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## ADMINISTRATIVE LEGAL PROVISIONS FOR CASES INVOLVING APPEALS AGAINST AUTHORISED ACTORS' DECISIONS ON ADMINISTRATIVE LIABILITY IN UKRAINE

**Abstract. Purpose.** The purpose of the article is to define and study, by relying on the writings of legal scholars, the basic administrative legal provisions for cases involving appeals against authorised actors' decisions on administrative liability in Ukraine.

**Results.** The law provisions for appeals against authorised actors' decisions on administrative liability in Ukraine are generally established rules of conduct approved by the State and aimed at regulating relations in the field of activities of public authorities and their officials in case of non-performance or violation of which, citizens may apply to the court for protection or restoration of their rights, freedoms and legitimate interests. The legal framework for cases involving appeals against authorised actors' decisions on administrative liability in Ukraine is established by a number of legal regulations which are amended and supplemented every year as necessary in the event of new legislative requirements for administrative proceedings in this field, therefore it requires thorough scientific study. The subjective rights of citizens are necessarily characterized by publicity, which means the possibility of influencing managerial processes, participating in State and socio-political activities, and enjoying the rights and freedoms provided for in the Constitution, appealing acts, decisions or omissions of authorities and their officials in the court. In our opinion, the basic administrative legal provisions on cases involving appeals against authorised actors' decisions on administrative liability in Ukraine are: the Constitution of Ukraine, the Code of Administrative Procedure of Ukraine, the Code of Administrative Offences.

**Conclusions.** It is concluded that the administrative legal provisions on cases involving appeals against authorised actors' decisions on administrative liability in Ukraine are generally established rules of conduct, approved by the State, aimed at regulating relations in the field of activities of public authorities and their officials in case of non-performance or violation of which, citizens may apply to the court for protection or restoration of their rights, freedoms and legitimate interests and bring the perpetrators to justice.

**Key words:** administrative liability, administrative legal provisions, power, decision, actor, judicial appeal.

### 1. Introduction

One of the conditions for Ukraine's accession to the European Union is the establishment of a modern and impartial judicial system aimed at protecting the rights, freedoms and legitimate interests of citizens and foreigners residing in the territory of our State. This also applies to the harmonization of domestic legislation with EU standards.

However, frequently the authorised actors abuse their rights in respect of ordinary citizens, including by violating established rules of con-

duct, approved by the State, and in this case the latter have to appeal to the court to protect or restore them.

Currently, in Ukraine there are numerous legal regulations on appeals against authorised actors' decisions on administrative liability that have not been studied from a scientific perspective.

Therefore, the administrative legal provisions for cases involving appeals against authorised actors' decisions on administrative liability in Ukraine are the main remedies for citizens to counter violations.

The administrative and legal provisions cases involving appeals against authorised actors' decisions on administrative liability in Ukraine have been studied by such legal scholars as V. Averianov, O. Bandurka, O. Barintsev, V. Bevzenko, K. Beliakov, Y. Bytiak, E. Bolotina, V. Bryzhko, O. Vdovina, O. Voronov, V. Havlovskiy, V. Halunko, V. Harashchuk, Y. Harust, YE. Hetman, I. Hlobenko, M. Damirchyiev, O. Danylian, Y. Denysiuk, P. Dikhtievskiy, O. Dzhafarova, V. Yeltsov, S. Yesimov, V. Zarosylo, R. Kaliuzhnyi, N. Kvasnevska, O. Kobzar, M. Kovalchuk, V. Kovalska, I. Koliushko, T. Kolomoyets, V. Kolpakov, A. Komziuk, V. Kopylov, O. Korchynskiy, T. Kravtsova, S. Kuznichenko, O. Kuzmenko, R. Kuibida, N. Kushakova-Kostytska, A. Manzhula, Z. Markus, R. Melnyk, A. Novytskyi, O. Pasienuk, A. Paskar, V. Pchelin, O. Riabchenko, O. Syniavska, R. Stanik, S. Stetsenko, V. Surnyk, R. Tarasenko, M. Tyshchenko, Y. Furmanchuk, Y. Kharytonov, O. Kharytonova, V. Tymbaliuk, M. Tsvok, K. Chylinharian, O. Shamrai, R. Shapoval, M. Shvets, Y. Shemshuchenko, K. Shkarupa, I. Shrub, O. Yakuba, and others. However, the issues concerned have been addressed only indirectly, exploring other more general, ad hoc or related challenges.

The purpose of the article is to define and study, by relying on the writings of legal scholars, the basic administrative legal provisions on cases involving appeals against authorised actors' decisions on administrative liability in Ukraine.

## 2. Definitions in the field of appealing decisions of authorised actors

Taking into account the opinions of leading scholars in the field of appeals against authorised actors' decisions on administrative liability in Ukraine, it is necessary to clarify definitions in series.

The Dictionary of the Ukrainian language defines the concept of the norm as the customary, legal, generally accepted, obligatory order, state, etc.; the standard, the rule of conduct of people in society. A norm (provision) of law is a generally binding rule of human conduct established, approved and enforced by the State (Bilodid, 1973).

The next concept to be understood for the study of our problem is to appeal, that it, to formally submit an action to the higher institution against a decision, someone's actions, etc. (Bilodid, 1973).

The authorised actors are the public authorities, the bodies of local self-government, their official, and other actors in the exercise of their power managerial functions on the basis of legislation, including in the exercise of delegated powers (N.d. 2021).

According to Professor V. Halunko, an administrative appeal is a procedure for the protection of violated rights of citizens in the field of public administration, defined at the legislative level, which provides for the submission of an action by a citizen against decisions, acts or omissions by authorized persons of public and local authorities in an administrative manner and these persons' obligation to resolve the issues raised in the action (Constitution of Ukraine, 1996).

Therefore, the legal provisions on cases involving appeals against authorised actors' decisions on administrative liability in Ukraine are generally established rules of conduct, approved by the State, aimed at regulating relations in the field of activities of public authorities and their officials in case of non-performance or violation of which, citizens may apply to the court for protection or restoration of their rights, freedoms and legitimate interests.

The legal framework for cases involving appeals against authorised actors' decisions on administrative liability in Ukraine is established by a number of legal regulations which are amended and supplemented every year as necessary in the event of new legislative requirements for administrative proceedings in this field, therefore it requires thorough scientific study.

The subjective rights of citizens are necessarily characterized by publicity, which means the possibility of influencing managerial processes, participating in State and socio-political activities, and enjoying the rights and freedoms provided for in the Constitution, appealing acts, decisions or omissions of authorities and their officials in the court.

According to this, first it should be noted that according to the Basic Law of Ukraine: human and civil rights and freedoms are protected by the court. Everyone is guaranteed the right to appeal in court against decisions, acts or omissions of State or local self-government bodies, officials and officers (art. 55) (Halunko, Dikhtievskiy, Kuzmenko, 2001).

In addition, under article 129 of the Code of Administrative Offences, judges who administer justice are independent and subject to the rule of law. The right to appeal and, in cases specified by law, the right to cassation is guaranteed (Code of Ukraine on Administrative Offenses, 2005).

The ways to ensure legality in the application of administrative actions for administrative offences are as follows. No one may be subject to measures in connection with an administrative offence other than on grounds and in the manner prescribed by law. Proceedings on administrative offences are conducted in strict compli-

ance with the law. The administrative actions taken by authorized bodies and officials are carried out within the scope of their competence in strict accordance with the law. Compliance with the requirements of law in the application of actions for administrative offences is ensured by systematic control by higher authorities and officials, by the right to appeal and other means established by law (article 7) (Code of Ukraine on Administrative Offenses, 2005).

### **3. Specificities of applying administrative and legal provisions in cases involving appeals against authorised actors' decisions on administrative liability in Ukraine**

According to the Code of Administrative Procedure, the objective of administrative proceedings is the fair, impartial and timely settlement by a court of disputes in the field of public legal relations, with a view to the effective protection of the rights, freedoms and interests of natural persons, the rights and interests of legal persons against violations by authorised actors. In cases involving appeals against decisions, acts or omissions of authorised actors, the administrative courts verify whether they have been made: 1) on the grounds, within the scope of powers and in a manner determined by the Constitution and laws of Ukraine; 2) using powers for the purpose for which this power is granted; 3) on the basis of all the circumstances relevant to the decision-making (committing the act); 4) impartially (impartially); 5) in good faith; 6) soundly; 7) respecting the principle of equality before the law, preventing all forms of discrimination; 8) pro rata, in particular, to the necessary balance between any adverse effect on the rights, freedoms and interests of the individual and the objectives the decision (action) is intended to achieve; 9) considering the individual's right to participate in the decision-making process; 10) in a timely manner, that is, within a reasonable time frame (N.d., 2009).

Only in accordance with the rules of general procedure for appeal, disputes shall be considered in respect of: 1) appeals against legal regulations, except in the cases specified in the present Code; 2) appeals against the decisions, acts and omissions of authorised actors if the complainant also claims compensation for damage caused by such decisions, acts or omissions in an amount exceeding 500 times the minimum subsistence level for able-bodied persons; 3) the compulsory expropriation of land and other immovable property situated on it on grounds of public necessity; 4) appeals against the decision of authorised actors, on the basis of which he may demand the recovery of money in excess of the minimum subsistence level of able-bodied persons; 5) appeals

against decisions of the National Commission for Rehabilitation in Legal Relations arising from the Law of Ukraine *On Rehabilitation of Victims of Repression of the Communist Totalitarian Regime of 1917–1991*; 6) appeals against individual acts of the National Bank of Ukraine, the Fund for Guaranteeing Deposits of Individuals, the Ministry of Finance of Ukraine, the National Commission on Securities and the Stock Market, decisions of the Cabinet of Ministers of Ukraine, as defined in article 266-1 of this Code (N.d., 2009).

Therefore, the above-mentioned standards, established and approved by the State, allow appeals against the decisions of the authorised actors and administrative liability of the officials responsible.

The court decides on administrative cases involving appeals against decisions (actions and omissions) of the executive authorities, local government bodies, the media, enterprises, institutions and organisations, their officials and officers, artists in the media who violate the law on elections and referendums within the time-limit prescribed in art. 172, part 11, of the CoAP of Ukraine. The general time limit for the consideration and resolution of an administrative case initiated under art. 172 of the CoAP of Ukraine, is 5 days after the submission of the claim to the court. However, if the claim is filed before election/referendum day, the case shall be settled no later than two hours before the start of voting. The period of these procedural deadlines begins to run on the day after the submission of the application to the court. The last day of these periods is up to: a) 24 hours (as a general rule); b) the end of the work of the administrative court (of course, if the court is not open 24 hours a day); c) the time that precedes two hours before the start of voting in the election/referendum (if the statement of claim was submitted less than five days before the beginning of voting). By the rules of art. 179 of the CoAP of Ukraine, which regulates the procedure for calculating the time limits for cases involving the electoral process or the referendum process, and the time limits for the filing of claims, as set out in articles 172–177 of the CoAP of Ukraine, not subject to renewal. Claims filed after the expiry of these time limits are dismissed by the court. At the same time, the violation by the court of the time limit for the consideration of an administrative case does not constitute grounds for filing an action, and, in the appellate instance, for the filing of an appeal without consideration. In such cases, an action or appeal may be dismissed only if the courts have not considered the case before a certain event,

after which the courts are prohibited from considering or continuing these cases (para. 11 of Resolution 2 of the Plenum of the Supreme Administrative Court of Ukraine on the practice of the administrative courts in applying the provisions of the CoAP of Ukraine in considering disputes concerning legal relations involving the electoral or referendum process of 2 April 2007) (N.d., 2009).

Therefore, in our opinion, the basic administrative legal provisions on cases involving appeals against authorised actors' decisions on administrative liability in Ukraine are: the Constitution of Ukraine, the Code of Administra-

tive Procedure of Ukraine, the Code of Administrative Offences.

#### 4. Conclusions

Therefore, administrative legal provisions on cases involving appeals against authorised actors' decisions on administrative liability in Ukraine are generally established rules of conduct, approved by the State, aimed at regulating relations in the field of activities of public authorities and their officials in case of non-performance or violation of which, citizens may apply to the court for protection or restoration of their rights, freedoms and legitimate interests and bring the perpetrators to justice.

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## АДМІНІСТРАТИВНО-ПРАВОВІ НОРМИ У СПРАВАХ СТОСОВНО ОСКАРЖЕННЯ РІШЕНЬ СУБ'ЄКТІВ ВЛАДНИХ ПОВНОВАЖЕНЬ ЩОДО ПРИТЯГНЕННЯ ОСІБ ДО АДМІНІСТРАТИВНОЇ ВІДПОВІДАЛЬНОСТІ В УКРАЇНІ

**Анотація. Мета.** Мета статті полягає в тому, щоб на основі праць учених-юристів визначити та дослідити основні адміністративно-правові норми у справах стосовно оскарження рішень суб'єктів владних повноважень щодо притягнення осіб до адміністративної відповідальності в Україні.

**Результати.** Норми права у справах стосовно оскарження рішень суб'єктів владних повноважень щодо притягнення осіб до адміністративної відповідальності в Україні – це загальновстановлені, санкціоновані державою правила поведінки, що покликані на регулювання відносин у сфері діяльності органів державної влади та їх посадових осіб, у разі невиконання чи порушення яких громадяни можуть звернутися до суду за захистом або відновленням своїх прав, свобод та законних інтересів. Правові засади у справах стосовно оскарження рішень суб'єктів владних повноважень щодо притягнення осіб до адміністративної відповідальності в Україні визначені низкою нормативно-правових актів і щорічно редагуються та доповнюються залежно від нагальної потреби в разі виникнення нових законодавчих вимог до адміністративного судочинства у цій сфері, тому вона потребує детального наукового розгляду. Суб'єктивні права громадянина обов'язково характеризуються ознакою публічності, що означає можливість впливати на управлінські процеси, брати участь

у державній і суспільно-політичній діяльності, користуватися передбаченими Конституцією правами і свободами, оскаржувати дії, рішення чи бездіяльність органів влади та їх посадових осіб до суду. Основними адміністративно-правовими нормами у справах стосовно оскарження рішень суб'єктів владних повноважень щодо притягнення осіб до адміністративної відповідальності в Україні, на нашу думку, слід вважати: Конституцію України, Кодекс адміністративного судочинства України, Кодекс України про адміністративні правопорушення.

**Висновки.** Зроблено висновок, що адміністративно-правові норми у справах стосовно оскарження рішень суб'єктів владних повноважень щодо притягнення осіб до адміністративної відповідальності в Україні – це загальновстановлені, санкціоновані державою правила поведінки, що покликані на регулювання суспільних відносин у сфері діяльності органів державної влади та їх посадових осіб, у разі невиконання чи порушення яких громадяни можуть звернутися до суду за захистом або відновленням своїх прав, свобод та законних інтересів та притягнути винних до відповідальності.

**Ключові слова:** адміністративна відповідальність, адміністративно-правові норми, влада, рішення, суб'єкт, судове оскарження.

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