16. Адміністративне право України: словник термінів / за заг. ред. Т.О. Коломоєць, В.К. Колпакова. К.: Ін Юре, 2014. 520 с.

17. Про схвалення Концепції розвитку системи надання адміністративних послуг органами виконавчої влади: Розпорядження Кабінету Міністрів України від 15 лютого 2006 р. № 90-р (зі змінами та доповненнями) / Кабінет Міністрів України. URL: http://zakon4.rada.gov.ua/laws/show/90-2006-р.

18. Писаренко Г.М. Адміністративні послуги в Україні: організаційно-правові аспекти: автореф. дис. … канд. юрид. наук: 12.00.07 «Адміністративне право і процес; фінансове право; інформаційне право». О., 2006. 19 с.

19. Тернущак М.М. Законодавчі зміни у частині тлумачення терміну «державна служба»: порівняльний аналіз положень законів Про державну службу у редакції 1993 та 2015 рр. Актуальні питання реалізації нового Закону України «Про державну службу»: Всеукраїнський форум вчених адміністративістів (Запоріжжя, 21 квітня 2016 р.) / Запорізький національний університет, Національний юридичний університет імені Ярослава Мудрого, Київський національний університет імені Тараса Шевченка, Вищий адміністративний суд України, ГО «Асоціація фахівців адміністративного права», Запорізька обласна державна адміністрація, Запорізька обласна рада, Запорізький центр перепідготовки і підвищення кваліфікації працівників органів державної влади, органів місцевого самоврядування, державних підприємств, установ та організацій. Запоріжжя: ЗНУ, 2016. С. 109–112.

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GENERAL PROVISIONS OF ADMINISTRATIVE LEGAL PROCEEDINGS IN UKRAINE

Summary

During the administrative-legal reform, the adaptation of the administrative legislation of Ukraine to the legislation of the European Union, significant changes in the organizational and legal basis of the administrative legal process of Ukraine are taking place. First of all, statutes of Ukrainian legislation, which establish the principles of administrative legal proceedings of Ukraine, are being improved; the

system of administrative courts of Ukraine is being updated. The definition of administrative jurisdiction of administrative courts of Ukraine becomes important, as well as the issue of jurisdiction of administrative cases. As a type of legal process, administrative legal proceedings are based on general and sectoral principles and consist of the main and optional stages that are implemented in a clearly defined sequence and form a specific system. In the administrative legal proceedings, the list of public-law disputes subject to the jurisdiction of administrative courts has been updated. In addition, the new Code of Administrative Legal Proceedings of Ukraine expands the notion of «administrative agreement».

The concept and principles of administrative legal proceedings

Definition of the concept of «administrative legal proceedings» is legally enshrined in Art. 4 of the Code of Administrative Legal Proceedings of Ukraine (hereinafter referred to as the CALP of Ukraine), according to which administrative legal proceedings are the activity of administrative courts for the consideration and resolution of administrative cases in accordance with the procedure established by the CALP of Ukraine.

Administrative legal proceedings are carried out on the relevant principles, namely, Article 2 of the CALP of Ukraine establishes the principles of administrative legal proceedings, which should be understood as the defining ideas under which the regulation of relations arising in the field of administrative legal proceedings takes place. Their specificity is that they establish initial, statutory provisions, which determine the content of justice and serve as a criterion for the legitimacy of the behaviour of participants in legal relationships that arise in the field of justice.

The analysis of the system of principles of administrative legal proceedings allows concluding on the democratic basis of administrative legal proceedings, its proximity to the best models in the world. This is evidenced by the establishment of such a principle as the rule of law (and not the traditional rule by law), which leads the whole system of principles of administrative legal proceedings. The fact is that in democratic states, there is not only a declared but also a long established mechanism for ensuring the rule of law, an important component of which is, in particular, administrative courts.

The rule of law principle. The court is guided by the rule of law, in accordance with which, in particular, a person, his/her rights and freedoms are recognized as the highest values and determine the content and direction of the state's activity. The court applies the rule of law principle, taking into account the court practice of the European Court of Human Rights. Appeal to an administrative court for the protection of human and citizen's rights and freedoms is directly guaranteed by the Constitution of Ukraine. The refusal to consider and resolve an administrative case on the grounds of incompleteness, ambiguity, contradiction or lack of legislation governing the controversial relationship is prohibited.

The equality of all participants in the trial before the law and the court. All participants in the trial are equal before the law and the court. There can be no privileges or restrictions on the rights of participants in the trial on the grounds of

race, colour, political, religious or other beliefs, gender, ethnic or social origin, property status, place of residence, language or other grounds.

Publicity and openness of legal procedure and its complete fixation by technical means. Consideration of cases in administrative courts is carried out open except for cases determined by the CALP of Ukraine. Any person has the right to be present at an open court hearing. From a person who wishes to be present at a court session, it is prohibited to require any documents other than a document certifying a person. Persons who wish to be present at the court session are allowed to the courtroom before the trial begins and during a break. The court may remove from the courtroom the persons who impede the conduct of the court session, the exercise of rights or the performance of the duties of participants in the trial or judges, violate the order in the courtroom. Persons present in the courtroom, media representatives may hold photographic work, video and audio recordings using the portable video and audio equipment in the courtroom without obtaining special court permission, but taking into account the limitations set by the CALP of Ukraine. Broadcast of the court session is carried out with the permission of the court. If all the participants of the case participate in the court session in the video conference mode, the broadcasting of the court session on the Internet is compulsory. Conducting in the courtroom of photography, video recording, as well as broadcasting of a court session should be carried out without creating obstacles in the conduct of the session and the implementation of procedural rights by the trial participants. No one may be deprived of the right to information on the date, time, and place of consideration of his/her case or restricted in the right to receive verbal or written information on the results of the consideration of the case in court. Any person who is not a party to the case has the right to have access to court decisions in accordance with the procedure established by law. Information on the court hearing the case, parties to a case, and the subject-matter of the claim, the date of receipt of statement of claim (complaint) or any other application or petition in the case, including the person who submitted such an application, the measures taken to secure the claim and/or evidence, the stage of case hearing, the place, date, and time of a court session, the movement of a case from one court to another, is open and subject to urgent publishing on the official web portal of the judiciary of Ukraine in accordance with the procedure established by the Regulation on the Single Judicial Information and Telecommunication System.

Competitiveness of the parties, dispositivity, and official clarification of all circumstances on the case. Consideration and resolution of cases in administrative courts are carried out on the basis of adversariality and the freedom of parties to provide the court with evidence and to bring to the court their strength. The court considers administrative cases only as a statement of claim filed in accordance with the CALP Ukraine, within the limits of the claims. The court may go beyond the claims under the lawsuit if it is necessary for the effective protection of rights, freedoms, interests of the person and citizen, other subjects in the field of public-legal relations from violations by the subjects of power. Every person applying for judicial protection disposes of his/her own requirements at his/her own discretion, except in cases established by the CALP of Ukraine. Such a right is also enjoyed by persons in whose interests the claim is filed, with the exception of those who do not have the

administrative procedural capacity. The court adopts the statutory measures necessary to ascertain all the circumstances of the case, including the discovery and disclosure of evidence on its own initiative.

Binding nature of the judgment. The judicial decision, which ends the consideration of the case in the administrative court, is adopted in the name of Ukraine. Judicial decisions which came into force are obligatory for execution by all state authorities, local self-government bodies, their officials, natural and legal persons and their associations throughout the territory of Ukraine. The obligation of a court decision does not deprive persons who did not take part in the case of the possibility to apply to the court if the decisions passed by the court resolved the issue of their rights, freedoms, interests and/or duties. Failure to comply with administrative court decisions entails both administrative and criminal liability envisaged by law.

Providing right to appeal reconsideration of the case. The basic principles of legal proceedings, in accordance with the Constitution of Ukraine, include the provision of an appeal against a court decision, except in cases established by law. The implementation of this principle was reflected in section III of the CALP of Ukraine, which established a procedural order of reviewing court decisions in administrative courts of appeal.

An appeal is the main way of appealing against court decisions that have not entered into force in a higher court (court of appeal). The court of appeal in administrative cases is an administrative court of appeal, within the territorial jurisdiction of which the local administrative court (local general court as an administrative court or district administrative court), which has made a decision, is located.

Providing the right to cassation appeal of the judgment in the cases determined by the law. The participants in the case, as well as those who did not take part in the case, if the court has decided on their rights, freedoms, interests and/or duties, have the right to cassational appeal of the court decision. Cassation is the verification of the legality of administrative court decisions, which have come into legal force, of the courts of the first and appellate instances.

The court of cassation in administrative cases is the Supreme Court. Cassation appeal of a court decision of a first instance is not allowed without its review on appeal.

Rationality of terms of consideration of the case by the court. The court should set reasonable time limits for conducting procedural actions. The term is reasonable if it provides for sufficient time, taking into account the circumstances of the case, for the execution of a procedural act, and corresponds to the task of administrative legal proceedings.

Inadmissibility of abuse of procedural law. Trial participants and their representatives must exercise procedural rights in good faith. Abuse of procedural rights is not allowed. Taking into account the specific circumstances of the case, the court may declare actions that contradict the task of administrative legal proceedings as abuse of procedural rights, in particular: 1) submission of a complaint to a court decision that is not subject to appeal, is not valid or expired, submission of a petition

(application) for resolving an issue already decided by the court, in the absence of other grounds or new circumstances, a statement of a knowingly unjustified recusation or commission other similar actions aimed at unjustifiably protracting or perverting the consideration of a case or execution of a court decision; 2) filing several claims to one and the same defendant (defendants) with the same subject-matter and for the same reasons, or filing several claims with a similar subject-matter and for similar reasons, or committing other acts whose purpose is to manipulate the automated division of cases between judges; 3) submission of a knowingly unreasonable claim, a claim in the absence of a subject of dispute or in a dispute that is obviously artificial; 4) unreasonable or artificial association of claims under the lawsuit to change the jurisdiction of a case, or knowingly unreasonable involvement of a person as a defendant (co-defendant) for the same purpose; 5) harmonization of conditions for reconciliation aimed at harming the rights of third parties, deliberate failure to notify persons to be involved in the case. If the filing of a complaint, a statement, a petition is considered an abuse of procedural rights, the court, given the circumstances of the case, has the right to leave a claim undecided or to return a complaint, a statement, a petition. The court is required to take measures to prevent the abuse of procedural rights.

The principle of compensation of court costs of individuals and legal entities for benefit of which the judgment is made. Article 94 of the CALP of Ukraine establishes a provision on the distribution of court costs. If a court decision is made in favour of a party that is not a subject of authority, the court shall award all documented court costs against the State Budget of Ukraine (or the corresponding local budget, if the other party was a local self-government body, its civil servant or official). If a court decision is made in favour of the party who is the subject of authority, the court shall award against the other party all the documented court costs incurred by it, related to the involvement of witnesses and the conduct of forensic examinations. If the administrative claim is satisfied partially, the court costs incurred by the plaintiff are awarded against him in accordance with the satisfied claims, and against the defendant – in accordance with the part of the claim that was denied. In cases in which the plaintiff is the subject of authority, and the defendant – a natural or legal person, the court costs incurred by the plaintiff are not charged to the defendant. In case of rejection of the claims under the lawsuit of the plaintiff, released from payment of court costs, as well as dismissing an administrative claim, the court costs incurred by the defendant shall be compensated at the expense of the State Budget of Ukraine. If the court of appeal or cassation instance, without returning the administrative case for a new hearing, changes the court decision or adopts a new one, it accordingly changes the distribution of court costs.

Administrative jurisdiction

Article 19 of the CALP of Ukraine states that the jurisdiction of administrative courts extends to cases in public-law disputes, in particular:

1) disputes of natural or legal persons with the authority on appeal against its decisions (laws and regulations or individual acts), actions or inaction, except when

for the consideration of such disputes the law establishes a different procedure for judicial proceedings;

2) disputes concerning the acceptance of citizens to public service, its passage, dismissal from the public service;

3) disputes between authorities with regard to the implementation of their competence in the field of administration, including delegated powers;

4) disputes arising in relation to the conclusion, performance, termination, cancellation of administrative agreements or their acceptance as inoperative;

5) disputes on the appeal of authority in cases when the right to trial for solving public-law disputes is provided by law to this power entity;

6) disputes concerning legal relations related to the electoral process or referendum process;

7) disputes of natural or legal persons with the manager of public information regarding the appeal of its decisions, actions or inaction in terms of the access to public information;

8) disputes concerning seizure or compulsory acquisition of property for public use or for reasons of social necessity;

9) disputes on the appeal of decisions of attestation, competition commissions, disability determination services, and related agencies, which decisions are compulsory for public authorities, local self-government bodies, other persons;

10) disputes on the composition formation of public authorities, local self-government bodies, election, appointment, dismissal of their officials;

11) disputes of natural or legal persons on the appeal of decisions, actions or inaction of customer in legal relations arising in accordance with the Law of Ukraine «On Features of Purchase of Goods, Works, and Services for the Guaranteed Assurance of Defence Requirements» except for disputes related to the conclusion of a contract with the winner of the negotiated procurement procedure, as well as the modification, termination, and execution of procurement contracts;

12) disputes on the appeal of decisions, actions or inaction of national border control agencies in cases on violations provided for by the Law of Ukraine «On Responsibility of Carriers During International Passenger Transportation».

The jurisdiction of administrative courts does not apply to cases:

1) which are classified in the jurisdiction of the Constitutional Court of Ukraine;

2) which should be solved according to the criminal justice procedure;

3) on the imposition of administrative penalties, except for cases determined by the CALP of Ukraine;

4) on relations which, in accordance with the law, the statute (provision) of a public association, a self-regulatory organization are attributed to its internal activity or exclusive competence.

Administrative courts do not consider claims under the lawsuit that are derived from claims in a private-law dispute and are filed with them if this dispute is subject to consideration in an order other than administrative proceeding and is under consideration by the relevant court.

Administrative jurisdiction is determined by three criteria, which are designated as varieties of jurisdictions of administrative affairs: *subject-matter (patrimonial), territorial (spatial), instance (functional).*

Subject-matter jurisdiction – a set of rules defining the delimitation of the competence of courts of certain units for the consideration of administrative cases in the first instance depending on the subject-matter of a public-law dispute or its parties.

Under the rules of subject-matter jurisdiction, most of the cases in the first instance are considered by the local administrative courts, which include local general courts as administrative courts and district administrative courts. *Local general courts as administrative courts hear:*

1) administrative cases concerning decisions, actions or inaction of authorities in cases of bringing to administrative responsibility;

2) administrative cases related to the electoral process or the referendum process concerning: appeal against decisions, actions or inaction of polling station commissions, polling station commission for referendum, members of these commissions; clarification of the list of voters; appeal against actions or inaction of mass media, news agencies, enterprises, institutions, organizations, their officials and civil servants, creative workers of media and news agencies that violate election and referendum legislation; appeal against actions or inaction of a candidate for deputy of a village, settlement council, candidates for the position of a village, settlement chairman, their trustees;

3) administrative cases related to the residence of foreigners and stateless persons on the territory of Ukraine in relation to: the compulsory return to the country of origin or the third country of foreigners and stateless persons; forced removal of foreigners and stateless persons outside Ukraine; the detention of foreigners or stateless persons for the purpose of their identification and/or enforcement of forced expulsion outside the territory of Ukraine; prolongation of the term of detention of foreigners or stateless persons with the purpose of their identification and/or enforcement of forced expulsion outside the territory of Ukraine; the detention of foreigners or stateless persons to decide on their recognition as refugees or persons who need additional protection in Ukraine; the detention of foreigners or stateless persons in order to ensure their transfer in accordance with the international agreements of Ukraine on readmission;

4) administrative cases regarding decisions, actions or inaction of the state executive or another official of the state executive service regarding the execution of court decisions by them.

District administrative courts are responsible for all administrative cases, except for cases concerning decisions, actions or inaction of authorities in cases on bringing to administrative responsibility.

Instance jurisdiction – a set of rules defining the delimitation of the competence of administrative courts when considering administrative cases in the first, appellate, and cassation instances.

An instance means a court (or its structural subdivision) that performs one or another function related to the consideration of administrative cases and is characterized by a special procedural order for opening proceedings, consideration of

a case, the subject-matter of consideration, the composition of judges, and the final procedural act. *The CALP of Ukraine provides for three instances in administrative legal proceedings: the first, appellate, and cassation.*

Court of the first instance: local administrative courts (local general courts as administrative courts and district administrative courts) solve administrative cases as courts of the first instance, except for cases determined by the CALP Ukraine.

Court of appellate instance: appellate administrative courts review court decisions of local administrative courts (local general courts as administrative courts and district administrative courts) that are within their territorial jurisdiction, on appeal as appellate courts.

Court of cassation instance: the Supreme Court reviews the court decisions of local and appellate administrative courts under cassational procedure as a court of cassation instance.

Territorial jurisdiction (jurisdiction) – a set of rules defining the delimitation of the competence of administrative courts of one level, depending on the place of consideration of administrative cases in the first instance.

There are the following types of territorial jurisdiction:

Jurisdiction of cases by the plaintiff's discretion, that is, administrative cases concerning the appeal of individual acts, as well as actions or inaction of authorities that are accepted (committed, admitted) in relation to a particular physical or legal person (their associations), are resolved by the choice of the plaintiff by an administrative court for the place of residence (staying, location) of this plaintiff or administrative court by the location of the defendant in a manner established by law.

Jurisdiction of cases by the place of residence or the location of the defendant, claims to an individual are filed in court for a registered place of residence or stay in a manner prescribed by law. Claims to legal entities are filed in court by their location according to the United State Register of Legal Entities, Individual Entrepreneurs and Public Organizations of Ukraine.

The exclusive jurisdiction, administrative cases on the appeal of laws and regulations of the Cabinet of Ministers of Ukraine, the ministry or another central executive authority, the National Bank of Ukraine or another authority, whose powers extend throughout the territory of Ukraine, except cases specified by this Code, administrative cases on the appeal against decisions of the Antimonopoly Committee of Ukraine on complaints about violations of legislation in the field of public procurement and decisions in the field of state aid to economic entities, administrative cases on the suit of the Antimonopoly Committee of Ukraine in the field of state aid to economic entities, administrative cases, the defendant of which is a diplomatic mission or consular institution of Ukraine, their official or civil servant, as well as administrative cases concerning the cancellation of the registration certificate of a political party, the prohibition (compulsory dissolution, liquidation) of a political party shall be decided by the district administrative court whose territorial jurisdiction extends to the city of Kyiv.

Stages of administrative legal proceedings

Administrative legal proceedings as the activity of administrative courts for the consideration and resolution of administrative cases consist of a series of procedural actions that are carried out not chaotically but in a clearly defined sequence, constitute a certain system. Relatively separate groups of procedural actions are designated as stages of administrative legal proceedings, that is, it is about such a characterization of administrative proceedings, as its stages.

Each of the stages of administrative legal proceedings has its own specific goals and objectives that are unique to it and will contribute to the achievement of the general goals of administrative legal proceedings for solving and resolving an administrative case, the protection of the rights and freedoms of the participants in public legal relations. The presence of such goals is one of the most important criteria for the isolation of a certain set of procedural actions into a separate stage of administrative legal proceedings.

At different stages of administrative legal proceedings, the composition of the members of the administrative process may vary; in addition, a part of their procedural rights and obligations is realized only at certain procedural stages. Each stage of administrative legal proceedings as a sequence of actions is carried out in time. The division of the administrative process into stages is a logical and temporal characteristic of administrative legal proceedings, as well as any kind of legal process. The law establishes specific procedural time limits, within which procedural actions belonging to a certain stage are carried out.

The stage of administrative legal proceedings ends with the execution of the corresponding, prescribed in the law, procedural document (judgement, desicion), which consolidates the results achieved during the implementation of procedural actions at a certain stage.

Thus, the stage of administrative legal proceedings is characterized by its own immediate goals, a range of procedural actions carried out within the established procedural terms, and their participants, as well as by their final decisions and their procedural implementation.

The stage of administrative legal proceedings is a relatively independent set of consistently implemented procedural actions, which, in addition to the general objectives, has its own goals, as well as the features related to the participants in the administrative process, their rights and duties, the terms of the implementation of procedural actions, and the nature of the procedural documents to be drawn up.

The list of stages of administrative legal proceedings is similar to stages of other types of adversary justice. They include:

1) the stage of litigation;
2) the stage of opening proceedings in an administrative case;
3) the stage of preparatory proceedings;
4) the stage of judicial inquiry of an administrative case on the merits;
5) the stage of appellate review of court decisions;
6) the stage of cassation appeal of court decisions;
7) the stage of reviewing court decisions by newly discovered or exceptional circumstances;

8) the stage of application of court decisions in administrative cases to execution.

Proceedings in an administrative case do not necessarily pass all of the above stages – this is ultimately determined by the individuals involved in the case, primarily by the parties. Only the first four of the mentioned stages are obligatory. Other stages of administrative legal proceedings, the proceedings of which depend on the initiative of the abovementioned persons, are optional.

The first stage of administrative legal proceedings is litigation. When considering a case by a court in accordance with the rules of the general litigation, the trial participants shall in writing set out their claims, objections, arguments, explanations, and considerations regarding the subject-matter of the dispute solely in the statements on the merits of the case, as determined by the CALP of Ukraine. Claims on the merits are: statement of claim; statement of defence (defence); reply to defence; exception; pleadings of the third party regarding a claim or a defence. The cause of action, the time, and the order of filing applications on the merits are determined by the CALP of Ukraine or the court in certain cases. Submission of applications on the merits is the right of the parties to a case. Failure to submit a statement of defence by the authority without good reason can be qualified by the court as a confession of action. The court may allow a trial participant to file additional pleadings regarding a separate issue that arose during the trial if it considers it necessary.

The second stage of the opening of proceedings in an administrative case. At this stage, the administrative court finds out the circumstances (the existence of administrative procedural capacity of the person who filed the statement of claim; the presence of the appropriate powers of the representative; the compliance of the statement of claim with the requirements to it; the jurisdiction and amenability of the case to the administrative court, etc.), without which it is impossible to open administrative legal proceedings in a particular administrative case.

The third stage – *the stage of preparatory proceedings.* At this stage, the court takes measures to ensure the full and objective consideration and resolution of the case in one court session for a reasonable time.

The preparation of the case for trial is carried out by a judge of the administrative court, who opened the proceedings in the administrative case. The tasks of preparatory proceedings are:

1) final definition of the subject-matter of the dispute and the nature of the controversial legal relationship, claims under the lawsuit, and the composition of participants in the trial;

2) elucidation of objections against claims;

3) determination of the circumstances of the case, which are subject to the establishment, and the collection of relevant evidence;

4) solution of recusations;

5) determination of the order of proceedings;

6) commitment of other actions in order to ensure the proper, timely, and unhindered trial on the merits.

The preparatory proceedings begin with the opening of proceedings and end with the closing of the preliminary case hearing. The preparatory proceedings shall be held

within sixty days of the opening of the proceedings. In exceptional cases, for the proper preparation of the case for trial on the merits, this period may be extended by no more than thirty days either by a party or by the court on its own motion.

The last mandatory stage is *the stage of judicial review of an administrative case*, which occupies a prominent place in administrative legal proceedings. At this stage, the administrative case is considered and solved on the merits – the evidence is being investigated, the factual background of the case is being established, the rights and obligations of the parties are being clarified, a decision in the case is being made. The purpose of the hearing on the merits is to consider and resolve the dispute on the basis of materials collected in the preparatory proceedings, as well as the distribution of court costs. Procedural actions carried out at the stage of judicial review of an administrative case, are divided into four parts (stages): preparatory, trial on the merits, legal debate, adoption and reading of a court decision.

The first of the optional stages of administrative legal proceedings is *the stage of appeal review of court decisions*. At this stage, court decisions that have not come into force are reviewed in an appeal, both on the facts and on the law.

At *the stage of the cassation appeal of court decisions*, judgements of the court of the first and appellate instances, which came to legal effect on the law, i.e., on the correct application of the rules by courts of the first and appellate instance of the rules of substantive and procedural law, are verified.

A separate stage in administrative legal proceedings is *the stage of reviewing judgements by newly discovered or exceptional circumstances.* At this stage, judicial decisions that are legally valid in connection with the existence of circumstances that could have an influence on the court decision, but were not known and could not be known to the court and to the person applying for the review, when reviewing the administrative case. *The grounds for reviewing a judgement by newly discovered circumstances are:*

1) circumstances essential to the case that were not established by the court and were not known and could not be known to the person submitting the application at the time of case hearing;

2) the establishment by a court sentence or a judgement on the closure of criminal proceedings and the release of a person from criminal responsibility, legally valid, knowingly false testimony, a knowingly wrong expert opinion, knowingly wrong translation, falseness of written, material or electronic evidence that led to the adoption of an illegal decision in this case;

3) the reversal of the judgement, which became the basis for the adoption of a judicial decision that is subject to review.

The grounds for reviewing judgments in connection with exceptional circumstances are:

1) established by the Constitutional Court of Ukraine unconstitutionality (constitutionality) of the law, other legal act or their separate provision applied (not applied) by the court in the decision of the case if the court decision has not yet been executed;

2) the establishment by the court verdict, which has come into legal force, of the guilty of a judge in committing a crime, which resulted in a court decision;

3) the establishment by an international judicial body whose jurisdiction is recognized by Ukraine of violations of Ukraine's international obligations in resolving this case by a court.

When reviewing a court decision by newly discovered or exceptional circumstances, the court cannot go beyond the requirements that were the subject of consideration when adopting a revised judicial decision, to consider other requirements or other grounds of an action.

The final stage of administrative legal proceedings is *the stage of application of court decisions in administrative cases to execution.* At this stage, the court resolves issues that arise in connection with the execution of court decisions. A judicial decision that has come into legal force is obligatory for the trial participants and their successors, as well as for all bodies, enterprises, institutions, and organizations, officials or servants, other individuals, and is subject to enforcement throughout Ukraine, and in cases established by international treaties, the consent to be bound by which is provided by the Verkhovna Rada of Ukraine, or on the principle of reciprocity, – beyond its borders.

The system of administrative courts

In the course of judicial reform, the Verkhovna Rada of Ukraine adopted the Law of Ukraine «On Amendments to the Constitution of Ukraine (in relation to justice)» and the Law of Ukraine «On the Judiciary and Status of Judges» [3], which entered into force on 30.09.2016, according to which in Ukraine, triangular system of courts was established: local courts, appellate courts, and the Supreme Court. In accordance with the Law of Ukraine «On the High Council of Justice» [4], which came into force on 05.01.2017, the powers of the Supreme Council of Justice were determined, in particular: the submission of an application for the appointment of a judge; the authority to consider a complaint against a decision of the relevant body on bringing a judge to disciplinary liability; making a decision regarding violation of the incompatibility requirements by a judge; the decision to dismiss a judge; granting a consent to the detention of a judge or holding him in detention; making a decision on the temporary suspension of a judge from the administration of justice.

The judicial system in Ukraine is based on the principles of territoriality, specialization, and instance nature. The Supreme Court of Ukraine is the supreme court in the court system [5].

In order to consider certain categories of cases, in accordance with the Law of Ukraine «On the Judiciary and Status of Judges» (restated), higher specialized courts operate in the system of justice. The Supreme Court of Ukraine is the supreme court in the system of the judicial system of Ukraine, which ensures the consistency and unity of judicial practice in the manner established by the procedural law. The Supreme Court of Ukraine exercises justice as a court of cassation instance, and in cases determined by procedural law, – as a court of the first or appellate instance, in accordance with the procedure established by the procedural law; carries out analysis of judicial statistics, generalization of judicial practice; provides conclusions on draft legislation related to the judicial system, legal proceedings, status of judges, execution of court decisions, and other issues related to the functioning of the judicial

system; provides conclusions on the presence or absence of acts in which the President of Ukraine is accused, signs of treason or other crime; at the request of the Verkhovna Rada of Ukraine, makes a written submission regarding the inability of the President of Ukraine to exercise the authority over the state of health; appeals to the Constitutional Court of Ukraine regarding the constitutionality of laws and other legal acts, as well as with regard to the official interpretation of the Constitution of Ukraine; ensures the uniform application of the rules of law by the courts of different specializations in the manner and in accordance with the procedure prescribed by procedural law; carries out other powers, determined by law.

The Supreme Court of Ukraine includes no more than two hundred judges.

The Supreme Court includes the following: the Grand Chamber of the Supreme Court; Cassation Administrative Court; Cassation Commercial Court; Cassation Criminal Court; Cassation Civil Court.

The cassation administrative court includes judges of the relevant specialization and the chambers of administrative courts are formed. *In the Cassation Administrative Court, separate chambers are required for the consideration of cases concerning:*

1) taxes, fees, and other obligatory payments;

2) protection of social affairs;

3) the election process and referendum, as well as the protection of political rights of citizens.

Other chambers in the cassation administrative court may be established by the decision of judges of the cassation court.

Appellate administrative courts review court decisions of local administrative courts (local general courts as administrative courts and district administrative courts) that are within their territorial jurisdiction, on appeal as appellate courts. The review of court decisions is carried out by a three-judge panel. Administrative cases, which are sued to the Kyiv Appellate Administrative Court as a court of the first instance, are considered and resolved by a panel of three judges. The Supreme Court acts as a court of the first instance in certain cases determined by the CALP of Ukraine [2], as well as reviews judgements of local and appellate administrative courts under cassational procedure as a court of cassation. In the system of administrative courts, nine administrative courts of appeal were formed: Vinnytsia, Dnipropetrovsk, Donetsk, Zhytomyr, Kyiv, Lviv, Odesa, Sevastopol, and Kharkiv. The powers of appellate administrative courts extend:

– Vinnytsia Administrative Court of Appeal – Vinnytsia, Khmelnytskyi, Chernivtsi regions;

– Dnipropetrovsk Administrative Court of Appeal – Dnipropetrovsk, Zaporizhzhia, Kirovohrad regions;

– Donetsk Administrative Court of Appeal – Donetsk, Luhansk regions;

– Zhytomyr Administrative Court of Appeal – Volyn, Zhytomyr, Rivne regions;

– Kyiv Administrative Court of Appeal – Kyiv, Cherkasy, Chernihiv regions and the city of Kyiv;

– Lviv Administrative Court of Appeal – Zakarpattia, Ivano-Frankivsk, Lviv, Ternopil regions;

– Odesa Administrative Court of Appeal – Mykolaiv, Odesa, Kherson regions;

– Sevastopol Administrative Court of Appeal – the Autonomous Republic of Crimea, the city of Sevastopol;

– Kharkiv Administrative Court of Appeal – Poltava, Sumy, Kharkiv regions.

Local administrative courts are local general courts, as administrative courts and district courts. The latter are formed in the districts in accordance with the decree of the President of Ukraine.

Local administrative courts act as courts of the first instance. In a local general court, as an administrative court, a judge who examines a case individually acts as a court. In district courts, administrative cases are considered and resolved by a three-judge panel. Local general courts as administrative courts consider [2]: 1) administrative cases in which one of the parties is an authority or official of local self-government, an official or a civil servant of a local self-government body, except those who fall under the jurisdiction of district administrative courts; 2) all administrative cases concerning decisions, actions or inaction of authorities in cases on bringing to administrative responsibility; 3) all administrative cases concerning disputes of individuals with the authorities over the calculation, award, re-calculation, implementation, provision, receipt of pension payments, social benefits for disabled citizens, payments for compulsory state social insurance, payments and benefits to persons born in time of war, others social benefits, surcharges, social services, assistance, protection, allowances. District administrative courts consider the administrative cases, in which one of the parties is a state authority, another state body, the authority of the Autonomous Republic of Crimea, the regional council, Kyiv or Sevastopol City Council, their official or civil servant, in addition to cases concerning their decisions, actions or inaction in cases of administrative misconduct and cases that are liable to the local general courts as administrative courts. Since January 1, 2005, in the system of administrative courts, 27 district administrative courts have been formed in accordance with the territorial division into regions, the Autonomous Republic of Crimea, cities of Kyiv and Sevastopol. Administrative courts of appeal are established in appellate circuits in accordance with the decree of the President of Ukraine.

Conclusions

Ukraine's orientation towards the construction of a legal, democratic state and accession to the European Union envisages the existence of an effective mechanism for the protection of human rights and freedoms, one of the elements of which is the effective and responsible system of judicial protection of individuals and legal entities from violations of their rights and legitimate interests by public authorities in the field of public legal relations. Creation of a system of administrative courts was defined as the direction of both judicial-legal and administrative-legal reforms, as well as provided by the provisions of the Constitution. According to Article 55 of the Constitution of Ukraine, the rights and freedoms of man and citizen are protected by a court. Everyone is guaranteed the right to appeal in court against decisions, actions or inaction of state authorities, local self-government bodies, officials and civil servants. It is administrative legal proceedings that are a way of implementing this

constitutional right of citizens to appeal against unlawful actions and judgements of state authorities. The fulfilment of tasks of administrative legal proceedings and its effectiveness directly depend on the proper use of the rules of substantive and procedural law in cases by courts. This requires knowledge of their content, place in the system of law, orientation, their relationship with other norms and legal principles, which are reflected in the specified rules. Administrative legal proceedings are the activity of administrative courts for the consideration and resolution of administrative cases, i.e. public-law disputes in which at least one party is a subject of public administration. Such disputes arise as a result of violations of the rights, freedoms, and legitimate interests of individuals and legal entities by state authorities. In order to provide an effective mechanism for protecting the rights, freedoms, and legitimate interests of a person from violations by the public administration bodies in Ukraine, the legislator «updated» the system of administrative courts in Ukraine that is in the process of formation.

References:

1. Конституція України: Закон України від 28 червня 1996 р. № 254к/96-ВР / Верховна Рада України. URL: http://zakon3.rada.gov.ua/laws/show/254к/96-вр.
2. Кодекс адміністративного судочинства України: Закон України від 6 липня 2005 р. № 2747-IV / Верховна Рада України. URL: http://zakon2.rada.gov.ua/laws/show/2747-15.
3. Про судоустрій і статус суддів: Закон України від 2 червня 2016 р. № 1402-VIII (редакція від 15 грудня 2017 р.) / Верховна Рада України. URL: http://zakon2.rada.gov.ua/laws/show/1402-19.
4. Про Вищу раду правосуддя: Закон України від 21 грудня 2016 р. № 1798-VIII / Верховна Рада України. URL: http://zakon2.rada.gov.ua/laws/show/1798-19.
5. Гончарук С.Т., Гусар О.А., Розум І.О. Адміністративне судочинство: навч. посібник. К.: НАУ, 2016. 238 с.
6. Мітіна О.М., Рудой К.М. Система адміністративних судів в Україні. Судова влада в Україні та інших державах: історія та сучасність (аспекти права): матеріали VII Всеукраїнської науково-теоретичної інтернет-конференції (Львів, 25 травня 2018 р.) / уклад. І.Я. Терлюк. Львів: Ліга-Прес, 2018. С. 101–105. URL: http://www.lp.edu.ua/sites/default/files/attach/2018/9160/vypusk_7_2018r.pdf.
7. Шульженко О.В. Поняття інформаційно-аналітичного забезпечення адміністративних судів України. Судова влада в Україні та інших державах: історія та сучасність (аспекти права): матеріали VII Всеукраїнської науково-теоретичної інтернет-конференції (Львів, 25 травня 2018 р.) / уклад. І.Я. Терлюк. Львів: Ліга-Прес, 2018. С. 175–178. – URL: http://www.lp.edu.ua/sites/default/files/attach/2018/9160/vypusk_7_2018r.pdf.