application of the specific legal field (civil, criminal, administrative), with the legal sphere that regulates relevant relations does not sound illogical. However, it does not seem appropriate to apply the administrative process only to the activities of administrative bodies, isolating it from the activity of the court and court proceedings.

The second chapter of the dissertation is "**The subject of administrative court proceedings**" and includes three paragraphs.

The first paragraph of this chapter entitled "**Theoretical approaches to the subject of administrative court proceedings**" states that the formation of a legal state, the development of administrative relations, the implementation of judicial and legal reforms, respectively, led to certain changes in the scientific views on the methods of execution of modern judicial power. As a result, administrative court proceedings have become one of the important social technologies for resolving grievances arising in society related to the activities of administrative bodies. Therefore, in addition to determining its optimal models, functions and features, the study of its subject is also one of the important issues. There is no single model of administrative court proceedings, nor is there a uniform approach to its subject matter.

Since administrative violations have a different legal nature and very few of them are considered by general courts in a special procedural manner, they cannot be considered as the subject of administrative court proceedings. According to the applicant, the subject of administrative court proceedings is the disputes arising from general (public) legal relations.

The researcher considers that a unified theoretical-methodological approach to the concept of administrative dispute should be formed. Disputes arising not only from the acts of administrative bodies defined in the Classification, but also from the acts of enterprises that have an administrative function and adopt acts affecting common interests in some cases should also be considered an administrative dispute.

Regarding the concept of administrative dispute in science, formal, material, pre-procedural, procedural, subject, conflict, etc. approaches are available. The researcher believes that the formal approach to the administrative dispute is not justified itself. Because, administrative disputes arise between the participants of administrative legal relations in the case of specialized administrative courts are not established, administrative procedural rules do not exist. Regardless of whether it is considered by general or specialized courts, an administrative dispute is a legal manifestation that can arise even in the most democratic states as an objective

manifestation. It is not correct to consider whether it is considered in specialized courts or in administrative court proceedings as a condition for its existence. According to the applicant, a formal approach can formalize the administrative dispute and remove it from its real essence. According to the researcher's position, the procedural approach deprives the administrative dispute of its complex character and binds it only to substantive law. The researcher considers that it is inappropriate to condition the emergence of an administrative dispute only by applying to the appropriate specialized body.

According to the author, legal dispute forms the framework of possible legal behavior, and when the established procedure deviates from the rules, it becomes deviant. In this sense, administrative dispute is a legal tool used to defend against illegal actions (acts) of administrative bodies. The dispute as a form of conflict behavior in this case had a positive protective direction and reflects the dual nature of the administrative law conflict.

The researcher believes that the "conflictual" approach to legal disputes can lead to the development of an integrative concept that can prevent its unequivocal interpretation within the framework of "material and "procedural" theories. Therefore, in the study of the legal dispute, it is more appropriate to consider its subjective and objective aspects together.

In the second paragraph of the second chapter of the dissertation entitled "**The concept and legal nature of the administrative legal dispute**" it is stated that, administrative dispute, which is one of the types of legal dispute, is one of the means of exercising the right to self-defense of persons whose rights, freedoms or legal interests have been violated by administrative acts or actions (inaction). The constructive nature inherent in the legal dispute corresponds to the administrative legal dispute in terms of legal protection, law enforcement, control, information, etc. also manifests itself in its functions. Administrative legal dispute is a type of relations between subjects, where there are legal significant conflicts between the parties. These contradictions are expressed in mutually exclusive approaches of the subjects of the dispute

regarding the presence or absence of certain legal facts in order to achieve the desired result.

Currently, in Article 34.2 of the Administrative Procedure Code of the Republic of Azerbaijan, the claimant is given the right to request the defendant not to perform or stop unfavorable actions that are not considered administrative acts, but the scope and characteristics of these actions have not been determined. The form of administrative actions is also an important point here.

The researcher notes that filing a lawsuit against the action that caused the damage creates a misunderstanding in itself. So, if this damage occurred in connection with the implementation of an administrative act, a complaint should be filed against the act that is the subject of the lawsuit. On the contrary, administrative acts committed independently can be the subject of legal proceedings filed in court. According to the author, in order to clarify this issue, the legislator should specify the illegal actions that caused the damage, and should also address the issue of whether they are the result of an illegal act or whether they were committed independently. In the legislation, the concept of "administrative action", its features and subjects should be clearly defined, and the range of cases in which an administrative claim can be filed should be clarified.

The applicant believes that the practical need for precise legal regulation of the procedural content of administrative court proceedings also necessitates the definition of the concept of "administrative dispute" and its features. Defining its classification system in legislation is one of the most important issues for the development of the scientific concept of administrative court proceedings. Failure to define the concept and features of an administrative dispute in the current Administrative Procedure Code of the Republic of Azerbaijan leads to some misunderstandings both in science and in practice. A misunderstanding of the nature of the claim causes a person to apply mistakenly to the administrative court with an administrative claim. After the court investigation, the claim is specified and sent to the relevant dispute. As a result, the applicant loses time, and the prompt resolution of the dispute is delayed.

The applicant distinguishes the following features of an administrative dispute based on the analysis and summarization of the provisions of the current legislation and the opinions put forward in the legal literature:

1. The subject of administrative disputes is both subjective general rights, duties and freedoms, as well as interests protected by law;

2. Both individual and public interests can be the basis of the administrative dispute;

3. Although the administrative dispute arises between unequal parties, it is later considered and resolved on the level of legal equality;

4. The type of administrative dispute, the relations from which it is formed is the basis for determining its subject;

5. In some cases, law enforcement and procedural relations are expressed through an administrative dispute;

6. Administrative dispute acts as a connecting link between substantive and procedural legal relations;

7. Administrative disputes are expressed in a claim and are considered and resolved in court according to administrative procedural rules;

8. Specific procedural tools are used when considering administrative disputes;

9. Administrative disputes are dual (substantive-legal and procedural);

10. The possibility to argue with administrative bodies acts as a reliable guarantee of ensuring the rights, freedoms and legal interests of the citizens of the legal state;

11. The basis of the administrative-legal dispute is based on its legal force, the factual circumstances that express the various conditions of the disputed situation and the appeal to the court;

12. The institution that adopts the act that is the basis of the administrative dispute must be an administrative body;

13. The relationship between the administrative body and the citizen, legal and natural person should be an administrative or (public) common law relationship;

14. This relationship should be related to a specific event and should be addressed to a specific physical and legal person;

15. The legal equality of citizens and administrative bodies as subjects of an administrative dispute has theoretical and normative-legal foundations;

16. A controversial legal result should arise from this relationship, etc.

As a result of the analysis of the content of the Article 2.2 of the Administrative Procedure Code of the Republic of Azerbaijan, the author concludes that three types of actions can be the basis of an administrative dispute and the subject of an administrative lawsuit: first, actions that are not related to the adoption of an administrative act and functionate as illegal interference that directly violate the rights and freedoms of a person; secondly, illegal actions of administrative bodies causing damage to legal entities and individuals; third, the actions of administrative control bodies.

In this paragraph, the author characterizes the administrative-legal dispute, which acts as a means of protection of subjective rights and interests and includes all the constructive aspects typical of a legal dispute, as a complex type of material procedural administrative legal relations and emphasizes that it is characterized by the presence of contradictions between the parties in the process of the activity of administrative bodies or the unconformity of views on legality.

The third paragraph of the second chapter of the dissertation is devoted to **the analysis of the structure and types of administrative legal disputes**. This paragraph states that the structure of the legal dispute does not change depending on the area of relevance of the violated or contested right. The characteristics of the elements and the forms of legal dispute resolution are determined by the nature of the legal relations they create. When the administrative-legal dispute is approached from the point of view of system-structure, it is possible to distinguish the parties, the subject and the basis of it.

It is noted that, although the legislator determines that the subject of the claims for disputing, coercion, performance of obligations, refraining from certain actions are interests protected by law, this body does not define interests as the subject in the article

classifying administrative claims. However, the interests protected by law act as the driving force of people's activity, their specific attitude to the reality surrounding them, an attempt to acquire some object and make it suitable for satisfying their needs.

The applicant believes that the following features are characteristic of the interests violated or likely to be violated, which are the basis for the initiation of administrative court proceedings:

- these interests must be protected by law;
- these interests can be both material and moral in nature;
- violation of these interests must have a direct or indirect effect on the claimant.

According to the author, two main types of administrative disputes can be distinguished according to their subject:

1. Disputes about objective administrative law, that is, disputes whose subject is only the legality of administrative acts.

2. Disputes about subjective administrative law, that is, disputes whose subject is the subjective rights, duties and interests protected by law of the participants of common law relations.

According to the basis of its origin, two types of administrative disputes are distinguished:

1) administrative disputes resulting from an illegal act of an administrative body.

2) administrative disputes arising as a result of illegal, illegal action or inaction of an administrative body.

The researcher considers that as one of the important bases of the administrative dispute, it would be appropriate to specify the definition and signs of administrative actions in the legislation, and the procedure for disputing them.

According to the author, the following may be the basis for the administrative dispute:

1. Disputed administrative acts;

2. Exceeding the limit of power of the administrative body.

The applicant states that, the authority of the administrative body is defined both in terms of the subject of the considered issue and in terms of relevance. In the Law of the Republic of Azerbaijan "On Administrative Proceedings", the legislator defined the

relevance of administrative bodies in a general way through the concept of "relevance", and the classification criteria of relevance were not defined. Clarifying the relevant rules can significantly reduce the number of cases that may lead to violations of the rights and legal interests of citizens as a result of the activities of administrative bodies. The researcher believes that the violation of the rule of relevance should be defined as one of the invalidity criteria of the administrative act.

According to the applicant, in order to avoid misunderstandings in the administrative judicial practice, it is necessary to specify in the legislation the invalidity criteria of the acts adopted by the administrative bodies along with the relevant rules.

3. Misuse of discretionary powers.

4. Violation of private interests protected by law, as well as public interests resulting from general demand, etc.

The applicant considers that, the lack of definition of administrative legal dispute in the Administrative Procedure Code of the Republic of Azerbaijan has a negative effect on determining the relevant criteria of administrative cases. It is important to define the subject for the correct determination of relevance. Improper determination of the issue of relevance creates difficulties for both judicial authorities and the claimant in practice, leads to loss of time and prolongation of dispute resolution. A number of misunderstandings arise in court practice regarding this issue. According to the author, if the concept, features, constituent elements of the administrative dispute are clarified at the legislative level, misunderstandings between the courts regarding the relevant rules will be put to an end.

According to the researcher, when forming the concept of administrative dispute, it would be appropriate to include not only administrative legal relations, but also disputes arising from other legal relations of a general (public) nature.

Applicant considers that, it would be appropriate to expand the scope of the administrative-legal dispute and cover the following issues:

- 1) subjective rights, duties and freedoms;
- 2) private interests protected by law and general interests arising from public demand;
- 3) legality of administrative acts;
- 4) consistency of administrative acts;
- 5) adoption of administrative acts within the jurisdiction of administrative bodies;
- 6) adoption of administrative acts in compliance with procedural rules;
- 7) administrative actions;
- 8) legality of normative acts;
- 9) property claim related to the resolution of administrative disputes;
- 10) claim for compensation for the damage, etc.

Summarizing the research in the second chapter, the author comes to the conclusion that administrative court proceedings, along with effective protection of the rights, freedoms and interests of citizens protected by law through the review and resolution of administrative disputes arising from the activities of administrative bodies in the field of general management, is a reliable legal protection and control mechanism by improving the practice of administrative proceedings by exercising judicial control over the legality of the activities of administrative bodies, as well as procedural safeguards for administrative bodies to act in accordance with the existing administrative practice, administrative procedures provided for in the Constitution of the Republic of Azerbaijan and international agreements to which the Republic of Azerbaijan is a party and it also provides the basis for the implementation of law and the rule of law based on universally accepted principles.

The third chapter, entitled "**The main models of administrative proceedings**", covers three paragraphs. The first paragraph of this chapter is called "**General characteristics of models of administrative court proceedings**". The author points out that the role of administrative court proceedings is irreplaceable in the prevention of violations of law in the activity of administrative bodies and in ensuring their operation within the legal framework

and that is why administrative court proceedings, which serve to prevent arbitrariness and violation of civil rights and interests in the activities of administrative bodies and their officials, are considered to be one of the central institutions of administrative law, as well as one of the important signs of a legal state.

The applicant characterizes administrative judicial proceeding which is a specific type of judicial control, as an important guarantee of legality and discipline in the activities of administrative bodies by ensuring that administrative bodies operate within the law, a means of restoring the violated rights and legitimate interests of citizens, and a mechanism of interaction between the executive power and the judicial power .

The researcher puts forward the idea that although the initial ideas of administrative court proceedings existed in the Middle Ages, it was formed as an institution in connection with the concept of the legal state, which was widespread in Europe in the 19th century. Because, the concept of legal state, the origin of which coincides with the ancient Greek city-police, not only expresses the content of the relationship between the state and the individual, but is also closely related to human rights and freedoms. Due to the emergence of the need to prevent the arbitrariness of administrative bodies and to ensure that they operate within the framework of the law, administrative courts were established in a number of Western European countries (France, Germany, Spain, Italy, Holland, Belgium, etc.) in the 19th century, and the basics of the theory of continental administrative justice were formed.

The applicant notes that, administrative justice bodies, whose main task is to consider and resolve administrative disputes, operate in different organizational forms and in different ways in different countries. There is no single model of administrative court proceedings, no concrete classification system.

Depending on the legal system formed in different countries, the researcher divides the models of administrative court proceedings into two main types:

1. Administrative court proceedings in countries with an Anglo-Saxon legal system;

2. Administrative court proceedings in countries with the Romano-Germanic legal system.

In Anglo-Saxon countries, administrative proceedings are carried out according to the rules of general court proceedings.

The continental model envisages the existence of administrative courts independent of the executive power, their acceptance of any appeal of a general nature according to the rules of universal relevance, and their activities being supervised by higher administrative courts. In that model, there are specialized institutions that operate within the framework of judicial power based on the rules of special administrative court proceedings. The applicant categorizes these institutions that have different organizational structures across countries as the following:

- specialized administrative courts (they operate in Azerbaijan, Austria, Belgium, Bulgaria, Greece, Germany, Italy, Poland, Portugal, Turkiye, Finland, France and Sweden);

- specialized administrative chambers, collegiums in the structure of general courts (for example, they operate in Hungary and Slovakia);

- specialized chambers and separate administrative courts within the structure of general courts (eg Spain, the Netherlands, Slovenia, Czechia and Switzerland).

According to the researcher, despite the fact that the administrative court proceedings in each country differ with their own characteristics, the general features that characterize this institution as a whole are as follows:1) administrative disputes are the subject of administrative court proceedings in all models. Although the scope and content of these disputes are different in each model, they all have an administrative-legal nature;2) each model is based on the implementation of citizen control over the activities of administrative bodies in the form of various bodies;3) in all models of administrative court proceedings, a body specially created to deal with administrative disputes acts as a jurisdictional body.

The second paragraph of the third chapter analyzes "**Features of administrative court proceedings in Anglo-Saxon legal system countries**". In countries with an English-Saxon legal system, the

corresponding Anglo-Saxon model of administrative justice operates. The ruling role of court precedent in these countries is also evident in administrative court proceedings. When a judge is unable to find a similar court precedent when considering an administrative dispute, the judge addresses to statute law. In addition to court precedent, statute law also has a special role here. If the norms of statute law do not provide for the regulation of relevant relations, the judge himself performs the quasi-legislative function by creating the relevant legal norm. Thus, in contrast to the Romano-Germanic legal system, where judges are subject to the law and only have the opportunity to interpret it, in countries with an Anglo-Saxon legal system, judges have the opportunity to create law with their decisions.

As a result of his research, the author concludes that the uniformity of law and justice in England, court precedent and statute law have a superior position, the system of administrative justice bodies is composed of numerous subjects, it is characterized by the lack of system in procedural rules and the absence of special court proceedings. Although flexibility, awareness, and efficiency belong to the advantages of the Anglo-Saxon model, the lack of systematization of administrative justice bodies, their multi-subject nature, the lack of systematization of legislation, the fact that general courts have broad powers to resolve administrative disputes, the functioning of numerous tribunals and commissions instead of specialized courts, etc. act as disadvantage of this model.

In the United States, where the Anglo-Saxon model operates, there is no special administrative court proceeding, which is carried out by specialized administrative courts and regulated by single procedural rules. In addition, patent courts, tax courts, and administrative judges also hear disputes arising in the field of administration, in addition to the general courts, which operate separately from administrative bodies and have priority.

The applicant analyzing the existing model of administrative court proceedings in the country, comes to the conclusion that, the sufficient scope of powers of administrative bodies has caused them not only to influence the judicial function, but even to retain this function in their own hands. Engagement of both, the heads of

executive bodies and the specialized commissions acting as constituent parts of those bodies into the administrative justice system is a manifestation of the administrative regime. Although administrative tribunals operate in the country, they are not considered an independent branch of the judiciary.

Within this model, which is characteristic of the Anglo-Saxon countries, it allows administrative disputes to be considered both by quasi-judicial administrative institutions and by courts of general jurisdiction.

The author, summarizing his research and analysis in this paragraph, characterizes the Anglo-Saxon model of administrative court proceedings as the administrative-legal institution which has the power to settle common law disputes between the state and citizens by orders, recommendations or decisions, regulating general (public) relations arising in the sphere of settlement by specialized jurisdictional bodies (tribunals, commissions, committees, chambers, departments) operating according to procedural acts.

The third paragraph of the third chapter is devoted to the analysis of "**Features of administrative court proceedings in the countries belonging to the Romano-Germanic legal family**". The author notes that there are two main models of administrative court proceedings in the countries with the Romano-Germanic legal system:

- 1) French model;
- 2) German model.

In the French model, which is considered a classic model, administrative justice bodies are included in the system of administrative bodies, and courts of general jurisdiction do not have the power to control their activities. The "French model", which is also called "administrative model", envisages that the higher authority checks the legality, validity and expediency of the administrative act of the lower authority in the order of subordination. The French (administrative) model allows for the existence of both general and specific rules in administrative proceedings. Thus, in administrative court proceedings, in addition to civil procedural norms, norms developed especially for the activity of administrative justice bodies are also applied.

The researcher attributes the following to the main features of the French model of administrative court proceedings:

- that the administrative court system consists of three instances;

- any legal act of administrative bodies, both individual and normative, can be the subject of an administrative dispute;

- cancellation of administrative acts - the reason for the lack of appropriate jurisdiction, procedural or formal errors, violation of the law, failure to properly justify the decision, or abuse of discretion;

- since the judicial system has a dual nature, it is difficult to determine in practice whether the case belongs to the administrative or general court;

- that citizens have the opportunity to apply to the administrative court with an application for the interpretation of any administrative act;

- administrative tribunals in the system of executive power, but "separate from the active administration", i.e. they operate separately from the bodies that carry out direct operative-ordering and rule-making activities;

- the system of administrative courts hearing disputes arising from common law differs from ordinary courts according to the subject of the administrative dispute (general administration);

- when the public administration acts as one of the parties to the administrative dispute, it belongs to the administrative tribunal;

- division of administrative tribunals into two types: tribunals with general administrative jurisdiction and tribunals with special administrative jurisdiction;

- in this model, the resolution of conflicts between courts and administrative bodies is carried out by relevant administrative justice bodies;

- that the administrative court, by resolving claims arising from not only legal, but also factual issues, checks not only the legality, but also the expediency of the administration's activities, etc.

The French model of administrative justice, after being subjected to a critical approach, was applied in a modified form in

Germany. If in the French model, the court exercises objective control over the norm applied by the administrative body, in the German model, administrative justice primarily serves the judicial protection of civil rights. Unlike the French doctrine, the German doctrine determined that governance should be completely separated from administrative justice.

The applicant attributes the following to the features characterizing the German model of administrative justice: that all general-legal disputes, except constitutional-legal disputes, belong to administrative courts; administration of the system of administrative justice bodies by the federal administrative court; independent functioning of administrative court proceedings without subordination to the executive power; creation of administrative courts with both general administrative jurisdiction and special administrative jurisdiction (financial, social, disciplinary) within the judicial system; that administrative courts have a three-tiered structure; both general and special jurisdiction administrative courts are based on acts of judicial proceedings in the implementation of justice; separation of administrative courts from general courts due to the differentiation of general disputes and special civil-legal disputes; that administrative courts constitute an independent branch of justice within the judicial system; organization of administrative courts based on the principle of specialization; determining the jurisdiction of administrative courts not according to the subject of the offense, but according to the nature of the violated right; unlike the French model, administrative courts have only jurisdictional powers, etc.

As a result of the research in this paragraph, the applicant concludes that, in the middle of the 19th century, the institutional foundations of administrative court proceedings were formed by the "French model". Although this model was initially applied in Germany, it was subsequently subjected to a number of reforms as a result of critical approaches. As a result, the "German model" of administrative justice, which is characterized by specific features, and a complete legislative framework regulating administrative court proceedings were formed.

Unlike other models, this model envisages the establishment of social and financial courts in addition to general administrative courts, depending on the legal relations in which the dispute arises in the system of administrative justice bodies. Although both administrative, social and financial courts belong to a single administrative justice system, each has its own Supreme Court.

The author notes that, despite some different features, both models operating in the majority of states with a Romano-Germanic legal system have developed in the direction of separating administrative court proceedings from administration, defining guiding principles for its efficient organization and fair operation, and forming rules of universal relevance.

The researcher emphasized that the "German model" of administrative court proceedings has attracted the attention of the countries of the world in recent times, and that this model had a great influence on the formation of administrative court proceedings in post-Soviet countries, as well as in our republic and notes that the reasons for the wide spread of that model in practice are, first of all, the fact that German administrative law is based on modern, well-formed legal rules, the formation of a complete legislative system on administrative court proceedings, the creation of specialized administrative courts and the determination of the organizational and legal basis of their activity, the formation of the principles of the administrative process.

Also, according to the author, the efficiency of the legal protection system in the German model, the fact that the administrative court proceedings justify the trust of citizens and ensure the real solution of social conflicts are also important criteria that determine its widespread use.

By comparing the French and German models, the applicant states that, while the French model allows for the application of both general and specially developed rules for the activity of administrative justice bodies in the proceedings of an administrative institution, the German model attaches great importance to the legislative regulation of the organization and procedure of

administrative court proceedings and the formation of administrative procedural legislation.

The researcher believes that, from an organizational and formal point of view, even though administrative justice is implemented in the form of administrative court proceedings or quasi-judicial jurisdictional proceedings, its essence does not change. The main goal of this institution in every state is to protect the rights and interests of citizens protected by law from the activities of the administration to the extent possible, to regulate relations between social groups, to prevent social conflicts, to ensure the level of welfare of citizens and the level of satisfaction with the activities of administrative bodies by strengthening public trust in administrative bodies.

Summarizing his research, the author notes that, all main models of administrative court proceedings existing in international practice, which act as a system of material, organizational and procedural elements by their nature, as an important attribute of the legal state, acts as a control mechanism that serves to ensure the rule of law and legality in the field of general administration, and to protect the rights and interests of citizens from unreasonable interference.

The fourth chapter entitled "**Problems and development prospects of administrative court proceedings in the Republic of Azerbaijan**" consists of two paragraphs. The first paragraph of this chapter analyzes "**Formation of administrative court proceedings in the Republic of Azerbaijan and constitutional-legal basis**". The author states that one of the main tasks and directions of development of the modern administrative legal doctrine is the formation of administrative legislation and administrative court proceedings in accordance with the purpose and principles of the legal state, as well as the relevant normative legal framework. Because administrative court proceedings are the driving force of the accountability mechanism of administrative bodies, an important factor for preventing procrastination and corruption in administrative proceedings.

The applicant characterizes the determination of the rules of administrative proceedings, administrative court proceedings, and the formation of specialized administrative courts as the main directions

of judicial and legal reforms carried out in the country. The creation of specialized courts not only leads to the specialization of judges in relevant fields, the provision of adequate and fair legal assessment of administrative disputes, but also has an impact on the formation of excellent judicial practice.

According to the author, who evaluates the establishment of administrative courts as a natural continuation of strengthening the authority of the judiciary in a legal state, although the formation of administrative courts partially corresponds to the idea of a specialized approach to the organization of judicial proceedings in our country, there is still much work to be done to improve their work. A general concept for the implementation of administrative court proceedings in the country should be prepared, the extent of administrative jurisdiction should be determined, special judges should be trained, and administrative courts should be established in regions. In order to ensure the protection of citizens from the arbitrariness of local authorities, it would be appropriate to establish administrative courts in regions.

According to the researcher's opinion, in order to form the image of the court as a "defender of violated rights and freedoms, interests", it should have real control over the activities of administrative bodies.

It is not possible to determine the efficiency of justice only based on quantitative indicators. The author refers to efficiency indicators the followings: easy access to the court and information about its activities, the possibility to appeal to the court from all the decisions of the administrative bodies, the procedural situation of the parties in the court, the burden of proof, the mechanism of real responsibility of the administrative bodies, the extent of the authority of the courts, the quality of the court decisions and the state of their execution refers to numerous criteria.

The author highly appreciates the importance of the adoption of the Code of Administrative Procedure of the Republic of Azerbaijan and notes that topics that were previously narrowly studied as subjects of administrative law (for example, administrative proceedings, administrative justice, administrative litigation, etc.)

now act as legal institutions based on the administrative procedural legal framework. In addition to enriching the traditions of codification in the national legal system, the adoption of the Code led to the establishment of new administrative procedural legal institutions, the enrichment of the terminology of administrative procedural law and, finally, the formation of special conditions and field principles of the administrative process.

Although the claimant can achieve the annulment of the illegal administrative act through a claim on the disputation of the administrative act, if he does not have the opportunity to demand the suspension of the execution of that act in time, the court proceedings may be ineffective even if his claim is upheld. In this regard, the author considers it important to establish temporary protection measures in the legislation.

According to the author, who characterizes administrative procedural legislation as a dynamically developing field of national legislation, the formation of the national normative legal framework of administrative court proceedings acts as one of the main guarantees of stability, civil solidarity and dynamic development in the state, focusing on the formation of an efficient judicial and legal system, ensuring legality in the activities of administrative bodies.

The second paragraph of the fourth chapter analyzes **"Problems and development prospects of legal regulation of administrative court proceedings"**. The author notes that the legislation is considered effective if it is formulated in accordance with real social relations, the principle of social justice, and the interests of society. Even a law that fully conforms to the legislative technique remains ineffective if it is against social justice and interests and does not meet the needs of society. Legislation containing the will of the state should be based on the priority of human rights and freedoms, interests protected by law, and should be adapted to the will of the people.

The author, noting that in international practice, the tasks of administrative court proceedings are mainly explained in the first articles of the legislation on this field, indicates that the duties of administrative court proceedings are not established in the current

Administrative Procedure Code of the Republic Azerbaijan. From this point of view, the applicant considers it more appropriate to define Chapter II called "Principles of Administrative Judicial Proceedings" as "Tasks and Principles of Administrative Judicial Proceedings", and to name the first article of the chapter as "Duties of Administrative Judicial Proceedings" and suggests defining that article in the following content: "The tasks of administrative court proceedings include the restoration of rights and freedoms, interests protected by law, violated or likely to be violated by administrative bodies, legal and reasonable decision-making based on a timely, comprehensive, objective and complete investigation of the administrative case under consideration, implementation of the activities of administrative bodies within the framework of the law and prevention of violations of rights and freedoms, legal interests through corruption, arbitrariness, abuse of discretion and other means".

The author, who notes the lack of definition of the concept of administrative process as one of the deficiencies in the administrative procedural legislation, believes that in order to clarify the controversial ideas that exist in the science related to the administrative process, as well as to justify institutionally that it is the procedure for the implementation of court proceedings on administrative disputes regulated by procedural norms, its definition and stages should be precisely determined in the code.

One of the problematic issues in the application of administrative procedural legislation is that the concept of administrative-legal dispute is not defined in the Code. The author states that, the lack of definition of "administrative dispute" in the Administrative Procedural Code of the Republic of Azerbaijan, the fact that the features and content of such disputes are not clearly defined in the legislation causes some misunderstandings in judicial practice. Failure to provide an understanding of the administrative-legal dispute in the legislation has a negative effect on determining the relevant criteria of administrative cases. Thus, in a democratic society, the volume and types of administrative-legal disputes are constantly increasing and are becoming more complex due to their content. As a result, the correct determination of the issue of relevance of administrative disputes creates difficulties for both

judicial authorities and the claimant in practice, leads to loss of time and prolongation of dispute resolution.

According to the researcher, if the concept, features, and constituent elements of the administrative dispute are specified in the law, it can end misunderstandings between the courts regarding the possibility, essence, and relevant rules of the claim.

The applicant considers that one of the controversial issues in the legal regulatory mechanism of administrative court proceedings is the issue of the subject of administrative claims. Thus, at present, there is a certain misunderstanding in the content of the article classifying claims considered in the administrative court procedure in Article 2 of the Administrative Procedure Code of the Republic of Azerbaijan. In the article, the legislator indicated the rights and duties of the person (Article 2.2.1) and sometimes his freedoms (Article 2.2.4) as the subject of the types of administrative claims. According to the content of the article, it can be concluded that the interests of a person protected by law do not act as the subject of claims considered in administrative court proceedings. Although the legislator determines that the subject of the claims for disputing, coercion, performance of obligations, refraining from certain actions are the interests protected by law, the article classifying the administrative claims does not define the interests as the subject. However, the interests protected by the law act as the driving force of people's activities, their specific attitude to the reality surrounding them, an attempt to acquire some object and make it suitable for satisfying their needs.

In cases where the subject is defined by legislation, it can clarify controversial ideas both in science and in practice. According to the applicant, 2 main types of administrative disputes can be distinguished according to their subject: 1) disputes about objective administrative law, that is, disputes whose subject is only the legality of administrative acts; 2) disputes about subjective administrative law, that is, disputes whose subject is the subjective rights, duties and interests protected by law of the participants of common law relations.

According to the author's opinion, as one of the prospects for the development of administrative procedural legislation, it would be appropriate to expand the subject of legal dispute and cover the

following issues: 1) subjective rights, duties and freedoms; 2) private interests protected by law and general interests resulting from public demand; 3) legality of administrative acts; 4) appropriateness of administrative acts; 5) adoption of administrative acts within the jurisdiction of administrative bodies; 6) compliance of administrative acts with procedural rules; 7) administrative actions; 8) legality of normative acts; 9) property claim related to the settlement of administrative disputes; 10) demand for payment of compensation for the damage caused, etc.

According to the applicant, one of the problematic issues is the fact that administrative disputes are not clearly defined in the current administrative procedural legislation.

When determining the relevance of administrative disputes in the administrative procedural legislation, the content of the administrative dispute and its emergence from administrative legal relations are taken as a basis. In this regard, subject and territorial relevance are distinguished. Sometimes, only the subject approach is not enough to determine whether the dispute is administrative or not. It is important to define from which legal relations the subject derives. For example, according to Article 25.1 of the Civil Procedure Code of the Republic of Azerbaijan, if at least one of the parties to dispute which is arising from civil, family, labor, housing, land relations, use of natural resources or environmental protection, tax and other relations in civil court proceedings is a physical entity, and if he does not have the status of an individual entrepreneur, or even if he has such a status, if the dispute did not arise in connection with the implementation of his entrepreneurial activity, the general courts hear those disputes.

According to the specified norm, it would be wrong to think that all disputes arising from labor relations are heard by the general courts. So, only the disputes arising from the labor contract can be reviewed by the general courts. Disputes arising in connection with civil service relations are completely different from labor disputes, so it is impossible to hear them in general courts.

According to the author, it would be appropriate to establish a special note on this in the civil procedural legislation, and in the labor

legislation, as an exception, to include a note that labor disputes arising between a state body and a civil servant, between a probationary period and persons working in the civil service are an exception.

The applicant does not agree with the fact that the Central Election Commission of the Republic of Azerbaijan does not have the status of an administrative body, and the act adopted by the mentioned body, is not considered as an administrative act in any case, notes that this situation leads to the deprivation of the administrative content of the disputes arising from the relevant legal relations and considers it necessary to make changes in the status of the relevant body and the classification system of its acts in order to eliminate this situation.

The applicant, who understands the relevance in administrative court proceedings as a complex mechanism that involves taking into account the specifics of administrative cases and dividing them among administrative courts in the manner provided by the procedural law, points out the need to improve these rules in order to eliminate the problems arising in practice related to the relevant rules. According to the applicant, the jurisdiction of administrative courts should be expanded, it should be allowed to file an administrative claim against the decisions and actions of any institution that can adopt an act related to public service. Rules of "universal" (general) relevance, which are justified in international practice, should be applied. If this is the case, the activity of administrative courts can give more effective results. In order to ensure the observance of human rights and freedoms by administrative bodies and to achieve the rule of law, the rule of universal (general) common relevance, which establishes the possibility of submitting an administrative claim to the court from all administrative acts adopted by these bodies, also corresponds to the essence of the legal state.

Talking about the problems of administrative procedural legislation, the researcher notes that, although the institution of representation is established in the current Administrative Procedure Code of the Republic of Azerbaijan, the representative was not included among the participants of the administrative court proceedings. Despite the establishment of procedural representation in Chapter VI of the

Code (Article 31), only plaintiffs, defendants and third parties involved in administrative court proceedings belong to the circle of participants in administrative court proceedings (Article 27 of the Administrative Procedure Code of the Republic of Azerbaijan). In this regard, the author considers it expedient to rename Article 27 "Participants of administrative court proceedings" as "Persons involved in the case" and to add representatives of the parties and third parties to this category, as is the case, for example, in Ukraine.

According to the author, one of the deficiencies in the Administrative Procedure Code of the Republic of Azerbaijan is the lack of definition of the concept of "party". Although the plaintiff and the defendant are defined as participants in the administrative court proceedings, the nature and structure of the concept of "party" has not been disclosed. The legislator did not indicate the composition of the parties, nor who could be the parties. The name of the parties is mentioned in Article 27 of the Administrative Procedure Code of the Republic of Azerbaijan only as participants in administrative court proceedings.

According to the applicant, it would be appropriate to include the article "Parties" in the Administrative Procedure Code of the Republic of Azerbaijan in the following content:

1. The claimant and the defendant act as parties in the administrative process.
2. Citizens of the Republic of Azerbaijan, foreigners and stateless persons can be plaintiffs in administrative cases.
3. The administrative body acts as the defendant in the administrative process.

The author believes that in terms of reducing the workload of administrative courts, it would be appropriate to consider a mechanism for pre-trial resolution of administrative disputes. Provision of a direct appeal to the administrative court for the resolution of the administrative dispute in the legislation leads to the prolongation of the resolution of the dispute, the increase of moral and psychological tension of the claimant, and the burden of the courts' workload. It may be more expedient for the courts to act as a second instance rather than a first instance in considering

administrative disputes. The person whose rights or interests have been violated should first apply to the appropriate higher authority in the administrative procedure, and if the dispute cannot be resolved, applying to the administrative court will lead to a more adequate result. Unlike the court process, this method, which is economical in terms of both time and money, can help to respond more flexibly to the action of the relevant administrative body and to promptly solve the issue in order to protect the rights and interests of citizens.

The researcher evaluates the alternative defense mechanism as a system that is based not only on the number of defenses, but also on their efficiency and effectiveness, allows for a faster and more efficient resolution of the dispute, reduces the workload of administrative courts, and acts as an opportunity to transition from non-procedural defenses to procedural defenses.

According to the applicant, the starting moment of the claim period shall be counted from the date of its written submission. Taking into consideration the starting moment of the administrative claim period from the time when the administrative act is "submitted in writing" will help to ensure the rights of the claimant more realistically and help to prevent the violation of the claimant's right to claim due to various objective and subjective reasons.

The author considers that a justified scientific concept should be developed for the correct determination of the development perspectives of administrative procedural legislation, the formation of its structure characterized by compact and logical sequence, compatible with modern requirements, and the formation of efficient administrative court proceedings. If a scientific concept is developed with the joint efforts of specialists, scientists and practical workers in the relevant field, its controversial theoretical and practical problems can be clarified, and the directions of scientific development can be clearly defined. Thus, the optimization of the normative act appears due to the special intellectual efforts carried out to develop a form of legally more perfect regulation of certain issues of social life. With such efforts, it is possible to rationalize management, minimize the possibility of administrative bodies influencing the court, and increase public trust in the court.

The correct defining of the development prospects of the legislation on administrative court proceedings can serve to improve this branch of court proceedings, to turn it into an effective and efficient legal protection tool, a means of fighting corruption and a real accountability mechanism of administrative bodies. When determining the development prospects, in order to make possible the formation of an optimal legal regulation mechanism is possible, not the will of the legislator, but the objective content of social relations in the relevant field, the characteristics of legal regulation, administrative disputes, and the status of subjects should be taken into account.

According to the author, in order to keep away from the ruling role of civil procedural rules in the administrative process, administrative court proceedings at the level of constitutional legislation should be established as one of the independent types of court proceedings. Then, in order to eliminate the dependence of the Administrative Procedural Code of the Republic of Azerbaijan on civil procedural provisions, the legal regulation of this branch of court proceedings should be carried out as much as possible within the Code's own structure, and reference norms should be minimized. The duties and scope of the legislation on administrative court proceedings, the main concepts and duties of administrative court proceedings, the definition of administrative disputes, rules of relevance, the legal status of the persons involved in the case and other participants in the process, etc. concepts should be defined and its structure should be revised in the Administrative Procedural Code of the Republic of Azerbaijan.

The researcher states that, although the plaintiff is given the right to demand from the defendant not to take or stop unfavorable actions that are not considered administrative acts by means of a claim for refraining from taking certain actions, the scope and features of these actions have not been determined in Article 34.2 of the present Administrative Procedure Code of the Republic of Azerbaijan.

Filing a lawsuit against the action that caused the damage creates misunderstanding in itself. So, if this damage occurred in connection with the implementation of an administrative act, a

complaint should be filed against the act that is the subject of the lawsuit. On the contrary, if an administrative act was committed independently and not for the purpose of executing any administrative act, the dispute raised in court from this act can be the subject of legal proceedings. According to the applicant, in order to clarify this issue, the legislator has to deal with illegal actions that caused damage, as well as the fact that they arise from an illegal act, or it should be clarified on the issue of being committed independently. In the legislation, the concept of "administrative action", its features, subjects should be clearly defined, and the range of cases in which an administrative claim can be filed against such actions and what protection and impact measures could be applied in the event of a complaint against the actions should be determined.

According to the author, who noted that there is a need to take certain measures in the field of the application of protective measures of a temporary nature, which is a novelty for the legislation on administrative court proceedings, it is important to establish in the legislation the suspension of the execution of the act as a preliminary protection measure, since waiting for the end of the administrative court proceedings can lead to an increase in the damage of citizens and more violations of their rights.

Although the current legislation provides for the suspension of the execution of the administrative act, it does not provide for the possibility of appeal. According to the applicant, it is necessary to eliminate this situation. Because, when we say "equality" in court proceedings, we first of all understand adversarial court proceedings. It is necessary that this principle manifests itself at each stage of the process, in relation to each procedural action, and that the parties have equal opportunities.

The researcher believes that if it is necessary to determine the legal facts necessary for the resolution of administrative cases, this issue should be resolved within the framework of the administrative process. This can help to ensure the citizens' right to legal protection in a flexible way, and to prevent additional loss of time and money.

The author, emphasizing the need to make certain changes in the grounds for termination of administrative proceedings in order to fully

ensure the principle of dispositiveness in the legal regulation mechanism of administrative court proceedings, believes that in order to ensure the full implementation of the principle of dispositiveness in administrative court proceedings, it is not appropriate to accept the plaintiff's refusal of the claim as a ground for terminating the proceedings. This case in itself can lead to a violation of dispositiveness in a certain sense. It is necessary to reconsider this point in the perspectives of the development of administrative procedural legislation. Thus, contrary to the principle of dispositiveness, which provides the parties with the opportunity to freely dispose of their material and procedural rights, the termination of the proceedings by the court eliminates the possibility of re-disputing the relevant administrative act, the legality of which remains unverified. According to the applicant, if the court accepts the rejection of the claim and keeps the application pending, other persons will have the opportunity to dispute that act on one or another basis.

According to the researcher, by reducing the workload of judges, determining the form of handling cases in a rational manner, providing more simplified forms of court proceedings for some administrative disputes, developing electronic justice system, providing information, transparency in the activities of courts and by other means, procedural efficiency can be achieved.

Summarizing his opinion, the author considers it necessary to add the principle of "procedural efficiency" to the principles of administrative court proceedings in the Code of Administrative Procedure of the Republic of Azerbaijan. According to the applicant, it is possible to create the optimal balance of procedural efficiency with procedural formalism by reconciling with the measures considering the responsibility of judges for violations of procedural legislation such as the rational simplification of court proceedings, implementation of simplified proceedings on some administrative disputes, etc.,

The researcher believes that in order to achieve the correct application of administrative procedural legislation and perfect legal regulation, it would be appropriate to define the following basic concepts:

Adding part 2 with the following content to Article 1 of the

Code of Administrative Procedure of the Republic of Azerbaijan:

“Administrative court proceedings are procedural activities carried out in accordance with this Code for consideration and resolution of an administrative case filed in administrative courts based on an administrative claim”.

Adding part 4 with the following content to Article 1 of the Code of Administrative Procedure of the Republic of Azerbaijan:

“Administrative process - is a set of legal relations between the participants of the administrative process in the administrative court proceedings carried out for the consideration and resolution of the administrative case in court and regulated according to the administrative procedural legislation”.

Adding the first sentence in the following content to the first part of Article 2 of the Code of Administrative Procedure of the Republic of Azerbaijan: “Administrative dispute –is a conflict of interest resulting from violation of rights, freedoms and interests protected by law between an administrative body and a citizen, creation of an obstacle to their implementation or, it is a conflict of interests resulting from a different understanding of the legality of administrative acts, actions (inaction), expressed in legally significant actions”.

Adding an article with the following content defining the concept of an administrative claim to Chapter VI of the Administrative Procedural Code of the Republic of Azerbaijan entitled "Participants in the Process. Types of Claims": “Administrative lawsuit –is the claim of the person, whose rights and freedoms, interests protected by law have been violated by administrative bodies or who believes that they have been violated, against the respondent administrative body expressed in the written claim submitted to the court in order to file an administrative case”.

Adding articles with the following content to Article 27 of the Administrative Procedure Code of the Republic of Azerbaijan, entitled "Participants in administrative court proceedings":

“27.0.1.-1. “Plaintiff - individuals and legal entities who file an administrative case in court by submitting an administrative claim for their own or another's rights and freedoms, personal or collective interests protected by law”.

27.0.2.-1. “Defendant - administrative bodies to which the administrative claim is directed”.

Inclusion of the article called "Parties" in the Code of Administrative Procedure of the Republic of Azerbaijan and defining the content of that article in the composition consisting of the following clauses:

1. The claimant and the defendant act as parties in the administrative process.

2. Citizens of the Republic of Azerbaijan, foreigners and stateless persons, enterprises and organizations can be plaintiffs in administrative proceedings.

3. The administrative body acts as the defendant in the administrative process.

According to the author's opinion, it is necessary to make certain changes in the structure of the Administrative Procedural Code of the Republic of Azerbaijan. Thus, in order to form a legal regulation mechanism characterized by a more concise, systematic and logical integrity, the applicant proposes to determine the structure of the Administrative Procedure Code in a composition consisting of two sections: "The first section, called "General rules", should cover the following issues: - General rules, basic concepts (legislation on administrative court proceedings, its duties and force, administrative dispute, administrative claim, administrative process, administrative court proceedings, administrative action, etc.);

-Duties and main principles of administrative court proceedings;

- Procedural terms (rules for determination and application, calculation, recovery, release, suspension and restoration);

- Composition of the court;

- Court affiliation and its types;

- Persons involved in administrative work and other participants of the process;

- Proofs and proving etc.

The second section, entitled "Types and rules of implementation of judicial proceedings in administrative cases", may cover the following issues:

- types of administrative proceedings;
- procedure for submitting an administrative claim;
- the content of the administrative claim and the procedure for making additions to it;
- procedure for suspending and terminating proceedings on the case;
- the procedure for securing the claim;
- measures to satisfy the claim (defense measures);
- preparation of cases for consideration in court;
- judicial review;
- the decision of the court and the procedure for filing an appeal against it;
- rules for issuing and delivering court documents;
- proceedings on appeals, cassation appeals and proceedings related to newly opened cases;
- execution of the court decision.

In the **conclusion** part of the dissertation, the results obtained as a result of the study are defined in 24 paragraphs. The following scientific works of the author have been published on the subject of the dissertation:

The main provisions of the dissertation are reflected in the following scientific works of the applicant:

1. The essence and main features of administrative court proceedings in a state of law // - Baku: Current issues of forensic expertise, criminology and criminology (collection of scientific works), - 2011. № 55, - p.p. 116-123.

2. General characteristics of administrative court proceedings in the Republic of Azerbaijan // - Baku: Scientific works of the Institute of Philosophy, Sociology and Law of ANAS, - 2012. No. 02, - p.p. 329-334: [Electronic resource]/ <https://is.gd/zfDipK>

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The defense of the dissertation will be held at the meeting of the BED 2.44 Dissertation Council operating under the Baku State University on "1" "march" 2024. It will be held at a one-time meeting of the dissertation Council.

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