

THEORETICAL AND LEGAL CHARACTERISTICS OF THE PRINCIPLE OF PROCEDURAL ECONOMY IN ADMINISTRATIVE PROCEEDINGS

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INTRODUCTION

In the context of the administrative process, administrative principles should be used as tools to ensure an efficient and impartial process that serves the public interest.

Procedural economy is of significant importance for public procedural law. Procedural economic issues arise in relation to central aspects such as the prerequisites for a substantive assessment, the determination of the facts or the types of assessments. However, this figure is usually reflected in the respective procedural rules only in a fragmentary and incomplete way, so that the case-law has to be content with filling in gaps in a very creative way. In that context, the legislature is, in principle, required to weigh up the various procedural objectives and to bring them into conformity in practice. Therefore, in the future, it is crucial to develop procedural rules in a more coherent manner with regard to their procedural objectives and to recognise procedural economy as a stand-alone procedural principle. The legal principle moves in the tension between the effectiveness of legal protection and the efficiency of legal defense, thus describing the conflict of objectives between the costs and benefits of litigation. The aim is, on the one hand, to maximise the benefits of the process and, on the other hand, to limit the costs of the process in a reasonable way (economic control of law enforcement)¹.

1. Methodology for studying the principle of procedural economy in the administrative process

Within the framework of this study, the author employed general theoretical and specialized methods of scientific knowledge, including analysis, synthesis, deduction, historical analysis, comparative legal analysis, sociological analysis, formal-logical analysis, systemic analysis, and structural analysis. D.A. Kerimov proposes to understand methodology as "a general scientific phenomenon that combines the entire set of principles, means and methods of cognition (worldview, philosophical methods of cognition and teachings about them, general scientific and private scientific concepts and methods) developed by all social sciences, including the complex of legal sciences, which are applied in the process of cognition of the specifics of legal reality and its practical transformation"². According to M.S.

¹ Jonas Hyckel: Prozessökonomie – Theorie und Methodik effizienter Rechtserkenntnis im Verwaltungsprozess. Nomos, Baden-Baden 2020.

² Теорія держави і права : навчальний посібник / С. К. Бостан [та інші]. – Київ : Видавничий центр "Академія", 2013. – 348 с.

Kelman, the methodology of jurisprudence is a complex, multifaceted construct that encompasses issues related to the structure of legal scientific knowledge in general and, in particular, its theories, concepts, trends in the emergence, functioning and change of scientific knowledge, as well as its classification, typology, the conceptual apparatus of methodology and its scientific language, the structure and composition of the methodological approach and other scientific methods used in legal science; formalised methods and procedures for specific legal research³.

The formal logical method was employed to define the terminology, concepts, and categories underlying the study, as well as to analyze law enforcement issues and identify the shortcomings of national administrative procedure legislation, and to substantiate areas for its improvement. The systemic and structural method was applied to determine the place of the principle of procedural economy in the system of administrative justice principles. Methodology for studying the principle of procedural economy in administrative justice.

The comparative legal method is a crucial tool for leveraging the positive experiences of foreign countries in implementing the principle of procedural economy in administrative proceedings. The comparative legal methods made it possible to analyze the legislation and literature of foreign countries, to provide a comparative characterization of certain phenomena of legal reality, and to express the author's own vision of the foreign experience in implementing the principle of procedural economy in administrative court proceedings.

Thus, the methodology for studying the principle of procedural economy in administrative proceedings is an orderly set of mutually agreed-upon principles and methods that allow for a comprehensive and integrated study of the essence and content of the principle of procedural economy in administrative proceedings, as well as the forms of its implementation.

2. The principle of procedural economy in the system of principles of administrative justice

The principle of procedural economy is defined as the application of the utilitarian criterion in the empirical conduct of the process with the least possible disturbance of judicial activity.

Before we look at a new doctrine such as that of procedural economy, which has only recently been discovered in its theoretical foundations, we must agree on the scope of the terms to be used in order to avoid misunderstandings and misinterpretations. This is not said out of a purely terminological concern, which would naturally be of no interest, but as a methodological presupposition, in which the clarity and precision of legal formulas must be the first thing to prevail⁴.

We know from the theory of law that, according to the classical understanding in terms of the type of classification of principles, they can be those that have received direct textual consolidation in the acts of state legislation, or those that can be

³ Кельман М.С. Методологія сучасного правознавства: становлення та основні напрями розвитку. Автореферат дисертації на здобуття наукового ступеня доктора юридичних наук. Київ, 2013. 37с.

⁴ Peraz C.A. El principio de economía procesal en lo contencioso-administrativ URL: <https://dialnet.unirioja.es/descarga/articulo/2111224.pdf>

determined as a result of a logical analysis of the content of certain specific rules of law, that is, as a result of the generalisation of the content of the relevant legal norms⁵. Based on this, it should be noted that the principle of procedural economy is not directly defined by law. None of Ukraine's current judicial procedural codes directly indicate its existence. At the same time, none of the procedural codes contains a single word like 'economy' in any of its articles. It must therefore obviously be assumed that, if such a principle of due process exists, it must be regarded as indirectly enshrined in the procedural law of Ukraine. In this regard, in this regard, we must agree with Yesimov S.S. and V.S. Borovikova that the principle of procedural economy is a doctrinal legal principle⁶.

Provisions on the promotion of procedural economy in the legal resolution of a case should fall outside the scope of the relevant principle. They are a manifestation of other principles with which the principle of procedural economy is systematically linked. And the provisions that actually contribute to procedural economy are usually the result of the balance that has been recognized as optimal in the correlation of the principle of procedural economy with other principles of judicial process, especially with the principles that characterize truth in the process or the efficiency of the process⁷. Starting from the principle of procedural economy, in order to ensure the efficiency of court proceedings, judicial practice and procedural law should establish the criterion of the appropriateness of the dismissal of a request by a court due to the use by the claimant of an ineffective method of defence in court proceedings at certain stages of the proceedings. Based on the principle of procedural economy, the court of cassation is not entitled to dismiss the action on these grounds if the lower courts (first instance or court of appeal) have not done so after protecting the claimant's right. In addition, the provisions on the promotion of procedural economy for the correct resolution of the case should go beyond the principle of procedural economy in judicial proceedings.

The principle of procedural economy must be considered in its substantive and formal aspects. The essential feature of the principle is that the training system performs an integrating function, acts as a guide for the improvement of legislation and ensures the fairness, efficiency and accessibility of justice in civil proceedings. On the formal side, the principle of procedural economy manifests itself as a set of formalized rules that, with protective and regulatory functions, guarantee the protection of the violated right within a reasonable period of time⁸. It is convenient to understand the procedural means of procedural economy as a set of normative

⁵ Теорія держави та права України: підручник для кур сантів та студентів вищих навч. закл. / О. М. Бандурка, М. Ю. Бурдін, О. М. Головка та ін. Харків: Майдан, 2018. – 436 с.

⁶ Єсімов С.С., Боровікова В.С. Процесуальна економія як принцип адміністративного судочинства. Науковий вісник Львівського державного університету внутрішніх справ № 4/2023. С. 60-71

⁷ Снідевич О.С. Принцип процесуальної економії у судочинстві (дискусійні аспекти). Науковий вісник Ужгородського Національного Університету Серія ПРАВО. Випуск 81: частина 1, 2024. С. 242-247.

⁸ Парасюк М.В. Правові засоби реалізації принципу процесуальної економії в цивільному процесі. Науковий вісник Ужгородського Національного Університету Серія ПРАВО. Випуск 87: частина 1, 2025. С. 240-245.

structures, procedural actions and procedural acts in which such a model of behavior of the subjects of civil procedural legal relations is established, implemented and objectified, which contributes to the maximum to obtaining accessibility and equity of judicial proceedings.

Due to its legal and social relevance, the principle of procedural economy is the object of procedural policy and, therefore, constitutes a presupposition that the legislator must take into account as a source of legal formulations, either by implementing it as a principle that aims to configure the procedural system according to the utilitarian criterion in the conduct of the process, or by defining it as a duty of power of the judge in the conduct of the process.

The points of attack of the utilitarian criterion are the duration of the process and the cost of judicial activity, which the principle of economy neither ignores nor rejects, but, recognizing that the process has a temporal dimension and that the process entails costs, it only tries to regulate them in such a way that they do not seriously conspire against the litigant.

However, as a rule of interpretation, it formulates the statute of limitations through the use of comparative phrases: "faster and cheaper", "greater economy", expressions that would have no meaning if they did not find correlation in the procedural system. Appropriate as an expression of a general or pragmatic nature, the inadequate wording of the provision is criticised for implying a controversial formulation, since the principle of procedural economy is not inherently determined by the struggle between speed and slowness or disinterest and costliness; In any case, it would be opportune to invert the terms of the wording, establishing that the execution of the process is time-barred and the action of the procedural subjects is less slow and less wasteful, which differs from the previous optimistic formulation.

Stripped of these poorly normative programmatic formulations, the principle of procedural economy acquires the status of a general principle of a political and procedural nature due to its specific application, namely: a) financial economy of the process; b) simplification and facilitation of procedural activities.

Procedural economy is a term in procedural law and refers to the economical design of a process. There is no legal or generally accepted definition of the term, but it is increasingly used in both legislative materials and judicial reasoning. There is no agreement as to whether the requirement of procedural economy is a general procedural principle. The requirement or principle derives from both the (constitutional) principle of proportionality and the (unwritten) procedural principle of opportunity.

Ideally, implementing procedural economy considerations leads to the fact that the party seeking justice achieves the fastest possible outcome, saving avoidable procedural costs, while reducing the financial and human resource costs of the courts. However, the issue of process economy does not focus on a single process, but on the totality of processes (process as an institution). For example, an obiter dictum may be an obstacle to the duration of a particular process, but at the same time, lead to the fact that other processes can be avoided due to the legal issues clarified therein.

In parallel with the economic understanding, the optimization of process economy can be achieved by increasing the benefits of the legal process (or the

process as an institution) or by reducing its efforts. The benefit can be seen roughly as a measure of the exploration of material truth.

Among the first doctrinal studies, the contribution of Guasp J. stands out, who defined the principle of procedural economy as a criterion that allows structuring the jurisdictional process according to the needs of 'saving time, which entails the problem of procedural speed; saving money, which implies the problem of cheap justice; and save the job, the problem of simplicity"⁹. It is also worth highlighting the contribution of Trujillo Peña, who quotes the first and states that the principle is established as "a procedural means that, in the interest of good justice and equity, aims to optimize the treatment and processing of judicial proceedings, eliminating obstacles of any nature that impede it, ensuring that the requests submitted to the judicial power by the parties in the litigation are fully resolved at the time and place where"¹⁰.

An effective administrative action is one that contributes satisfactorily to the achievement of an objective in quantitative, qualitative and probabilistic terms. For an administration to fulfill its duty of efficiency, it is not enough to choose adequate means to achieve its objectives. Efficiency requires much more than mere adequacy. It requires satisfactory performance in achieving the goals set for the administration. Choosing a means that is adequate to promote an objective, but that Contributing to the achievement of the objective in a reduced way, with many concomitant negative effects or with little certainty, is a violation of the duty of administrative efficiency. Thus, the duty of efficiency translates into a requirement to satisfactorily promote the objectives defined for public administration, considering satisfactory progress to be a minimally intensive and certain advance towards the objective. This interpretation leads us to two ways of considering administrative costs: an absolute regime, in the sense that the least expensive option should be adopted, regardless of whether other alternatives, although more expensive, offer other benefits; and a relative regime, in the sense that the least expensive option should only be adopted if the benefits provided by the other options do not outweigh the financial benefit¹¹.

The principle of procedural economy guides procedural action, seeking to ensure that judicial activity always aims to obtain the maximum possible result with the minimum effort, thus avoiding unnecessary waste of time and money. In the words of the eminent proceduralist Marcus Vinicius Rios Gonçalves, "the best possible results should be sought with the least possible expenditure of resources and effort."

Uncertainty regarding the limits of this principle in judicial practice negatively impacts the implementation of tasks related to the uniform understanding and application of procedural law. The provisions relating to the essence, content, characteristics, mandatory normative consolidation, scope of action, and means of implementing the principle of procedural economy in administrative proceedings

⁹ Guasp, J., "Derecho procesal civil" Volumen I, Madrid, 1968, pp. 42-43.

¹⁰ Trujillo Peña, J. "El principio de economía procesal (en lo civil y contencioso-administrativo), *Revista de Derecho Procesal Iberoamericano*, 1970, pp. 283-322.

¹¹ Sede de juizados especiais cíveis. Princípio da economia processual e instrumentalidade das formas. URL: <https://www.jusbrasil.com.br/artigos/principio-da-economia-processual-e-instrumentalidade-das-formas/184236242?msocid=391307e2bdc06bec097b1442bce86a92>

require further consideration. This is important for the development of procedural law, the science of administrative law, and police practice¹².

In the vast network of the judicial system, one of the principles that stands out for its relevance and applicability is the principle of procedural economy. This principle is not only a guideline for the administration of justice, but also a fundamental pillar for ensuring the efficiency, accessibility, and fairness of judicial procedures. As modern societies demand faster and less expensive judicial systems, the principle of procedural economy becomes an unavoidable imperative to meet these expectations and needs. The principle of procedural economy refers to the need to optimize the use of resources in the judicial process, minimizing both the cost and time required to resolve a conflict. This principle advocates for the simplification of judicial procedures, the reduction of process duration, and the elimination of unnecessary formalities that may impede access to justice¹³.

Thus, procedural economy is much more strongly linked to the review nature of administrative jurisdiction over disputes than in other procedural rights. In ordinary jurisdiction, the parties deal with private relationships under civil or commercial law, where the principle of autonomy of will prevails; they can mutually enforce obligations with great flexibility; the world of formalities is of secondary importance; There is no need to prepare an appealable act, but the injured party can challenge the entire relationship. In criminal law, there is no extrajudicial application of positive law, but for this reason, and because it is the last system to sanction fundamental violations of the basic principles of coexistence, criminal procedural law is extremely anti-formalistic and grants the judge a great degree of discretion, much more than in civil law. In the administrative jurisdiction of disputes, a person, by virtue of privilege,... The administration must prepare its procedural action by first initiating the challenged administrative act. Thus, there are two points: a difference of interests that arose between the administration and a citizen who maintained legal relations, and an administrative act fabricated by the interested party to contest it¹⁴.

Procedural economy would be a diffuse and vague legal concept if it were not recognized by case law and certain judicial decisions. Like all conceptual elements, it requires approval before being adopted by state authorities. Although not explicitly provided for in laws, case law itself has included several guidelines implicit in the rules and derived from doctrine.

Procedural economy seeks to avoid the need to initiate a new process to resolve an issue that should have been resolved in the previous one. Thus, it upholds the principle of procedural efficiency and utilitarian value, which is one of the rules of interpretation. When the issue is in doubt, the rule should be interpreted in the way that leads to the most efficient result. Form is merely a guarantee of legality and is related to the merits of the case, so that administrative acts are reviewed as quickly as

¹² Єсімов С.С., Боровікова В.С. Процесуальна економія як принцип адміністративного судочинства. Науковий вісник Львівського державного університету внутрішніх справ № 4/2023. С. 60-71

¹³ Pastor, R. (1992). *Informática Jurídica: Acercando la Informática al Derecho en las puertas del siglo XXI*. THEMIS Revista de Derecho, 22, 61-67. THEMIS, Lima.

¹⁴ García de Enterría: La lucha contra las inmunidades del poder en Derecho administrativo, núm. 38 de esta REVISTA.

possible, avoiding a decision that ends with an insignificant declaration or a mere justification at first instance. Until less than a decade ago, procedural law and its institutions were seen as immutable theoretical postulates, relatively unchanged over time, and it was considered valid to assert that it was unlikely that the classics of procedural law would be replaced by new contemporary authors. In other words, no one imagined a new interpretation of procedural law beyond the contributions of renowned authors such as Giuseppe Chiovenda, Francesco Carnelutti, Piero Calamandrei, among others. Today, seemingly out of nowhere, rapid changes, similar to a tsunami, have emerged in the world of new technologies, encompassing both communications and the configuration of knowledge through these new technologies. With this, we refer to the world of law governed by algorithms, which saw in the pandemic crisis the need for humans to accelerate their approach to it and an openness without limits or ethical or bioethical control to grant or alienate to algorithms a pseudo-autonomy that seems less and less pseudo and more autonomous every day, insofar as it reveals itself to be entirely emancipated from substantive and procedural legal systems¹⁵.

The principle of procedural economy is considered in legal doctrine as the principle that ensures the full and rational use of procedural means, a fast and effective process through which subjective rights are exercised in an optimized way¹⁶. Consequently, the characteristics of the legal category "procedural economy" are designated by efficiency, optimization and rationality of judicial processes. The methodological essence of the principle of procedural economy should not be reduced to simplification, acceleration, and reduction of procedural costs. The triad formula of procedural economy – efficiency (cheapness), optimization (speed), and rationality (simplicity) – should be interpreted primarily in terms of the overall context of achieving the ultimate goal of judicial processes.

The effective implementation of the principle of procedural economy in practical processes involves the complex application of procedural tools, regulated by the rules of civil procedural law, and non-procedural tools of organization, management, information, communication, and others. Some differences in the interpretations mentioned above do not constitute insurmountable obstacles to the development of a unified concept of understanding procedural economy. Access to dictionaries allows us to establish that optimization represents the choice of a behavioral variant that, among all possible options, will provide the best result. The efficiency of the activity implies the possibility of achieving the desired result with the minimum of costs and the minimum of undesirable effects. Rational activity is perceived as a justified and convenient activity.

¹⁵ Giselle Lorena De la Torre Soto, Ferney Asdrubal Rodriguez-Serpa, Jorge Mejia Turizo, Oriana Carola Cortes Bracho. The Principles of Economy and Procedural Swiftness In Law Mediated By Artificial Intelligence: Special Reference To Cases Against The Public Administration. *Procedia Computer Science* Volume 257, 2025, Pages 872-879

¹⁶ Музичко С. Поняття принципу процесуальної економії в цивільному судочинстві. *Науко вий вісник Ужгородського Національного Університету. Серія право.* 2022. Випуск 73. Частина 1. С. 92–97.

3. Foreign Experience in Implementing the Principle of Procedural Economy in Administrative Processes

Foreign experience in implementing the principle of procedural economy in administrative proceedings. The principles of procedural economy and reasonable duration of judicial proceedings do not exclude the acceptance of a request for an additional technical opinion as a necessity for the timely resolution of proceedings with constitutional significance, provided that, in fact, it is understood not as an absolute value, but in relation to other constitutional guarantees and, in particular, to the right of the parties to act and defend themselves in court, enshrined in Article 24 of the Constitution¹⁷.

From the point of view of the irreconcilable contradiction (the only flaw in motivation to date that can be remedied), the decision of the Reggio Court to prevent the reinstatement of the medico-legal OTS was motivated "by the principles of procedural economy and the reasonable duration of the proceedings," the contradiction arising from the fact that the appeals judge—the applicant underlines—took ten years to deliver the second-instance verdict, and up to eight years from the cancellation of the reservation on the requests for investigation until the clarification of the conclusions.

In fact, the statement contained in the appealed judgment (which, however, as we shall see later, does not exhaust the territorial court's reasoning and, therefore, the grounds for appeal are not valid) that "the principles of procedural economy and the reasonable duration of the proceedings" could have prevented, in the case in question, the alleged lack of standing is erroneous and—in abstract terms—likely to constitute the alleged flaw in legality. The possibility of carrying out the requested additional technical investigation is unconstitutional.

At this point, it should be reiterated that – as already indicated by the literal wording of Article 111 of the Constitution – jurisdiction, or rather, all jurisdiction, must be exercised "through due process of law", for which the law (but also, it must be admitted, the specific conduct of the trial by the individual judge invested with a "fragment" of that jurisdiction) must guarantee a "reasonable" duration.

At the same time, if the rejection of the request for additional extrajudicial proceedings had been motivated by the territorial court solely on the basis of the violation of the "principles of procedural economy and reasonable duration of the trial", it would have been condemnable for the reasons set out above.

However, as expected, the territorial court did not limit itself to this (erroneous) statement, basing its decision "mainly", as expressly stated in the challenged decision, "on the fact that the expert's conclusions presented at first instance" were "considered fully shared". From this it follows that the second ground of appeal is rejected, given that this additional "ratio decidendi" – also in light of the fact that the review of the grounds for the decision has been "reduced to the constitutional minimum" (a reduction to which we will return later, when analyzing the other grounds of this appeal) – is adequate to justify the decision.

¹⁷ I principi di economia processuale e ragionevole durata del processo. Cassazione civile 2021 URL: <https://renatodisa.com/i-principi-di-economia-processuale-e-ragionevole-durata-del-processo/>

According to the Supreme Court of Lima, the principle of procedural economy, as a procedural principle, refers, in terms of time, to the prudence with which judges must carry out procedural acts, seeking to find the appropriate balance between speed and compliance with the formalities necessary to adequately resolve the controversy before them¹⁸.

Procedural economy is used to justify the procedural policy of restructuring the judicial process in view of budgetary constraints. However, procedural economy is not simply a way to solve a problem; it is a means to achieve one specific goal: the public good. This contribution attempts to examine public policies implemented under the pretext of procedural economy, policies that are supposed to facilitate the administration of justice and the management of processes in a way that avoids government through meaningless numbers and takes into account the guarantees of due process. The contribution thus examines the methods used to justify economic policies¹⁹.

The *Société Eden* decision did not establish a general rejection of the economy of means, but it nevertheless marks a significant break in the use of this practice as old as the administrative court itself²⁰. The obligations imposed on the administrative judge to consider certain means as a priority profoundly question the physiognomy of “classical” economy of means. They give way to constructive economy of means aimed at fully satisfying the request of the applicant. Economy of means is now endowed with the beneficial effect that academic and organic doctrine has sought for decades²¹. For judges, candidates and their lawyers – as well as for researchers in the field of administrative litigation – there will certainly be a period before and after *Eden*.

Traditionally, economy of means is presented as a practice of the administrative judge. This procedural technique gives the judge a double freedom in satisfying the claims of the claimant: the freedom to decide on a single claim and the freedom to choose that claim at his discretion, among other well-founded claims. This is neither a “rule” nor a “principle” of administrative law. The administrative judge may also depart from it on a temporary basis when he deems it necessary. It is further stated for the sake of completeness that in addition to the action for annulment of the act, one or more other actions are also well founded²². Most of the time, the mark of efficiency appears in decisions through the following two standard phrases: “without the need to rule on the other grounds of the application”; “without the need to rule on the grounds of the application.”

No theoretical basis justifies this practice. On the contrary, in so-called objective disputes—particularly in cases of abuse of power—the administrative judge could have conducted a comprehensive examination of the legality of the act in order to,

¹⁸ Aplicación del principio de economía procesal busca encontrar el justo medio entre la celeridad y el respeto a formalidades imprescindibles [Casación 1266-2001, Lima] URL: <https://lpderecho.pe/aplicacion-principio-economia-procesal-busca-encontrar-justo-medio-entre-celeridad-respeto-formalidades-imprescindibles-casacion-1266-2001-lima/>

¹⁹ Mekki, S. A. (2016). *L'économie Procédurale. International Journal of Procedural Law*, 6(1), 7-31

²⁰ CE, Sect., 21 déc. 2018, *Société Eden*, n° 409678.

²¹ Sagnier P.-Y. *Le juge administratif et l'économie des moyens*, thèse dactyl., Université de Lille, 2019, 811 p.

²² CE, 7 juin 2000, Université Pierre et Marie Curie, n° 194294

in absolute terms, establish the legal order²³. Based on pragmatic considerations, the economy of means is one of the primary managerial techniques of administrative justice.

This has obvious advantages. First, it saves the judge time, since it allows him to avoid having to respond exhaustively to all the arguments of the applicant and, therefore, to choose the shortest route to grant the request. The freedom to retain only one of several justified means also protects the administration from multiple censorship, the severity of which is thus avoided. Finally, the discretionary choice of the means chosen allows the judge to make the decisions he gives, sometimes to the detriment of those means that are more difficult to verify²⁴.

However, this practice has its drawbacks. The main one is the grey area it leaves regarding the effectiveness of certain claimants of legitimacy. René Chapus speaks in this context of "obscured means"²⁵. At the end of the trial, the parties do not know whether the action is tainted by any irregularity other than that found by the judge. They therefore receive an incomplete response to the arguments they have developed. When the administration has the possibility or the obligation to take over the decision after the annulment, it risks repeating the illegal actions that the judge did not notice, even if they were targeted by the applicants. This could lead to new trials and threaten the legal certainty of certain projects – especially in the field of urban planning. Furthermore, silence on certain claims is not compatible with the temporal limitation of the effects of an annulment for abuse of power. The latter can be decided by the judge only after balancing the infringements of the principle of legality by temporal modulation against its advantages in terms of legal certainty. This weighing up requires consideration of all the means that may affect the legality of the action. The exclusively discretionary choice of the application also creates a number of difficulties when, among two substantiated claims, the judge does not find the best way to resolve the applicant's claim based on the execution of the court decision.

The traditional approach to resource allocation is ill-suited to the evolving role of the administrative judge, particularly in cases of abuse of power. To mitigate its drawbacks and adapt to the changing role of the judge, the legislature and the Council of State have modernized it²⁶.

4. Analysis of judicial practice of the Supreme Court

The decision of the Commercial Court of Cassation of the Supreme Court states that, moreover, the claimant proves that the appeal by the Zoloty Zhayvir Estate to the Commercial Court of the Khmelnytsky Region, requesting the opening of bankruptcy proceedings against Suffle Agro Ukraine LLC, even in the presence of proceedings already opened for the collection of debts against Suffle Agro Ukraine

²³ Ponthoreau V. M.-C., « Réflexions sur la motivation des décisions juridictionnelles en droit administratif français », *RDP*, 1994, p. 747

²⁴ Sagnier P.-Y. *Le juge administratif et l'économie des moyens*, thèse dactyl., Université de Lille, 2019, 811 p.

²⁵ Chapus R., « De l'office du juge : contentieux administratif et nouvelle procédure civile », *EDCE*, n° 29, 1977-78, p. 11.

²⁶ Mamoudy, O. (2020). *L'économie des moyens : une pratique en voie d'extinction ?* *Civitas Europa*, 44(1), 79-91.

LLC (case no. 924/796/24), does not violate the principle of procedural economy, since, within the meaning of Article 7 of the CEPB, disputes in which the debtor is a party are assessed by the economic court in accordance with the rules provided for in the CPE of Ukraine, taking into account the peculiarities specified in this article, which is consistent with the conclusions established in the decision of the Supreme Court of June 25, 2024 in case no. 918/1280/23²⁷.

Regarding the claimant's reference to the disregard of the Supreme Court's conclusion in its decision of 26 May 2024 in case no. 918/1280/23, where the Court observed that the claimant's request to the court to open bankruptcy proceedings against the debtor in the presence of proceedings already opened concerning a debt recovery request from the debtor is not a violation of the principle of procedural economy, since, according to Article 7 of the CEPB, disputes in which the debtor is a party are assessed by the economic court under the rules provided for by the CEPC of Ukraine, taking into account the peculiarities determined by this article, the panel of judges observes the following. In the aforementioned case no. 918/1280/23, the debtor's pecuniary obligations to the initiating creditor arose for two distinct reasons: part of the obligations under Supply Contract no. 1300030793 of 19 November, 2019, and part of the obligations foreseen in Agricultural Financial Receipts No. 13 and No. 14 (unconditional pecuniary obligation), unlike the case in question, in which the plaintiff's claims in the case in question and in No. 924/796/24 are based on the same grounds, which indicates that the circumstances of the case in question and those indicated by the plaintiff are not similar.

The decision of the Civil Court of Cassation of the Supreme Court, dated January 17, 2025, declared that the courts had wrongly declared the circumstances of the extension of the preliminary agreement by virtue of the provisions of clause 6.1 of the preliminary agreement. No provision of the agreement defines an event that must inevitably occur or a circumstance for postponing the change in the deadline for concluding an agreement, which is clearly defined in the agreement. Such conclusions of the court contradict part three of Article 635 of the Civil Code of Ukraine. Even in the case of intentional termination of the main contract, the terminating party must pay compensation or other penalties, and it is impossible to compel the conclusion of the main contract²⁸.

The courts violated the principle of procedural economy and legal certainty. The claimant has repeatedly pointed out that if the claim is not satisfied, there is a high and objectively foreseeable probability of initiating new litigation, in particular, the claimant's recovery of the money paid under the previous agreement, taking into account inflationary losses, interest for the use of other people's money, the commencement of a claim for recognition of the main agreement as concluded, etc. The legitimate objective of this claim is to eliminate the possibility of further litigation, as if the claim is satisfied, the claimant will have a clear understanding of the start of the period for the return of the funds paid by the defendant and will be

²⁷ Постанова Касаційного господарського суду у складі Верховного Суду від 23 січня 2025 року. Справа № 924/793/24 URL: <https://reyestr.court.gov.ua/Review/124862127>

²⁸ Постанова Другої судової палати Касаційного цивільного суду у складі Верховного суду від 17 січня 2025 року. Справа № 761/38032/21 URL: <https://reyestr.court.gov.ua/Review/124629952>

able to return the funds in the stipulated amount without excessive financial penalties. At the same time, the satisfaction of said claim will not have any negative consequences for the defendant and will not lead to a reduction or violation of their civil rights, but instead will promote the principle of legal certainty.

The decision of the Administrative Court of Cassation of the Supreme Court of 29 January 2025 states that, in the context of this case, the Court underlines that, when deciding to return an appeal in accordance with Article 298 of the Code of Administrative Procedure of Ukraine due to the failure to remedy the deficiencies of the appeal, which were previously noted by the court in the decision to dismiss such appeal without motion, issued in accordance with Article 296 of the Code of Administrative Procedure of Ukraine, the appeals court is obliged to re-verify the conformity of such appeal and the documents attached to it with the requirements of procedural law. This approach will minimize the possibility of errors in the initial assessment of the appeal, in the subsequent appeal filed by the appellant against the decision to return the appeal or the decision to refuse to open the appeal proceedings, and will also contribute to strengthening the authority of the court and to compliance with the principle of legality and procedural economy in the judicial system²⁹.

At the same time, the Court disagrees with the applicant's claims that it is necessary to refer the appealed case for a new trial in the court of first instance and considers it necessary to go beyond the requirements of the cassation appeal, issuing a final decision on its own, annulling the decision of the appeal court and upholding the decision of the Donetsk District Administrative Court of April 17, 2024. This is due to the need to ensure effective judicial protection, respecting the principle of procedural economy, avoiding a lengthy review of the case and additional procedural costs. Taken together, this is consistent with the principle of good governance and ensures the timely restoration of the violated right. The decision of the Administrative Court of Cassation of the Supreme Court, dated June 18, 2025, contains a provision stating that, in this case, the plaintiff duly proved the existence and impact of the circumstances under which provisional protection was requested, and which reasonably indicate the likely difficulty in enforcing the court decision if such measures are omitted³⁰. The circumstances cited by PERSON_1 do, in fact, affect the implementation of an effective way to protect the violated right, which primarily aims at its restoration, and only if such restoration is impossible – guaranteeing the person the possibility of obtaining adequate compensation. The panel of judges considers that the application of provisional measures in light of the specific circumstances of this case and the peculiarities of the legal regulation of the disputed relationships is also consistent with the principle of procedural economy, which ensures that there is no need to resort to the court to obtain additional measures. The panel of judges notes that, in this case, the provisional measures are a temporary measure aimed at ensuring the execution of the court decision, do not

²⁹ Постанова Касаційного адміністративного суду у складі Верховного Суду від 29 січня 2025 року. Справа № 160/1732/24 URL: <https://reyestr.court.gov.ua/Review/124782410>

³⁰ Постанова Касаційного адміністративного суду у складі Верховного Суду від 18 червня 2025 року. Справа № 520/31296/24 URL: <https://reyestr.court.gov.ua/Review/128225571>

constitute a resolution of the dispute on its merits, and do not indicate the illegality of the supervisory authority's decision to cancel the registration of the single taxpayer of the third group.

The Supreme Court, in its decision of July 13, 2022, in case no. 240/26736/21, issued a legal opinion stating that the cancellation of a license for the retail sale of fuel from the moment of its receipt by a business entity deprives it of the right to pursue such activities and may lead to a court decision on the merits of the case aimed at breaking relevant economic ties, dismissing workers, which will result in difficulties or impossibility of resuming economic activity in general, in the event of a favorable court decision. Thus, the aforementioned circumstances affect the implementation of an effective method for protecting the violated right, which aims primarily at its restoration, and only if such restoration is impossible – guaranteeing the person the possibility of obtaining adequate compensation. The panel of judges understands that the application of provisional measures, in light of the specific circumstances of the case and the peculiarities of the legal regulation of the relations in dispute, is also consistent with the principle of procedural economy, which guarantees the waiver of judicial recourse to obtain additional measures³¹.

In the context of the foregoing, it is important to note that the courts of the previous instances also rightly recognized the plaintiff's arguments that the measures taken to secure her claim went beyond the scope of the judicial proceedings in question, since the object of the judicial proceedings in this case is, in particular: to establish the illegality of the grounds for carrying out a physical inspection of the plaintiff, namely, the order to carry out an inspection, the results of which, before the judicial resolution of this dispute, may have negative consequences for the plaintiff, which was analyzed in detail and duly assessed by the courts. In doing so, the courts correctly presumed that the method of securing an administrative complaint chosen by the applicant was only intended to preserve the existing situation until the case was assessed on the merits of the complaint.

Thus, the Court of Cassation cannot but agree with the conclusion of the courts of previous instances that there are grounds established in paragraph 1 of Part Two of Article 150 of the Code of Administrative Procedure of Ukraine for the adoption of provisional measures. The circumstances cited by the Company affect the implementation of an effective method of protecting the violated right, which aims primarily to restore that right, and only if such restoration is impossible, guaranteeing the person the possibility of obtaining adequate compensation.

The panel of judges understands that the application of provisional measures, in light of the specific circumstances of this case and the peculiarities of the legal regulation of the relationships in dispute, it is also consistent with the principle of procedural economy, which guarantees the waiver of judicial recourse to obtain additional measures.

In this case, provisional measures are a temporary measure, do not constitute a resolution of the dispute on its merits, and do not indicate that the supervisory

³¹ Постанова Касаційного адміністративного суду у складі Верховного Суду від 18 березня 2025 року. Справа № 380/18610/24 URL: <https://reyestr.court.gov.ua/Review/125932985>

authority's conclusion regarding the existence of grounds for canceling the licenses is illegal.

The court considers it necessary to emphasize that a person's allegations, submitted through a separate legal action, concerning the recognition of illegal decisions, actions, or omissions by a subject of power, taken (whether or not carried out) in compliance with a court decision, are inadmissible in a separate judicial process. If a person believes that their rights, freedoms, or interests have been violated during the execution of a court decision, they have the right to use the judicial control mechanism over the execution of the decision provided for in Article 383 of the Code of Administrative Procedure of Ukraine. This approach ensures compliance with the principles of procedural economy (avoiding duplication of litigation with the same subject matter), promotes the effective enforcement of judicial decisions (as it ensures timely and adequate control of the enforcement of judicial decisions), protects the rights and legitimate interests of the parties in the proceedings and, in general, increases the level of confidence in the judicial system³².

The Supreme Court further noted that, for the purposes of procedural economy and taking into account the legislative exception to the general rule established in Part Three of Article 12 of the Law of Ukraine "On the Basic Principles of State Supervision (Control) in the Field of Economic Activity", which aims at the exercise of the right of a business entity to appeal against unlawful actions of state supervisory (control) bodies and their officials, in accordance with the procedure established by law, the three-month period for the State Service of Ukraine for Food Safety and Consumer Protection to submit a request for recovery of the amount of the fine has expired³³.

In some cases, the application of provisions on effective corrective measures is detrimental to procedural economy. An example of this is the dismissal of an action by a court on the grounds that the plaintiff filed an action with an ineffective corrective measure at the cassation stage. Thus, for example, the Grand Chamber of the Supreme Court, in its decision of 2 February 2021 in case no. 925/642/1943, observed that, when considering a case, the court must determine 1) what legal relationships between the parties gave rise to the dispute; 2) whether the solution chosen by the plaintiff is provided for by law or contract; 3) whether the law or contract provides an effective solution for the plaintiff's violated right; 4) whether the solution chosen by the plaintiff is effective in protecting their violated right in the legal relationships in dispute. If the court concludes that the solution chosen by the plaintiff is not provided for by law or contract and/or is ineffective in protecting the plaintiff's violated right, the plaintiff's claims will not be satisfied in these legal relationships. Undoubtedly, the correct choice of effective remedies by the plaintiffs would contribute to procedural economy, but it must also be unquestionable that, if the plaintiff's error in choosing an effective remedy was not proven by the lower

³² Постанова Касаційного адміністративного суду у складі Верховного Суду від 30 вересня 2024 року. Справа № 460/23064/23 URL: <https://reyestr.court.gov.ua/Review/121974274>

³³ Постанова Касаційного адміністративного суду у складі Верховного Суду від 23 лютого 2024 року. Справа № 320/8536/21 URL: <https://reyestr.court.gov.ua/Review/117213838>

courts, but rather by the Supreme Court, and the latter dismisses the action based on these grounds, this situation does not contribute to procedural economy. The plaintiff is obliged to go through all the stages of the judicial process again to protect his violated right³⁴.

In view of the foregoing, we believe that the Court of Cassation, to ensure the unity of judicial practice, may indicate in its decisions that the plaintiff chose an ineffective way to protect the violated right, but in any case, based on the principle of procedural economy, it cannot reject the plaintiff's claim based on these grounds if the lower courts (first instance or appeal), having protected the plaintiff's right, did not do so. In our opinion, this will contribute to the fulfillment of the principle of procedural economy. And it is precisely on the basis of the need to comply with the principle of procedural economy to ensure the efficiency of legal proceedings that judicial practice, and possibly procedural legislation, should include a relevant criterion for the advisability or inadvisability of rejecting a claim by a court due to the plaintiff's use of an ineffective method of defense in legal proceedings at certain stages of the case.

The Supreme Court's Grand Chamber resolution of 19.06.2018 in case no. 916/1979/13 establishes that a decision by a local autonomous governing body in the area of land relations, which shows evidence of a non-normative act and exhausts its effects after its implementation, may be challenged from the point of view of legality, and requests for recognition of the illegality of the decision may be considered in civil or commercial proceedings³⁵.

The panel, when assessing the arguments of the appeal for cassation provided for in point 8.1 of paragraph 8 of this resolution, considers it necessary to apply the principle of procedural economy.

The principle of procedural economy in commercial judicial proceedings is a general guideline according to which the commercial court and the participants in the judicial process use all procedural means provided for by law in an economical and efficient manner to ensure the correct and expeditious assessment of the proceedings, respecting deadlines.

The essence of the principle of procedural economy is the use of all means provided for by law for the most complete and comprehensive assessment of the proceedings in the economic court, taking into account the deadlines set by the rules of procedural law.

The elements of the content of the principle of procedural economy in economic proceedings are as follows:

- requirement for expeditious assessment of the proceedings;
- requirement for economical use of procedural means by the court and the parties in the proceedings for the full and comprehensive assessment of the proceedings in the economic court.

³⁴ Постанова Великої палати Верховного Суду від 02 лютого 2021 року. Справа № 925/642/19 URL: <https://reyestr.court.gov.ua/Review/95439652>

³⁵ Постанова Касаційного господарського суду у складі Верховного Суду від 30 січня 2019 року. Справа № 912/2185/16(912/3192/17) URL: <https://reyestr.court.gov.ua/Review/79718989>

In these circumstances, taking into account the consistent conclusion of the decision of the Grand Chamber of the Supreme Court of 19 June 2018 in case no. 916/1979/13, that a decision of an autonomous local government body in the field of land relations, which shows signs of being a non-normative act and whose effects expire after its implementation, can be challenged from the point of view of legality, and that requests for recognition of the decision as illegal can be considered in civil or commercial proceedings, and taking into account the provisions of Part 4 of Article 236 of the Code of Commercial Procedure of Ukraine and guided by the principle of procedural economy, the panel of the Court of Cassation concluded that the argument of the appeal to Cassation, contained in subparagraph 8.1 of paragraph 8 of this decision, was unfounded. Article 6(1) of the Convention establishes that everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law, which will decide on his rights and obligations of a civil nature or on the validity of any criminal charge against him.

The Court of Cassation considers that the analysis of the request by Joint Stock Company Bank Finance and Credit to proceed with the liquidation process before the analysis of the debtor's recovery plan submitted for the court's approval leads to a violation of the balance of creditors' interests in considering the case within a reasonable time, is illogical in a chronological sense, as it violates the procedural rules of the bankruptcy process and undoubtedly leads to a delay in the recovery process provided for in Article 28 of the Bankruptcy Law³⁶.

Such actions by the court contradict the principle of procedural economy required in bankruptcy proceedings, whose elements must be considered the requirement for prompt assessment of the bankruptcy case by the court and the economical use of procedural means by the court and the persons involved in the case for the correct and rapid assessment of the case.

The principle of procedural economy in bankruptcy proceedings should be a general guideline according to which both the court and the parties in the proceedings must use all procedural means established by law in an economical and efficient manner to ensure the correct and rapid assessment of the bankruptcy case in accordance with the procedures and deadlines.

In the case at hand, having assessed the request for transition to the liquidation process submitted by a person who, by virtue of the requirements of the Bankruptcy Law, is deprived of the right to raise the issues foreseen therein, and without considering the recovery plan submitted to the court, the court did not effectively use the means provided for in procedural law and, by rejecting the applicant's arguments regarding the merits of the recovery plan presented, in fact, without assessing the recovery plan in the competent judicial process, it prematurely evaluated it, rejecting the applicant's arguments, namely, regarding the outstanding current credits of the Public Association Limited Company "Avto Kraz", Kremenchuk. Kremenchuk, to the debtor in the judicial reorganization process, in the amount of 4,744,900 UAH, and the absence of conditions for such reimbursement in the judicial reorganization plan, as well as the non-inclusion in the reorganization plan of the credits of

³⁶ Постанова Касаційного господарського суду у складі Верховного Суду від 23 січня 2019 року. Справа № 923/398/14 URL: <https://reyestr.court.gov.ua/Review/79531534>

NASTERNO COMMERCIAL LIMITED, Open Joint Stock Company Poltava Mining, Public Joint Stock Company Stakhanov Carriage Works and Limited Liability Company Machine-Building Equipment. In summary, the Court of Cassation, although considering the challenged judicial decisions, based on the results of the analysis of the request for application of the liquidation process to the debtor, chronologically and procedurally premature in relation to the need for judicial analysis of the request for approval of the judicial reorganization plan, sees no grounds for their cancellation, since such cancellation would be formal, given that the courts of both previous instances correctly concluded that the author of the transition to liquidation did not have the right to request liquidation.

However, in the subsequent analysis of this case, the court of first instance must take into account the principle of procedural economy and make full and expeditious use of all means provided for by law for the correct and rapid assessment of the bankruptcy proceedings, in accordance with the procedures and terms set out in those proceedings, in particular, the judicial reorganization procedure, which in this case was initiated by decision of the local economic court on 01/03/2017.

Based on the assessment of the arguments presented by the plaintiff and the supporting evidence, the courts of previous instances reasonably pointed to the existence of grounds determined by paragraph 1 of part two of article 150 of the Code of Administrative Procedure of Ukraine for taking measures to secure the claim, since the revocation of the license for the right to retail fuel sales from the moment of its receipt by the business entity deprives it of the right to continue carrying out such activities and may lead the court to make a decision on the merits of the dispute up to the termination of relevant economic ties, dismissal of employees, which will result in difficulty or impossibility of resuming economic activity in the event of a positive court decision. Thus, the circumstances cited by GAZ-RESURS LLC truly affect the implementation of an effective method of protecting the violated right, which, firstly, aims to restore such right, and only in the event of the impossibility of such renewal – guaranteeing the person the opportunity to receive adequate compensation. The college considers that the application of measures to guarantee the claim, in light of the specific circumstances of the case and the peculiarities of the legal regulation of litigious relations, also corresponds to the principle of procedural economy, which guarantees the waiver of recourse to the court for the adoption of additional measures³⁷.

The appeals court rightly considered that the method chosen by the applicant to guarantee the administrative claim corresponded to its object and, simultaneously, the adoption of such measures did not lead to the effective resolution of the dispute on its merits, but only aimed at maintaining the existing situation until the merits of the claims made were assessed.

The collective observes that, in the case at hand, the adoption of measures to guarantee the claim is a temporary measure, aimed at ensuring the execution of the judicial decision, and does not constitute a resolution on the merits of the case, which is wrongly pointed out by the plaintiff, nor does it demonstrate the illegality of the

³⁷ Постанова Касаційного адміністративного суду у складі Верховного Суду від 22 лютого 2024 року. Справа № 560/16942/23 URL: <https://reyestr.court.gov.ua/Review/117187619>

conclusion of the supervisory authority regarding the existence of grounds for revoking the license to conduct retail trade in fuels.

In submitting a motion to demand from "Prezenta Premium" LLC and "Dobro Logistic" LLC the original documents concerning the transport services and the summoning as witnesses of the head of "Prezenta Premium LLC" PERSON_1 and the director of "Dobro Logistic" LLC Samoliuk V.V., the MAIN DIRECTORATE OF THE STATE TAX SERVICE in the Cherkasy region raised the issue of the availability of two letters (dated February 14, 2023 under ex. no. 14/02 and dated April 4, 2023 under ex. no. 04/04), which contradict each other, but noting that the appeals court only accepts evidence in cases where the impossibility of its presentation to both the court of first instance and the appeals court is justified for reasons objectively independent of the participant in the proceedings, the appeals court ultimately limited itself to the fact that the object of the evidence in this case is the invalidation of the agreements entered into between the Prezenta Premium LLC and Kernel-Trade LLC, and not the legality of commercial transactions between Prezenta Premium LLC and Dobro Logistic LLC³⁸.

Articles 73 and 74 of the Ukrainian Code of Administrative Procedure establish the rules for the admissibility of evidence, which determine the objective capacity of evidence to demonstrate the validity of an event important for the resolution of a dispute, as well as the rules for the admissibility of evidence, which determine the legal capacity (capacity) of a given piece of evidence to confirm a given circumstance in the case.

The rules for the admissibility of evidence aim to achieve procedural economy by preventing the introduction of irrelevant evidence into the trial, and the rules for the admissibility of evidence aim to achieve the objectivity, reliability, and fairness of the judicial resolution of the dispute by realizing the principle that the attainment of the legitimate objective of justice cannot be confirmed by illegitimate means of proof.

According to Part Four of Article 73 and Part Two of Article 74 of the Code of Administrative Procedure of Ukraine, the court does not consider evidence that is not related to the subject matter of the evidence and must remember that the circumstances of the case, which by law must be confirmed by certain means of proof, cannot be confirmed by other means of proof.

It follows from the aforementioned legal provisions that the court, in the case of a petition to demand evidence, when deciding on the admissibility of such evidence, must determine whether the circumstance for which the party (participant) in the dispute requests the inclusion of evidence belongs to the subject matter of the evidence and whether there is an objective link between the evidence and the circumstance to be established.

In the present case, the plaintiff duly proved the existence and influence of circumstances affecting him, based on which he requested the adoption of measures to guarantee his claim, which reasonably indicate the probable difficulty in executing

³⁸ Постанова Касаційного адміністративного суду у складі Верховного Суду від 13 вересня 2023 року. Справа № 580/5634/22 URL: <https://reyestr.court.gov.ua/Review/113485190>

the judicial decision if such measures are not adopted³⁹. The circumstances cited by the Municipal Company "Kharkivvodokanal" effectively affect the implementation of an effective method of protecting the violated right, which, firstly, aims at its restoration, and only in case of impossibility of renewal, guaranteeing the person the opportunity to receive adequate compensation. The panel considers that the application of measures to guarantee the claim, in light of the specific circumstances of the case in question and the peculiarities of the legal regulation of litigious relations, also corresponds to the principle of procedural economy, which guarantees the dispensation of recourse to the court to obtain additional measures. The courts of previous instances also rightly considered that the method chosen by the applicant to secure the administrative claim corresponds to its purpose and, at the same time, the adoption of such measures does not lead to the effective resolution of the dispute on its merits, but only aims to maintain the existing situation until the case is assessed on the merits of the allegations presented.

The college notes that, in this case, the adoption of measures to secure the claim is a temporary measure aimed at ensuring the execution of the court decision, does not constitute a resolution of the dispute on its merits, and does not indicate the illegality of the supervisory authority's decision to collect non-monetary funds from the payer's electronic accounts/wallets at banks, non-bank payment service providers/electronic money issuers to settle the tax debt.

Therefore, the plaintiff has demonstrated the need to adopt the claim security measure applied by the courts, pursuant to Part Two of Article 150 of the Code of Administrative Procedure of Ukraine. The measure applied does not contradict the provisions of Part Two of Article 151 of the Code of Administrative Procedure of Ukraine. The appeal for annulment contains no further information regarding circumstances that would indicate that the courts violated the rules of procedural law in rendering their decisions. Therefore, the panel considers that the conclusions of the lower courts are correct, reasonable, and comply with the rules of substantive and procedural law, and there is no basis for annulling or altering the appealed judicial decisions. The arguments contained in the appeal for annulment, the conclusions of the courts, and the circumstances of the case are not refuted. The Supreme Court, in its decision of July 13, 2022, in case no. 240/26736/21, issued a legal opinion stating that the revocation of a license for the retail sale of fuels, from the moment it is received by a business entity, deprives it of the right to continue carrying out such activities. This could lead to a judicial decision on the merits of the dispute before the relevant economic ties are broken, and employees are laid off, resulting in difficulty or impossibility of resuming economic activity in general in the event of a positive judicial decision⁴⁰. Thus, the aforementioned circumstances truly affect the implementation of an effective method for protecting the violated right, which, first and foremost, aims at restoring that right, and only if such restoration is impossible –

³⁹ Постанова Касаційного адміністративного суду у складі Верховного Суду від 05 червня 2025 року. Справа № 520/2073/25 URL: <https://reyestr.court.gov.ua/Review/127920711>

⁴⁰ Постанова Касаційного адміністративного суду у складі Верховного Суду від 23 травня 2025 року. Справа № 420/31410/24 URL: <https://reyestr.court.gov.ua/Review/127631706>

guaranteeing the person the opportunity to receive adequate compensation. The panel of judges considers that the application of measures to guarantee the claim, in light of the specific circumstances of this case and the peculiarities of the legal regulation of litigious relations, also corresponds to the principle of procedural economy, which guarantees the avoidance of recourse to the court to obtain additional measures.

The court considers unfounded the arguments of the Directorate-General of the Tax Service of the Odessa region, that the measures taken to secure the claim exceed the scope of the proceedings, since the subject matter of the proceedings in this case is, in particular, the illegality of the grounds for carrying out an effective inspection of the plaintiff, namely the order to carry out an inspection, the results of which may lead to negative consequences for the plaintiff before the judicial resolution of this dispute, which was analyzed in detail and duly assessed by the courts. At the same time, the courts correctly proceeded from the fact that the method of securing the administrative claim chosen by the plaintiff aims only to maintain the existing situation until the case is assessed on the merits of the claims.

Therefore, the Supreme Court agrees with the conclusions of the lower courts on the existence of grounds determined by paragraph 1 of the second part of Article 150 of the Code of Administrative Procedure of Ukraine for the adoption of measures to secure the claim. The circumstances referred to by the company affect the implementation of an effective way to protect the violated right, which, first and foremost, aims to restore that right, and only if it is impossible to restore it – to guarantee the person the opportunity to receive adequate compensation.

The court considers that the application of measures to secure the claim, in light of the specific circumstances of this case and the peculiarities of the legal regulation of the disputed relations, is also consistent with the principle of procedural economy, which ensures that there is no need to resort to the court for additional measures.

In this case, the adoption of measures to secure the claim is a temporary measure, it is not a resolution of the dispute on its merits and does not indicate the illegality of the supervisory authority's conclusion on the existence of grounds for the revocation of the licenses.

CONCLUSIONS

Procedural economy is a complex administrative procedural category, characterized, on the one hand, by a state of administrative procedural regulation that allows the court to ensure the correct and expeditious resolution of disputes with the minimum expenditure of resources and efforts, through dispositive procedural rules and the possibility of using judicial discretion, and, on the other hand, by the result of administrative procedural activity in a specific case, which is determined by the judge's procedural interest in the most complete and rational way possible.

Based on the analysis of the essence and content of the principle of procedural economy, the author demonstrates that procedural economy, in its essence, includes the economical, judicious and rational use of procedural means by the participants in administrative processes and aims to guarantee the fair and expeditious consideration of administrative cases. The author demonstrates that procedural economy encompasses administrative and procedural categories such as "celerity", "efficiency", "cost-effectiveness" and "consideration of a case within a reasonable

time", which are referred to by some scholars as the basic principles of administrative justice. It is reasonable to understand the principle of procedural economy as a legal requirement according to which the court and the participants in the administrative process must use procedural means carefully and rationally for the correct and rapid assessment and resolution of administrative cases.

SUMMARY

The principle of procedural economy is not directly enshrined in the current legislation of administrative procedure as a principle of administrative procedure. In the doctrine of administrative procedural law, the question of the reference of procedural economy to the principles of administrative procedure is currently debatable. However, an analysis of the practice of applying the rules of administrative procedural law allows us to state with confidence that there is a principle of administrative justice such as the principle of procedural economy. That is justified, first, by the fact that only the effect of the principle of procedural economy can explain the consolidation, in the administrative procedural legislation, of such institutions, such as the replacement of an undue defendant, the participation of several plaintiffs or defendants in proceedings, the participation of third parties in a case, the succession of proceedings, the change in the subject-matter or grounds of an application, waiver of a claim, recognition of a claim, conciliation agreement, preparatory procedures, procedure for transferring a case from one court to another, etc. Second, not all principles and foundations of law should be explicitly defined as such in legal acts, as principles can be derived from the content of many rules and institutions of law, including administrative procedural law.

Modern international standards on judicial proceedings aim to protect the legitimate rights and interests of participants in administrative relations and require each State to create new effective means and appropriate conditions for those persons to exercise their right of access to justice, to a fair and open trial within a reasonable time.

Key words: administrative justice, procedural law, principle of procedural economy, judicial discretion, judicial reasoning

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