

## 8<sup>th</sup> Part

### 1<sup>st</sup> section

# The Control of Administrative Authority: Legal Controls

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## 1. Introduction

Any discussion of the legal control of administrative authorities must begin with a brief mention of the two types of administration, each of which are subject to fundamentally different types of legal control: They are sovereign (or public) administration (Hoheitsverwaltung) and administration along the lines of the private sector of the economy (Privatwirtschaftsverwaltung)<sup>1)</sup>.

A major characteristic of public administration is that it is bound closely to statutory law by the legality principle expressed in Art. 18 of the Austrian Federal Constitution. The separation of powers favors the democratic legislature, so that the exercise of administrative powers must be based on statutes, specifically on relatively precise and predetermined legal norms. Notwithstanding the intricacies of the legality principle and the possibility of administrators being granted certain discretion in exceptional cases, public administration is distinguished first and foremost by this primacy of statutory law<sup>2)</sup>.

Another characteristic of public administration is that its statutory mandate is determined in large measure by the legal status of the persons