



Introduction into Serbian Administrative Law

Vuk Cucic

University of Belgrade

Faculty of Law



Source of Law

Sources of (Administrative) Law

➤ **Direct sources:**

- The Constitution (2006)
- Ratified international agreements (Arts. 18, 20 Const.)
- Laws / Acts (GAPA, ADA, SAA, LGA)
- Bylaws and other general legal acts

➤ **Indirect source:**

- Administrative and judicial case-law (principle of legitimate expectations)
- ~~Precedents~~



Organization of Administration

Division of Powers

Legislation

- Parliament

Constitutional Court?

Executive

- President
- Government
- Administration

Independent State Authorities

Judiciary

- Supreme Court of Cassation
- Appellate Courts
- High Courts
- Basic Courts
- Special courts (Administrative, commercial, misdemeanors)

Division of Powers

Legislation

- Parliament

Executive

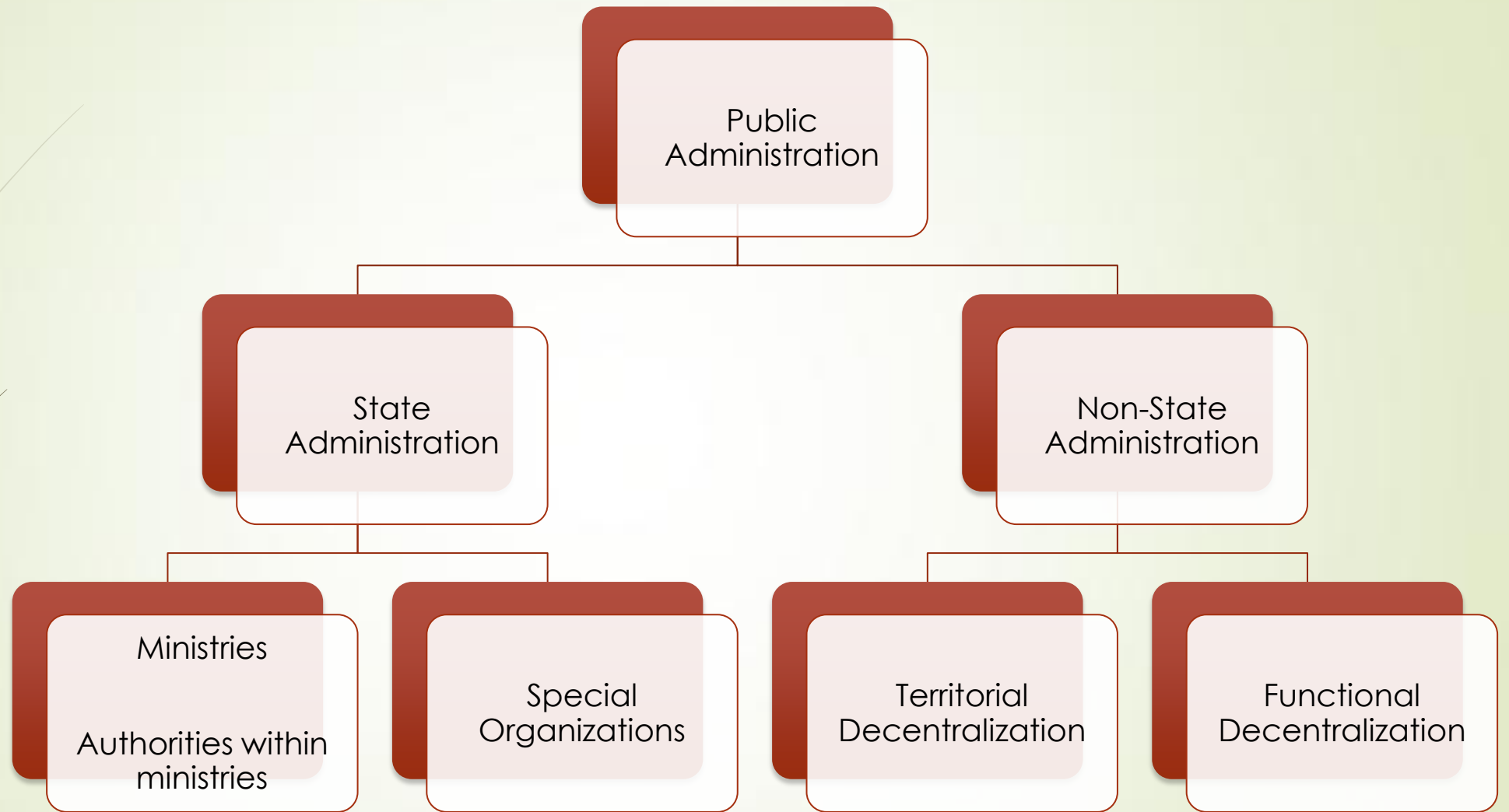
- President
- Government
- Administration

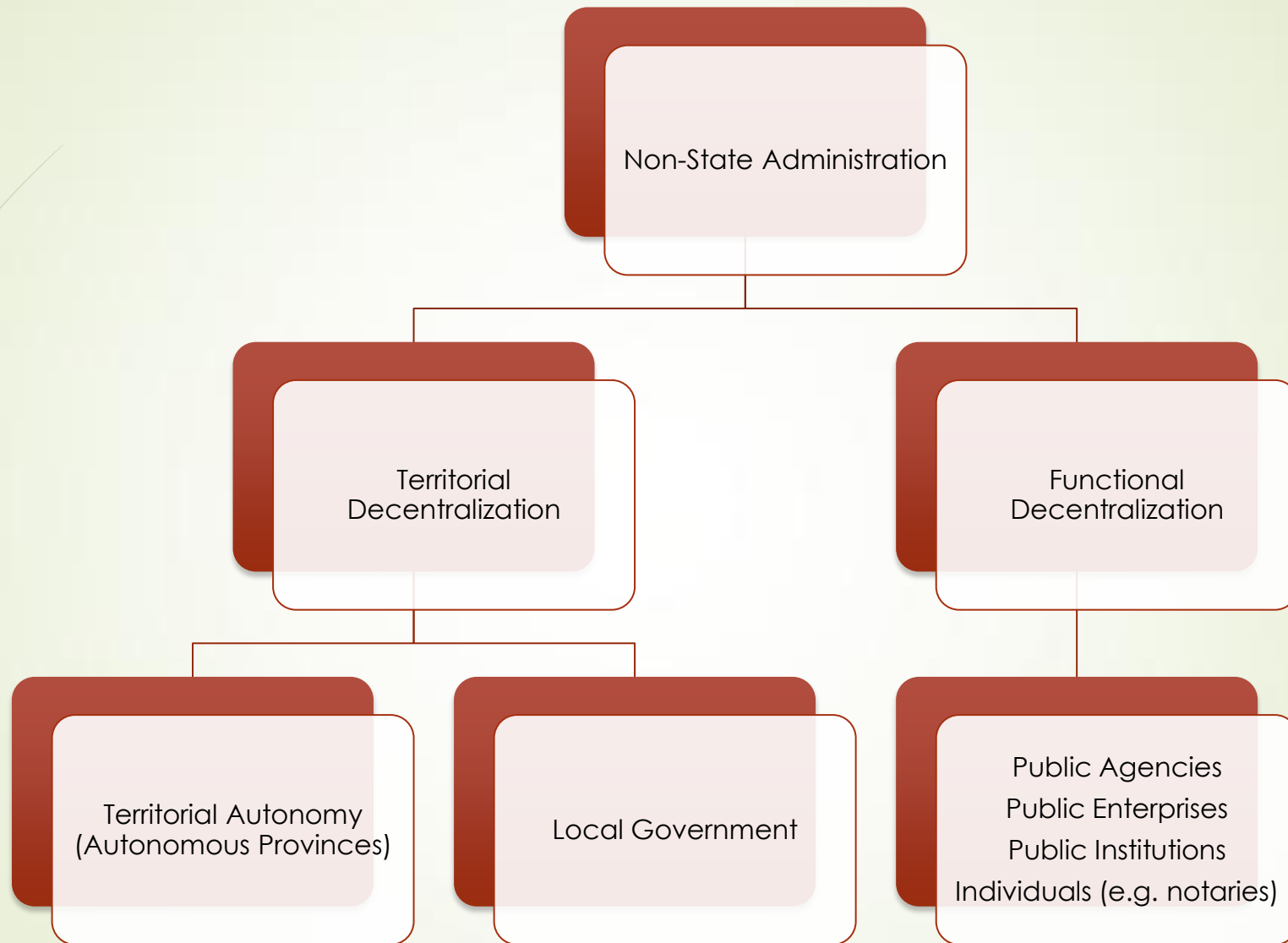
Independent
State
Authorities

Judiciary

- Supreme Court of Cassation
- Appellate Courts
- High Courts
- Basic Courts
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Constitutional
Court?







Control of Administration




Political Control of the Administration

- **Parliament** – ministerial responsibility, MPs questions, parliamentary commissions, ombudsman's yearly report
 - **Government** – formulating policies, appointing and removing ministers and other administrative officials
 - **Public**
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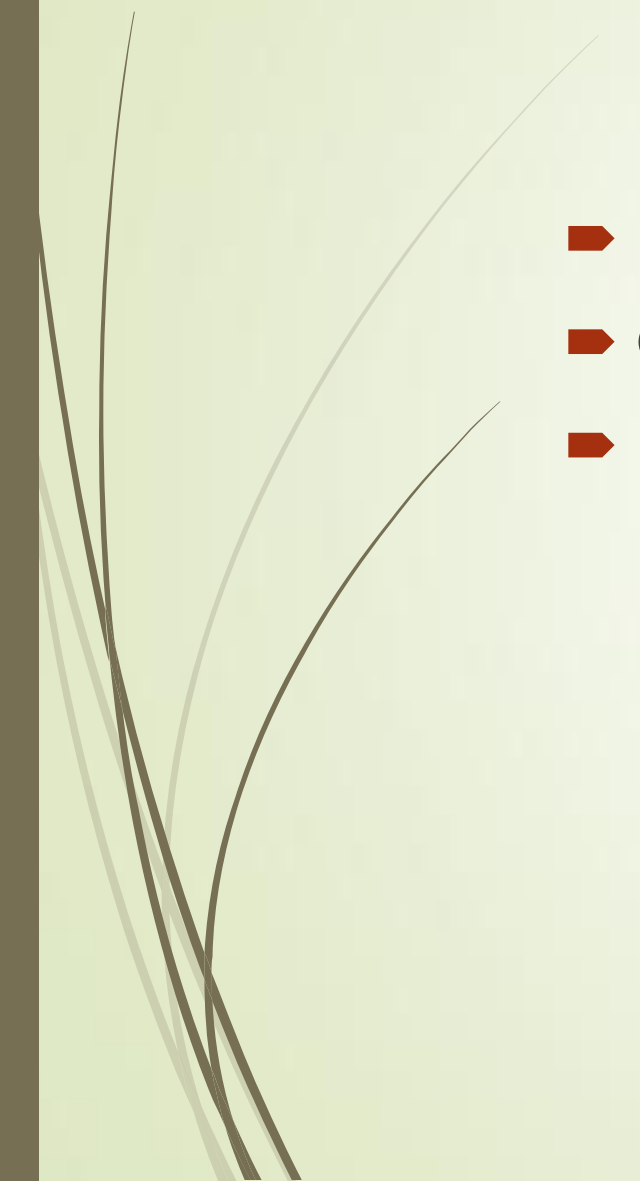


Legal Control of the Administration

- **Administrative (internal) control** – hierarchal appeals, extraordinary legal remedies, administrative inspection
 - **Judicial control** – ordinary (civil and criminal courts), the Administrative Court, the Constitutional Court
 - **Independent authorities control** – Data Protection Commissioner, Public Procurement Commission
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Ombudsman

- ▶ External non-legal control with legal elements
 - ▶ On application or *ex officio*
 - ▶ Recommendations
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Administrative Procedure



Administrative Procedure

- **General Administrative Procedure Act (1930) [GAPA]**
- **1997 GAPA:**
- Individual legal administrative acts (decisions)
- Public certificate issuance
- **2016 GAPA:**
- Also administrative contracts, factual acts of administration, provision of public services, guarantee acts

Administrative Procedure

- 1997 / 2016 GAPA:
- General principles – legality, efficiency, economy, truth, consultation, assistance
- First-instance procedure – issuance of administrative act and public certificates (2016 – guarantee acts)
- Appellate proceeding – hierarchal remedy (factual acts of administration, provision of public services, adm. contracts)
- Objection – remonstrative (gracious) remedy
- Extraordinary legal remedies
- Administrative execution



Administrative Judiciary



Judicial Control of Administration

- Ordinary courts – civil litigation (damages), criminal procedure
- The Constitutional Court:
- Constitutionality and legality of general legal acts (administrative regulations)
- Constitutional appeal (adm. acts and factual acts of administration)
- The Administrative Court

Administrative Judiciary

One Administrative Court

No Appeal

Supreme Court of Cassation –
Request for judgment re-
assessment






Administrative Judiciary

- ▶ One Administrative Court
 - ▶ No Appeal
 - ▶ Supreme Court of Cassation – Request for judgment re-assessment
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Administrative Judiciary

- Mandatory administrative appeal
 - Administrative acts only
 - (mainly) written procedure
 - Not deciding on the merits of the case
 - No appeal, 2 extraordinary legal remedies
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Thank you for your attention!