

Motivation of the administrative act to guarantee the managed

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Abstract

The motivation is the act of administration that, as a procedural requirement necessary for the validity of any administrative act, serves to reveal the presuppositions of fact or law that authorized or required the administrative action, as well as its purpose and cause. It is not a simple exposition of the reasons for the act, that is, the factual circumstances that underlie it, but a broad demonstration of the various aspects that influence its legality. For this reason, strictly speaking, the expression motivation is inconvenient, reducing the object it designates, which is why it would be better to use the terms reasoning or justification, which provide a more technical notion and avoid confusion between the reasons for the act and its exposure, which is frequent especially in jurisprudence. However, it is a well-established terminology and it would be useless to propose its abandonment. What is certain is that it is one of the most interesting themes in the study of the administrative act and its treatment implies taking a position regarding the very bases of the legal province in which it is inserted. This work, limited and unpretentious, seeks to align itself with a democratic vision of the State and its action, affirming the supremacy of the rights of the administered. And it is significant that it deals with the foundation of administrative acts, one of the most valuable instruments in the containment of public authority and in the control of its activity.

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