

On the Issue of Administrative Acts in Electronic Form by Authorities: Focusing on the Procedural Questions

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Abstract

The adoption of administrative acts that issued in electronic form is a fascinating practical application of the e-government idea. However, to date, few administrative law researches have been done on electronically issued administrative acts. The purpose of this paper is to analyze legal issues concerning administrative acts that issued in electronic form and then to supplement the findings in this under-researched field. In view of the preceding research goal, this study takes the legal-dogmatic approach and comprises several research themes: (a) the concept of electronically issued administrative acts; (b) the permissibility of the adoption of electronically issued administrative acts; (c) the notification of electronically issued administrative acts; and (d) the application of electronic signatures.

First of all, this study explains the concept of electronically issued administrative acts and then clarifies the conceptual difference between electronically issued administrative acts, written administrative acts, electronically transmitted administrative acts, and administrative acts using automatic equipment. After that, the permissibility of the adoption of electronically issued administrative acts is discussed in this paper. On the one hand, an authority may issue administrative acts in electronic form at its discretion, but on the other hand, the “principle of voluntariness” is the legal prerequisite to such discretion. Furthermore, this article analyses the legal issues relating to the notification of electronically issued administrative acts in consideration of the special characteristic of the electronic documents

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transmission. In order to fulfill the legal procedural obligation, electronically issued administrative acts should be associated with an electronic signature because of the analogy with the provision concerning the signature and name (section 96, paragraph 1 of the Administrative Procedure Act). This study therefore also discusses the use of an electronic signature on electronically issued administrative acts and its technical possibilities. In conclusion, it is suggested that the Administrative Procedure Act should be comprehensive modified for electronically issued administrative acts as soon as possible.

Keywords: administrative acts, electronically issued administrative acts, principle of voluntariness, notification, electronic signature