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DETERMINATION OF THE CONTENT OF FORMAL PRECONDITIONS FOR EXERCISING THE RIGHT TO CASSATION APPEAL IN ADMINISTRATIVE PROCEEDINGS OF UKRAINE

Abstract. Purpose. The purpose of the article is to determine the content of the formal preconditions for exercising the right to cassation appeal in administrative proceedings in Ukraine. **Results.** Procedural time limits of cassation proceedings are the period of time established by law and the administrative court of cassation within which the parties and other persons involved in the case, as well as persons not involved in the case, if the court has decided on their rights, freedoms, interests and obligations, have the right to take procedural actions. The cassation proceedings have certain types of procedural time limits during which all procedural actions are performed during the commencement of proceedings in the case, consideration of the cassation appeal and adoption of a resolution by the court and participants in the case. One of the types of procedural time limits of cassation appeal is the time limit for exercising the right to cassation appeal, by which the author means the period of time established by law during which the eligible parties have the right to appeal to the administrative court of cassation. The time limit for exercising the right to cassation appeal is a period of time established by law during which eligible actors have the right to apply to an administrative court of cassation. In our opinion, the time limit of cassation appeal is a procedural time limit by its content and legal nature. The filing of a cassation appeal to the High Administrative Court of Ukraine within the scope of consideration of a particular administrative case is a procedural action of the parties and other persons involved in the case, as well as persons not involved in the case, if the court has decided on their rights, freedoms, interests and obligations. **Conclusions.** The grounds for a cassation appeal are the circumstances by which the appellant demonstrates that the administrative courts of first and/or appellate instance have incorrectly applied the substantive and procedural law. In such a case, the cassation appeal should specify what exactly constitutes a significant violation or misapplication of substantive or procedural law, with a reasonable presentation of relevant evidence (court decisions, copies of documents, other materials, etc.). The content of the cassation appeal will include the appellant's request to the administrative court of cassation to take certain actions to cancel or replace the court decisions of the administrative courts of first and/or appellate instance. In our opinion, the specified requirements for the form and content of the cassation appeal are of great importance, since it is within the cassation appeal that the administrative court of cassation will verify that the provisions of substantive and procedural law are applied correctly.

Key words: court decision, case consideration, cassation appeal, court hearing, procedural time limits.

1. Introduction

One of the preconditions for exercising the right of cassation appeal is compliance with the procedural time limits established by the CAPU or set by the administrative court for applying to the cassation court.

In order to fulfil the tasks of administrative court proceedings, it is essential not only to establish the procedural order of administration of justice in administrative cases, but also to create an optimal time regime for

its implementation, that is, to establish procedural time limits. After all, it is extremely important that administrative proceedings are administered not only correctly, but also in a timely manner.

It is to achieve this goal that procedural time limits are set.

Moreover, their existence and strict observance is not only a guarantee of the exercise of subjective procedural rights by the parties to the proceedings, but also a guarantee of the effi-

ciency of the proceedings (Andrushko, Bilousov, Stefanchuk, Uhrynovska, 2006, p. 85).

2. The concept of procedural time limits

In modern research on administrative law and administrative procedure, the problems of procedural time limits in administrative proceedings have been covered in textbooks, manuals on the basics of administrative proceedings, administrative procedure, administrative procedure law, or in the context of analysing issues related to the conduct of proceedings on administrative offences, citizens' appeals and disciplinary proceedings.

V.A. Lypa focuses his research on the problem of determining the specifics of time limits at certain stages of administrative proceedings. For example, the scholar analyses the issues of the functions of time limits in administrative proceedings, and characterises time limits as a means of ensuring the legislative rights, interests and freedoms of citizens. However, a comprehensive study of the issue of the essence of procedural time limits in administrative proceedings, systematisation of procedural time limits, and their characteristics as an institute of administrative procedural law is made in the thesis by M.A. Soroka on 'Procedural Time Limits in Administrative Proceedings' (Soroka, 2011). Nevertheless, scholars have not focused on the issue of the content of procedural time limits in cassation proceedings.

In the theory of legal procedure, the concept of procedural time limits is interpreted differently by specialists in different branches of law.

In this regard, this article will focus on the achievements of civil procedure. A civil procedural time limit should be understood as a period of time established by law or court during which a certain procedural action may or shall be performed by the participants of civil proceedings (Andrushko, Bilousov, Stefanchuk, Uhrynovska, 2006, p. 85).

According to S.V. Vasyliiev, procedural time limits are defined as a period established by law or court within which a certain procedural action must be taken by the court, parties and other persons involved in the case (Vasyliiev, 2013, p. 95).

Specialists in administrative law and procedure provide a slightly different interpretation of the concept of 'procedural time limits'.

The authors of the textbook 'Administrative Law' Z.R. Kisil and R.V. Kisil define the procedural time limit as a period established by law or court, the beginning or end of which or the commencement of which entails legal consequences and during which procedural actions are performed (Kisil, Kisil, 2011).

V. H. Perepeliuk argues that the procedural time limit is a period established by a legal reg-

ulation, calculated according to the established rules, during which authorised persons are entitled to perform procedural actions, fulfil an obligation, or a point in time when a procedural action is to be performed (Perepeliuk, 2003).

According to M.O. Soroka, a procedural time limit in administrative proceedings is a moment or period of time established by a procedural law and/or court that must inevitably occur and have legal significance in connection with the performance of a separate procedural action, consideration and resolution of an administrative jurisdiction case (Soroka, 2011, p. 5).

The literature review in the field of administrative law and procedure reveals that procedural time limits in most of the above definitions are associated with the period during which certain legal consequences of procedural actions should occur.

In administrative proceedings, general provisions on the definition of procedural time limits are provided for in the CAPU. For example, in part 1 of Article 101 of the CAPU, the legislator understands procedural time limits as the time limits established by law or court within which procedural actions are performed.

The specifics of procedural time limits in administrative proceedings are defined by the provisions of Chapter 8 'Time Limits' of the CAPU, which consists of five articles, namely Articles 99 to 103.

The content of procedural time limits in administrative proceedings is also disclosed in other legal instruments of the judiciary. For example, in its Information Letter No. 1909/12/13-12 of 27.08.2012 the HACU explains the concept of procedural time limits as the time limits for performing procedural actions established by law or court (High Administrative Court of Ukraine Information letter, 2012).

For example, pursuant to Letter No. 196/11/13-11 of the High Administrative Court of Ukraine of 09 February 2011 on implementing the work plan for the first half of 2011 and providing information on the practice of applying the provisions of Articles 99-103, 186, part three of Article 189 of the Code of Administrative Procedure of Ukraine by local and appellate administrative courts in the second half of 2010, the Vinnytsia Administrative Court of Appeal informs that 'Procedural time limit in administrative proceedings (one of the most effective procedural means of ensuring timely resolution of cases) is a period established by the current procedural legislation - the Code of Administrative Procedure of Ukraine or a judge (court), during which a particular procedural action shall or may be performed or a certain part of the pro-

ceedings completed (Generalization of the Vinnytsia Appeal Administrative Court regarding the application of time limits for appeals to the court, 2022).

Therefore, in our opinion, procedural time limits in administrative proceedings should be understood as a period established by law or court within which a certain procedural action shall be taken by the court and other participants in the administrative procedure. All other scientific approaches in which procedural time limits are linked to events or actions, etc. are not justified (Ulmer, 2014).

Therefore, procedural time limits of cassation proceedings are the period of time established by law and the administrative court of cassation within which the parties and other persons involved in the case, as well as persons not involved in the case, if the court has decided on their rights, freedoms, interests and obligations, have the right to take procedural actions.

Therefore, cassation proceedings have certain types of procedural time limits during which all procedural actions are performed during the commencement of proceedings in the case, consideration of the cassation appeal and adoption of a decision by the court and participants in the case.

3. The types of procedural time limits of cassation appeal

One of the types of procedural time limits of cassation appeal is the time limit for exercising the right to cassation appeal, by which the author means the period of time established by law during which the eligible parties have the right to appeal to the administrative court of cassation.

The analysis of the HACU's practice in cassation cases shows that there is a problem with the calculation of procedural time limits and their renewal.

Pursuant to Part 2 of Article 101 of the CAPU, the terms established by law or court are determined by days, months and years, and may also be determined by indicating an event that must inevitably occur.

Pursuant to Article 103 of the CAPU, the procedural timeline commences on the day following the relevant calendar date or the occurrence of an event to which its commencement is related.

Generally, under Article 102 of the CAPU, the procedural time limit established by law that has been missed for valid reasons may be renewed, and the procedural time limit established by the court may be extended by the court at the request of a person involved in the case. The court shall decide on the renewal or extension of the missed time limit in written proceedings or in a court hearing at the discre-

tion of the court. Failure to appear at the court hearing by persons who have been duly notified shall not prevent consideration of the motion. The court's resolution to refuse to renew or extend the missed procedural time limit may be appealed by the persons involved in the case. The rules of Article 102 of the CAPU do not apply to the time limits for applying to an administrative court.

An analysis of the provisions of the CAPU regarding the time limits for cassation appeal leads to the conclusion that the right of cassation appeal is limited by the procedural time limits established by the CAPU for its exercise. According to Part 2 of Article 212 of the CAPU, a cassation appeal against court decisions shall be filed within twenty days after the court decision of the court of appeal enters into force, except as provided by this Code, and in case of a full court decision, in accordance with Article 160 of the CAPU, from the date of the full court decision.

Part 3 of Article 160 of the CAPU stipulates that in exceptional cases, depending on the complexity of the case, the full resolution may be postponed for a period of no more than five days from the date of the end of the case consideration. In this case, the introductory and operative parts of the resolution shall be signed by the entire court, pronounced at the same session in which the case was completed, and attached to the case file.

In other words, in exceptional cases, a cassation appeal may be filed with the court within twenty-five days from the date of the full resolution.

The analysis of the provisions of Articles 101, 103 and 212 of the CAPU suggests that the time limit for cassation appeal of a court resolution, both rulings and judgments, provided for in Article 212 of the CAPU is calculated with due regard to Part 1 of Article 103 of the CAPU, which sets out the rules for the commencement of the procedural time limits - from the day following the relevant calendar date or the occurrence of an event to which the commencement is related.

As noted above, the HACU's practice has problems with the application of the rules establishing the time limit for exercising the right of cassation appeal. A study of the court practice has revealed that there are mistakes in determining the date from which the appeal period is determined, the beginning of the period, the end of the period, and the range of valid reasons for its omission. This is also stated in the Information Letter No. 708/11/13-10 of the HACU of 19 May 2010 (The High Administrative Court of Ukraine Information letter, 2010).

According to the above-mentioned Information Letter of the HACU, the first problem

is related to the moment when a court decision enters into force, that is, it is the event with which the legislator links the beginning of the cassation appeal period. Court practice reveals that administrative courts have an ambiguous understanding of the moment when a court decision enters into force. In some cases, this moment is associated with the fact of the court decision being pronounced at the hearing itself, in others - with the fact of the court decision being made.

The analysis of court practice reveals that the problem of determining the date from which the time limit for exercising the right of cassation appeal is calculated mainly arises in cases where the full judgement was delayed. In most cases, the reason for the cancellation of court decisions was the court's conclusion that the pronouncement of the court decision in the presence of the parties is a proper notification of them of the court decision and its content, regardless of whether the full text of the court decision was pronounced at the court hearing or only its introductory and operative parts. In this regard, the Supreme Court of Ukraine notes that the courts should give due consideration to the fact that only the introductory and operative parts of the decision are pronounced in the court hearing, and the legal position of the court, on which the appealed decision is based, can be reviewed by the persons involved in the case only after receiving the full text of the latter. The courts should consider that the grounds for appealing a court decision can be determined by the parties to the case only after they have read the full text of the decision (The High Administrative Court of Ukraine Information letter, 2010).

Moreover, a study of court practice reveals that administrative courts, considering that only the introductory and operative parts of the court decision were delivered at the court hearing, determine the date from which the appeal period begins to be the date of expiry of the five-day period established by Part 3 of Article 160 of the Administrative Procedure Code, for which the full preparation of the court decision may be postponed, rather than the date of actual preparation of the court decision. This was the reason why the Supreme Court of Ukraine cancelled the resolution of the High Administrative Court of Ukraine of 30 June 2009 and the resolution of the Kyiv Administrative Court of Appeal of 11 September 2008 in the case brought by Limited Liability Company 'S' against the State Tax Inspectorate in the Shevchenkivskyi District of Kyiv to declare unlawful and cancel the tax assessment notice (The High Administrative Court of Ukraine Information letter, 2010).

In court practice, there are also frequent cases of incorrect establishment of the beginning of the time limit for exercising the right to cassation appeal and the end of this period.

According to Parts 1 and 3 of Article 103 of the CAP, the procedural time limit, which is determined in months, starts on the day following the relevant calendar date or the occurrence of the event with which its beginning is connected, and ends on the corresponding day of the last month of this period. Pursuant to Article 103 of the CAP, the last day of the time limit lasts until the twenty-fourth hour (part 8), and the time limit is not considered to have been missed if, before its expiry, the statement of claim, complaint, other documents or materials or money are delivered by post or transferred by other appropriate means of communication (part 9).

For example, the incorrect determination of the beginning of the cassation appeal period is stated in the Resolution of the Judicial Chamber on Administrative Cases of the Supreme Court of Ukraine of 10 February 2009.

For example, the contested ruling of 24 October 2008 of the High Administrative Court of Ukraine returned the defendant's cassation appeal against the resolution of the Kharkiv Administrative Court of Appeal of 24 June 2008.

The cassation court's ruling was motivated by the fact that the complainant had missed the statutory deadline for filing the complaint and had not filed a motion to renew it.

According to the case file, on 24 June 2008, only the introductory and operative parts of the challenged resolution of the Kharkiv Administrative Court of Appeal were read out in court, and the full resolution was adopted on 01 July 2008. Pursuant to Part 1 of Article 103 of the Code of Administrative Procedure, the procedural time limit starts on the day following the relevant calendar date or the occurrence of an event with which its beginning is connected. Therefore, the defendant filed the cassation appeal of 31 July 2008 before the expiry of the one-month period for appealing the resolution of the Court of Appeal, which began on 2 July 2008 (Resolution of the Judicial Chamber in Administrative Cases of the Supreme Court of Ukraine, 2009).

The court of cassation concluded that the complainant had missed this deadline due to incorrect application of procedural law. Therefore, the ruling of the High Administrative Court of Ukraine should be cancelled and the case should be remanded for consideration of the cassation appeal (Resolution of the Judicial Chamber in Administrative Cases of the Supreme Court of Ukraine, 2009).

According to the court practice, in some cases, the High Administrative Court determines the beginning of the appeal period from the day of the decision in the case, and not from the day following that day, despite the postponement of weekends when they were holidays or non-working days.

Instead of the date of submission of the cassation appeal, the date of receipt of the appeal by the court was taken into account for mailing, which led to the cancellation of the rulings of the High Administrative Court of Ukraine by the Supreme Court of Ukraine (The High Administrative Court of Ukraine Information letter, 2010).

According to the legal position of the Supreme Court of Ukraine and in accordance with Part 9 of Article 103 of the Code of Administrative Procedure, the procedural time limit is not considered to have been missed if the complaint is sent by post or other appropriate means of communication before its expiry. Incorrect calculation by the court of the time limits for appealing against court decisions is a violation of procedural law, which gives grounds for cancellation of the ruling on leaving the complaint without consideration.

The next problem is to determine the valid reasons for missing the appeal deadline. According to the practice of the Supreme Court of Ukraine, when assessing the circumstances that prevented the exercise of the procedural right to appeal, the court shall proceed from the assessment and analysis of all the arguments presented in the motion, as well as from whether the applicant had the opportunity to exercise his/her right to appeal in a timely manner. If a complaint is filed out of time due to the fact that the complainant was not sent a court decision in time, such a reason is valid and, provided that there is a request for extension of the appeal period and this fact is confirmed by proper evidence, the appeal period should be extended (The High Administrative Court of Ukraine Information letter, 2010).

For example, in the Resolution of the Judicial Chamber on Administrative Cases of the Supreme Court of Ukraine of 20 January 2009, the cassation court, assessing the circumstances that prevented the exercise of the procedural right to cassation appeal, which the applicant refers to as valid, shall proceed from the assessment and analysis of all the arguments presented in the motion and whether the applicant had the opportunity to exercise the right to cassation appeal in a timely manner under such circumstances (Resolution of the Judicial Chamber in Administrative Cases of the Supreme Court of Ukraine, 2009).

Having failed to assess the fact that the court of appeal pronounced the introductory and operative parts of the decision at the court hearing, and the party could only get acquainted with the legal position of this court, on which the contested decision was based, after receiving the full text of the latter, the cassation court erroneously found it impossible to renew the missed deadline for cassation appeal.

The Court of Cassation, when deciding on the renewal of the deadline for cassation appeal, found that the challenged ruling of the court of appeal was delivered in the presence of the defendant's representative, and therefore concluded that the defendant was duly notified of the contested ruling and its content. Moreover, the cassation court did not assess the fact that the Lviv Commercial Court of Appeal pronounced the introductory and operative parts of the resolution at the hearing on 28 November 2006, and the defendant could only get acquainted with the legal position of the court, which was the basis for the challenged resolution, after receiving the full text of the latter. Leaving this circumstance unaccounted for, the cassation court concluded that there were no grounds for renewal of the time limit. This conclusion is erroneous, as it is not based on the circumstances of the case (Resolution of the Judicial Chamber in Administrative Cases of the Supreme Court of Ukraine, 2009).

The parties to the case, as well as persons not involved in the case, if the court has decided on their rights, freedoms, interests or obligations, are provided with the right to appeal and cassation against administrative court decisions in accordance with Article 13 of the Code of Administrative Procedure in cases and in the manner prescribed by this Code.

Pursuant to Part 1 of Article 8 of the CAPU, the court shall be guided by the rule of law when deciding the case.

In assessing the circumstances that impeded the exercise of the procedural right to cassation appeal, which the applicant refers to as valid, the court shall proceed from the assessment and analysis of all the arguments provided in the motion and from the fact whether the applicant had the opportunity to exercise the right to cassation appeal in a timely manner under such circumstances (Resolution of the Judicial Chamber in Administrative Cases of the Supreme Court of Ukraine, 2009).

In finding it impossible to renew the time limit for cassation appeal in this case, the court did not take into account that the defendant could determine the grounds for such appeal only after reading the full text of the ruling, as well as the violation by the appellate court

of the requirements of Part 3 of Article 167 of the CAPU, under which the court shall send a copy of the court decision to the person involved in the case no later than the next day after the court decision is made.

Therefore, the ruling of the High Administrative Court of Ukraine shall be cancelled, and the case shall be remanded for a new consideration to the court of cassation to decide on the issue of renewal of the time limit for appeal (Resolution of the Judicial Chamber in Administrative Cases of the Supreme Court of Ukraine, 2009).

It should be noted that the time limit for exercising the right to cassation appeal of court decisions by persons who were not involved in the case, but whose rights and interests were violated by the decision, constitutes a separate issue. Its commencement should be determined from the time when the person is acquainted with the full text of the contested decision. This position was expressed by the Supreme Court of Ukraine in the case of the claim of a citizen B. regarding the recognition as unlawful of the refusal of the Sudak City Council of the Autonomous Republic of Crimea to transfer a land plot free of charge (The High Administrative Court of Ukraine Information letter, 2010).

Therefore, when a person who has the right to cassation appeal fails to apply to the administrative court of cassation in a timely manner, the need to clarify the legality of the court decision does not disappear, resulting in the concept of 'missed procedural deadline for cassation appeal' and the need to renew it. In court practice, cases of missing the procedural time limits for cassation appeal are not uncommon.

4. Time limits for cassation appeals

As is known from Part 1 of Article 205 of the CAPU 'Court Decisions of the Court of Appeal', court decisions of the court of appeal are adopted, pronounced, issued or sent to persons involved in the case in accordance with the procedure established by Articles 160 and 167 of this Code. In addition, Article 167 of the CAPU "Pronouncement of a court decision, issuance or sending of a court decision to persons involved in the case and persons not involved in the case, if the court has decided on their rights, freedoms, interests or obligations" provides that at the request of a person involved in the case, as well as a person not involved in the case, but in respect of whom the court has decided on his/her rights, freedoms, interests or obligations, the court shall issue a copy of the judgement (or its introductory and operative parts) or ruling on the same day. This means that the resolution or ruling of the court of appeal comes into force from

the date of its pronouncement in the court session. In other words, it is the date of pronouncement of the court decision that marks the beginning of the time limit for cassation appeal under Article 212 of the CAPU.

In addition, according to Part 3 of Article 160 'Procedure for adoption of court decisions and their form', in exceptional cases, depending on the complexity of the case, the full resolution may be postponed for a period not exceeding five days from the date of the end of the trial, but the court must announce the introductory and operative parts of the resolution at the same session in which the trial ended. This means that the cassation appeal time limit begins to run after five days from the date of the court hearing.

Persons involved in the case but not present at the court hearing shall be sent a copy of the court decision by registered mail with acknowledgement of receipt within three days from the date of its adoption or completion in full or, if they request, shall be delivered against receipt directly in court. If a copy of the court decision is sent to a representative, it is deemed to have been sent to the person he or she represents.

Simple calculations suggest that even if the administrative court of appeal complies with the procedural time limits for the execution and issuance of court decisions, a situation may arise where a person receives a court decision on the seventh or eighth day (and sometimes even later) after it is pronounced, which means that almost half of the cassation appeal period has already expired.

In this case, according to Part 4 of Article 214 of the CAPU, the cassation appeal is left without motion. The cassation appeal is also left without motion in cases where the person who filed it does not raise the issue of renewal of the cassation appeal time limit, or if the grounds stated in the application are found to be disrespectful by the court. Moreover, within thirty days from the date of receiving the ruling on leaving the cassation appeal without motion, the person has the right to apply to the cassation court with a request to renew the time limit or to indicate other grounds for renewal of the time limit.

If the application is not filed by the person within the specified time limit or the grounds for renewal of the time limit of cassation appeal are found to be disrespectful, the judge-rapporteur shall refuse to open cassation proceedings.

Therefore, the analysis of the court practice of consideration of cassation appeals reveals that the administrative court of cassation does not apply the provisions of the CAPU regarding the calculation and renewal of the time limit for cassation appeal in the same way.

In cases where the failure to comply with the cassation appeal time limit was caused by the actions or omissions of the court, such circumstances should serve as grounds for renewal of the cassation appeal time limit upon application by the person filing the cassation appeal. For example, the actions or inaction of the court in such cases may include: a person who was not properly notified of the time and place of the court hearing; a person was not sent a court decision within the prescribed time limit.

In this case, the administrative court of cassation shall establish a causal link between the unlawful action or inaction of the court and the fact of missing the deadline for cassation appeal.

The CAPU does not establish a procedural time limit for a person who has the right to cassation appeal to file a motion to renew the time limit for cassation appeal. Such a motion shall be contained in the materials to the cassation appeal and submitted simultaneously with the cassation appeal. The motion to extend the time limit for cassation appeal shall specify the reasons for its omission and evidence confirming the validity of such reasons.

Therefore, procedural time limits in administrative proceedings contribute to the timely consideration and resolution of administrative cases. Compliance with procedural time limits is an important means of influencing unscrupulous participants in administrative court proceedings who, by their actions, impede the prompt and efficient resolution of a case.

Procedural time limits, along with other procedural remedies, are intended to ensure the guarantee, reality and efficiency of judicial protection of the subjective rights of the parties involved in the case and the interests of the state (Shtefan, 2005, p. 178).

Establishment of precise procedural time limits for cassation proceedings in the CAPU, first, facilitates prompt and efficient consideration and resolution of an administrative case; second, it helps to avoid haste in exercising procedural rights and obligations of participants in administrative proceedings; third, it enables the parties and other participants in the process to timely familiarise themselves with the case file and, in case of disagreement with the decision made in the case, to appeal it in cassation; fourth, it ensures stability, clarity and certainty of administrative procedure relations.

The time limit for exercising the right to cassation appeal is a period of time established by law during which eligible actors have the right to apply to an administrative court of cassation. In our opinion, the time limit of cassation appeal is a procedural time limit by its content and legal nature. The filing of a cassation appeal

to the High Administrative Court of Ukraine within the scope of consideration of a particular administrative case is a procedural action of the parties and other persons involved in the case, as well as persons not involved in the case, if the court has decided on their rights, freedoms, interests and obligations.

We believe that it is necessary to supplement Article 213 of the CAPU with para. 6 as follows: 'In case of missed time limit for cassation appeal, the cassation appeal may contain a person's request for its renewal'.

The next precondition for the opening of cassation proceedings is the filing of a cassation appeal to the administrative court of cassation.

Filing a cassation appeal to an administrative court is the initial stage of exercising the right to cassation appeal, which decides whether cassation proceedings can be initiated. However, it should be noted that filing a cassation appeal is not yet a condition for opening cassation proceedings, as the cassation appeal shall meet both formal and substantive requirements, namely, comply with the form established by law, the procedure for its submission to the administrative court of cassation, etc. The fact that the cassation appeal shall be filed in strict compliance with the provisions of the CAPU is of great importance at the stage of filing a cassation appeal.

For example, the CAPU establishes formal requirements for a cassation appeal, according to which a cassation appeal shall be filed in writing.

Pursuant to Article 213 of the CAPU, the cassation appeal shall contain the following information: 1) the name of the administrative court of cassation; 2) the name (titles), postal address of the person filing the cassation appeal and the persons involved in the case, as well as their communication numbers, e-mail address, if any; 3) the court decisions being appealed; 4) the substantiation of the claims of the person filing the cassation appeal, indicating the violation of substantive or procedural law; 5) the claims of the person filing the cassation appeal to the court of cassation; 6) if necessary, a motion by the person filing the cassation appeal; 7) a list of materials to be attached; 8) a list of written materials and motions to be attached to the appeal; 9) the signature of the person filing the appeal. If the cassation appeal is filed by a representative, a power of attorney or other duly executed document confirming his/her powers shall be attached to the appeal.

As follows from Part 3 of Article 213 of the CAPU, a cassation appeal may contain a person's request to consider the case with his/her participation. In the absence of such

a motion, it is considered that the person does not wish to participate in the court hearing of the court of cassation.

The cassation appeal shall be attached to a document on payment of the court fee, as well as copies of the cassation appeal in accordance with the number of persons involved in the case. In addition, the cassation appeal shall be accompanied by duly certified copies of the appealed decisions of the first instance and appellate courts.

The analysis of Article 213 of the CAPU suggests that the cassation appeal should include three parts: introductory, regulatory and pleading. The first part should contain a brief description of the case, with references to the court decisions being appealed. The second part should contain a list of substantiated arguments, according to which the complainant considers the court decision to be unlawful. The third part contains a request for a review of the court decision and the need to change or cancel it.

The law also provides for that in case of termination of cassation proceedings due to withdrawal of the cassation appeal, the person concerned is not allowed to appeal against such decisions or rulings again.

In addition to formal requirements, a cassation appeal must also meet substantive requirements. Namely, the content of the cassation appeal shall indicate the violation of substantive and procedural law by the administrative courts of first instance and appellate courts, or their incorrect application. The cassation appeal may not contain references to the failure to prove the circumstances of the case.

In addition, the cassation appeal shall set out the requirements regarding the challenged court decisions within the limits provided for in Article 223 of the CAPU 'Powers of the court of cassation upon consideration of the cassation appeal'. For example, to change the court decision of the court of appeal by cancelling the court decision of the court of first instance; or to cancel the court decision of the court of appeal and uphold the court decision of the court of first instance; or to cancel the court decisions of the courts of first instance and appeal and send the case for a new trial or for further consideration; or to cancel the court decisions of the courts of first instance and appeal and pass a new court decision, etc.

4. Conclusions

The grounds for a cassation appeal are the circumstances by which the appellant demonstrates that the administrative courts of first and/or appellate instance have incorrectly applied the substantive and procedural law. In such a case, the cassation appeal should specify what exactly constitutes a significant violation or misapplication of substantive or

procedural law, with a reasonable presentation of relevant evidence (court decisions, copies of documents, other materials, etc.).

The content of the cassation appeal will include the appellant's request to the administrative court of cassation to take certain actions to cancel or replace the court decisions of the administrative courts of first and/or appellate instance.

In our opinion, the specified requirements for the form and content of the cassation appeal are of great importance, since it is within the cassation appeal that the administrative court of cassation will verify that the provisions of substantive and procedural law are applied correctly.

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ВИЗНАЧЕННЯ ЗМІСТУ ФОРМАЛЬНИХ ПЕРЕДУМОВ РЕАЛІЗАЦІЇ ПРАВА НА КАСАЦІЙНЕ ОСКАРЖЕННЯ В АДМІНІСТРАТИВНОМУ СУДОЧИНСТВІ УКРАЇНИ

Анотація. Мета. Метою статті є визначення змісту формальних передумов реалізації права на касаційне оскарження в адміністративному судочинстві України. **Результати.** Процесуальні строки касаційного провадження – це встановлений законом та адміністративним судом касаційної інстанції проміжок часу, протягом якого сторони та інші особи, які беруть участь у справі, а також особи, які не брали участі у справі, якщо суд вирішив питання про їхні права, свободи, інтереси та обов'язки, мають право на вчинення процесуальних дій. Касаційне провадження має певні види процесуальних строків, протягом яких вчиняються всі процесуальні дії під час відкриття провадження у справі, розгляду касаційної скарги та прийняття рішення, судом та особами, які беруть участь у справі. Одним із видів процесуальних строків касаційного оскарження є строк реалізації права на касаційне оскарження, під яким автор розуміє встановлений законом проміжок часу, протягом якого правомочні суб'єкти мають право звернення до адміністративного суду касаційної інстанції. Строк реалізації права на касаційне оскарження – це встановлений законом проміжок часу, протягом якого правомочні суб'єкти мають право звернення до адміністративного суду касаційної інстанції. На нашу думку, строк касаційного оскарження є процесуальним строком за своїм змістом та правовою природою. Подання касаційної скарги до Вищого адміністративного суду України у межах розгляду конкретної адміністративної справи є процесуальною дією сторін та інших осіб, які беруть участь у справі, а також осіб, які не брали участі у справі, якщо суд вирішив питання про їхні права, свободи, інтереси та обов'язки. **Висновки.** Підстави касаційної скарги складають обставини, якими скажник обґрунтовує неправильність застосування норм матеріального та процесуального права адміністративними судами першої та/або апеляційної інстанції. В такому разі у касаційній скарзі слід зазначати, в чому саме проявляється суттєве порушення або неправильне застосування норм матеріального чи процесуального права, з обґрунтованим наведенням відповідних доказів (рішення судів, копій документів, інших матеріалів тощо). Змістом касаційної скарги буде звернута вимога скажника до адміністративного суду касаційної інстанції про здійснення певних дій стосовно скасування або заміни судових рішень адміністративних судів першої та / або апеляційної інстанції. На нашу думку, визначені вимоги щодо форми та змісту касаційної скарги мають велике значення, адже саме в межах касаційної скарги адміністративний суд касаційної інстанції буде перевіряти правильність застосування норм матеріального та процесуального права.

Ключові слова: судові рішення, розгляд справи, касаційне оскарження, судові засідання, процесуальні строки.