

**CYPRUS BAR ASSOCIATION****CYLA****W**

## The Establishment and Operation of the Administrative Court Law of 2015 (131(I)/2015)

### History of Modifications

**131(I)/2015** 72(I)/2018 3(I)/2021 31(I)/2023 56(I)/2023

### Preamble

The House of Representatives votes as follows:

### Short title

1. This Law shall be referred to as the Establishment and Operation of the Administrative Court Law of 2015.

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### Interpretation

2. (1) In this Law, unless the context otherwise requires-

"decision, act or omission" has the meaning assigned to these terms by paragraph 1 of Article 146 of the Constitution;

"decision concerning international protection procedures" [Deleted];

"Republic" means the Republic of Cyprus.

"Administrative Court" means the court established under section 3;

"Administrative Court of International Protection" means the court established under the provisions of article 3 of the Establishment and Operation of the Administrative Court of International Protection Law;

"organ, authority or person" has the meaning assigned to these terms by paragraph 1 of Article 146 of the Constitution;

"appeal" has the meaning assigned to the term by Article 146 of the Constitution;

"tax dispute" means a dispute arising from the imposition or assessment of taxes, customs duties, fees and contributions, or municipal taxes, fees and contributions and includes a dispute arising from acts imposing sanctions due to a violation of provisions of the tax legislation in force at the time, or from a claim for a refund of tax paid in error or without being due, or from the withdrawal of a tax return.

- (2) Terms which are not defined in this Law, unless a different meaning appears from the text, have the meaning attributed to them by the provisions of the Courts Law.

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### Establishment and composition of the Administrative Court

3. Subject to the provisions of the Law on the Establishment and Operation of the Administrative Court of International Protection, an Administrative Court is hereby established with exclusive jurisdiction to decide in first instance on any appeal submitted under Article 146 of the Constitution, composed of one (1) President and judges, the number of whom may not exceed six (6), who are appointed by the Supreme Judicial Council.

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### **Qualifications for appointment of President and judges**

4. (1) No person shall be appointed as President of the Administrative Court or as a judge of the Administrative Court, unless he has the qualifications required for appointment to the position of President of a District Court or Senior District Judge, respectively, in accordance with the provisions of the Courts Law and possesses extensive knowledge in matters of administrative law or proven experience in handling judicial cases falling within the jurisdiction of the Administrative Court:

It is understood that, by unanimous decision of the Supreme Judicial Council, a lawyer who has been practicing this profession for at least eight (8) years and meets all other qualifications required in accordance with the provisions of the Courts Law and this Law may also be appointed as a judge of the Administrative Court.

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### **Status of President and judges**

5. (1) The President of the Administrative Court and the judges of the Administrative Court are permanent members of the judicial service of the Republic and are at all times equal to the President of a District Court and a Senior District Judge, respectively.

(2) The President of the Administrative Court and the judges of the Administrative Court may be interchangeable with the holders of the corresponding positions provided for in article 4 of the Courts Law, provided that they have completed at least five (5) years as President of the Administrative Court or as judges of the Administrative Court, as the case may be, and the holders of the positions of President of the District Court and Senior District Judge may be interchangeable with the President of the Administrative Court and the judges of the Administrative Court, respectively.

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### **Payroll and terms of service**

6. The President of the Administrative Court and the judges of the Administrative Court enjoy the same salary and serve under the same conditions as the President of the District Court and the Senior District Judge, respectively.

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### **Affirmation and oath**

7. The President of the Administrative Court and each judge of the Administrative Court must, before assuming his duties, give and sign before the Supreme Judicial Council or two (2) members thereof, the Affirmation to the Republic, as well as the judicial oath specified in the Table of the Courts Law.

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### **Temporary appointments**

8. In the event of temporary absence, impediment or incapacity of the President of the Administrative Court or any judge of the Administrative Court to exercise his duties, the Supreme Judicial Council may appoint another member of the judicial service to temporarily perform the duties and exercise the powers of the President of the Administrative Court or the judge of the Administrative Court, as the case may be, for the period of time and under the conditions specified in the document of appointment of each.

[131\(I\)/2015](#)**Seat**

9. The seat of the Administrative Court shall be Nicosia and the court shall meet in a building designated specifically for this purpose by the Minister of Justice and Public Order, following consultation with the Supreme Court.

[131\(I\)/2015](#)**Appointment of judicial officers**

10. The Administrative Court shall be staffed by one (1) registrar and employees, the number, powers and duties of which shall be determined by the Supreme Court by issuing a procedural regulation:

It is understood that, until the issuance of the above procedural regulation, the regulations applicable to the respective District Court employees shall apply, *mutatis mutandis*:

It is further understood that the Administrative Court is staffed by employees who come from the staff of the Judicial Service.

[131\(I\)/2015](#)**Jurisdiction**

11. (1) The President of the Administrative Court and each judge of the Administrative Court shall exercise the powers assigned to the Administrative Court by the Constitution, the provisions of this Law and any other Law in force from time to time:

It is understood that, following a recommendation submitted either by the President of the Administrative Court or by a judge of the Administrative Court before whom a specific case is pending, the Administrative Court may decide that the trial of this case will be held by its plenary session.

(2) Subject to the provisions of Article 146 of the Constitution, for the purposes of exercising the jurisdiction of the Administrative Court over a decision or act relating to a tax dispute, the Administrative Court shall review the legality and correctness of the said decision or act by confirming it, in whole or in part, or by annulling and amending it, in whole or in part.

(3) [Deleted].

(4) In the case of an appeal against a decision relating to a tax dispute, the jurisdiction of the Administrative Court is exercised in compliance with, among others, the following:

(a) The Administrative Court amends the contested act and/or decision when the competent administrative body, exercising limited jurisdiction, made an incorrect assessment of the relevant facts:

It is understood that the amendment of the contested act and/or decision by the Administrative Court may not exceed the limits of the requests submitted with the appeal:

It is further understood that the Administrative Court may not amend the contested act and/or decision to the detriment of the applicant.

(b) In the event of an appeal for failure to take a legally required action, if the Administrative Court accepts the appeal, the case is examined by the competent administrative body for the execution of the legally required action. The Administrative Court does not have the authority to review the correctness of the failure to take a legally required action before the competent administrative body has ruled on the request of the interested administrative body and issued an administrative act or decision.

(c) In the event of annulment of an act due to lack of competence, unlawful formation or unlawful composition of the body that issued it or due to a violation of an essential form or failure by the body to exercise its discretion, the Administrative Court does not exercise a correctness check. In such a case, the Administration is called upon to remedy the reasons for which the act was annulled.

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### **Automatic suspension of the validity of a contested administrative act**

11A.-(1) Upon the registration of an appeal against a deportation order, return decision or removal decision, issued under the provisions of the Aliens and Immigration Law, the validity of the contested administrative act is suspended until the appeal is heard by the Administrative Court, provided that-

(a) the application for annulment contains an allegation of the incompatibility of this act with the principle of non-refoulement, as provided for in an international convention or in European Union law or in Cypriot law, and/or an allegation of the violation of Article 2 and/or Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms and/or Article 7 and/or Article 8 of the Constitution of the Republic of Cyprus and/or Article 2 and/or Article 4 of the Charter of Fundamental Rights of the European Union, and

(b) the applicant submits the cancellation application to the Ministry of Interior, the Department of Civil Registry and Immigration and/or the Attorney General of the Republic.

(2)(a) Subject to the provisions of paragraph (b), the hearing of the appeal referred to in subsection (1) shall be completed as soon as practically possible and the decision of the Administrative Court shall be issued as a matter of priority.

(b) In the event that the appeal referred to in subsection (1) also challenges a detention order issued under the provisions of the Aliens and Immigration Law, the hearing of the appeal shall be completed as soon as possible and the decision of the Administrative Court shall be issued within thirty (30) days from the date of registration of the appeal, unless there are reasons of force majeure.

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### **Referral of an appeal to the Administrative Court of International Protection**

11B. In the event that an appeal, which falls within the substantive jurisdiction of the Administrative Court of International Protection, is registered before the Administrative Court, a judge of the Administrative Court shall refer it for adjudication to the Administrative Court of International Protection:

It is understood that the date of registration of the above-mentioned appeal is considered to be the date on which it was registered before the Administrative Court:

It is further understood that the admissibility of the appeal, including its timely registration, is examined by the Administrative Court of International Protection.

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### **Followed practice and procedure**

12. (1) The jurisdiction of the Administrative Court is governed by procedure and practice determined by procedural regulations, which are issued by the Supreme Court.

(2) Until the issuance of procedural regulations, in accordance with subsection (1), the Administrative Court -

(a) in the case of an appeal falling within its jurisdiction for a review of legality only, it shall apply, as far as possible and mutatis mutandis, the procedural regulations, the procedure and the practice that the Supreme Court applied in the exercise of its first-instance jurisdiction over an appeal submitted, before the date of entry into force of the Eighth Amendment to the Constitution Law of 2015,

(b) in the case of an appeal falling within the provisions of subsections (2) and (4) of article 11, it shall apply as far as possible the procedural regulations referred to in paragraph (a), as well as the procedural regulations, the procedure and the practice that the District Court applies when adjudicating civil cases.

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### **Appeal against decisions of the Administrative Court**

13. Every decision of the Administrative Court is subject to appeal before the Court of Appeal, on a point of law only, within a period of forty-two (42) days from the date of issuance of the decision.

[131\(I\)/2015](#) [56\(I\)/2023](#)**Entry into force of this Law**

14. (1) Subject to the provisions of subsection (2), this Law shall enter into force on the date of its publication in the Official Gazette of the Republic.

(2) The following provisions of this Law shall come into force from the date of publication of a notification by the Supreme Court in the Official Gazette of the Republic on the establishment of the Administrative Court and its readiness to operate:

(a) the provisions of article 3, to the extent that they grant exclusive jurisdiction to the Administrative Court.

(b) the provisions of article 11.

(c) the provisions of article 12.

[131\(I\)/2015](#)**Transitional provisions**

15. (1) The Supreme Court retains and exercises its first instance jurisdiction under Article 146 of the Constitution until the date of publication in the Official Gazette of the Republic of the notification provided for in subsection (2) of article 14.

(2) On the date of publication of the notification provided for in subsection (2) of section 14, the proceedings pending before the Supreme Court, in the exercise of its first instance jurisdiction under Article 146 of the Constitution, which has been transferred to the Administrative Court under the provisions of the Eighth Amendment to the Constitution Law of 2015, shall be transferred to the Administrative Court established under the provisions of this Law, for the continuation of the judicial proceedings and the issuance of a decision under the provisions of this Law, while the appeals in which the decision has been reserved shall continue and be concluded before the court in which they are pending.

[131\(I\)/2015](#)**Note****7 of Law 72(I)/2018 Entry into force of Law 72(I)/2018**

7.- (1) Subject to the provisions of subsection (2), this Law [S.S.: namely L. 72(I)/2018] shall enter into force on the date of its publication in the Official Gazette of the Republic.

(2) The provisions of articles 2 to 6 of this Law [S.S.: namely L. 72(I)/2018] shall enter into force on the date of publication in the Official Gazette of the Republic of the notification of the Supreme Court issued pursuant to the provisions of subsection (2) of article 14 of the Establishment and Operation of the Administrative Court of International Protection Law of 2018.

**Note****3 of Law 56(I)/2023 Entry into force of Law 56(I)/2023**

This Law [S.S.: namely L. 56(I)/2023] shall come into force on the date specified in the Notification provided for in the provisions of subsection (2) of section 22 of the Administration of Justice (Miscellaneous Provisions) (Amendment) Law of 2022.