

# ADMINISTRATIVE JUSTICE IN UKRAINE: BASIC PRINCIPLES AND PECULIARITIES OF IMPLEMENTATION IN UKRAINE UNDER MARTIAL LAW

Bratasyuk Oksana

**Annotation.** *The author defines the essence and features of administrative justice as a legal institution. Emphasizes the importance of administrative proceedings in Ukraine and its distinction from other types of proceedings. It is emphasized that the main value in the activity of judges in Ukraine is the person, because the most important thing is that everyone can exercise their constitutional right to an independent and fair court to protect basic rights, freedoms and interests. Courts of administrative jurisdiction are bodies that are called to ensure the protection of human rights in interaction with the state, as well as to control the legality of the exercise of the powers granted to them by state authorities and officials. In the author's opinion, a court that makes high-quality decisions within a reasonable time, which are implemented, is effective. Under these conditions, we can talk about the reality of the protection of human rights and freedoms in the state, and therefore it is through the implementation of decisions that we can assess their quality.*

*Despite the war with Russia, the difficult economic and energy situation, Ukraine still took several qualitatively new steps that will help people better protect their rights in public and legal relations and are aimed at the effectiveness of administrative justice as a whole.*

**Key words:** *administrative proceedings, administrative process, public law disputes, administrative jurisdiction, martial law.*

## 1. Introduction.

The establishment and existence of the institution of administrative courts is the most significant achievement of the rule of law, especially since the right to make decisions regarding the actions of administrative bodies was granted to these courts not without resistance. Already today, the staffing of administrative courts, the special status of their representatives, which is different from the status of representatives of courts of general jurisdiction, and other principles of the functioning of the system of these courts demonstrate how difficult it was for the state apparatus of the executive branch of power to recognize that its actions could become the object of judicial review.

## 2. Analysis of the recent studies and publications.

Many scientific works of both international and domestic researchers have been devoted to the issues of administrative justice: Alberts RC, Retief FP, Roos C, Cilliers DP, Fischer TB, Arts J. and Jafari, J., Khaleghian, J., Maleki, J., Verginia Vedinaş, Liliana Vişan, Diana Iuliana Pasăre etc.

## 3. Purpose.

The purpose of the article is to analyze the formation of the institution of administrative justice, its differences and peculiarities of its implementation under martial law with the aim of improving the system of administrative legislation of Ukraine.

#### 4. Main material.

In order to correctly and fully clarify the content of administrative Justice as a legal institution, one should turn to the relevant conceptual apparatus, namely to define the categories “administrative proceedings”, “administrative justice”, “globalization” and “human rights protection” from the point of view their doctrinal interpretation. Administrative justice, as noted by C. Roos (*Alberts RC, Retief FP, Roos C, Cilliers DP, Fischer TB, Arts J. (2022)*) is the activity of administrative courts regarding consideration and resolution of administrative cases in the manner established by law [21, p. 296].

Globalization of human rights protection from the standpoint of Jafari, J (*Jafari, J., Khaleghian, J., Maleki, J. (2022)*) is the development of unified, universal approaches, methods and mechanisms for the protection of human rights and their distribution throughout the world territories of the globe. At the same time, human rights to be protected must be single (unified) [6].

The problem was finding a compromise between the freedom of management actions, defining their limits for solving administrative tasks and protecting the rights of the individual. Also, the problem was in an issue that is relevant to this day for the Ukrainian judicial system – this is a clear demarcation of the competence of administrative courts from other judicial bodies. Fischer T.B. (*Fischer T.B. (2022)*) identified two ways in which the issue of competence can be settled. The first way is to enumerate an exhaustive list of cases in which the case is subordinate to the administrative court, the second case is to establish a general principled definition of it. [18, p. 119]

In Austria, two groups supported one of the options. Administrative departments lobbied for the first casuistic approach in determining the competence of administrative courts. However, it was found to be practically impossible to draw a line between judicial and purely administrative spheres with the help of the list. As noted, “... to list 40 or 100 or even more cases in which a complaint is allowed - still this list will not satisfy the needs of the jurisdiction; daily intersections of state activity with the person and property of an individual are as countless as the demands of modern society and the cultural goals of the state” [18, p. 120].

Accordingly, the second point of view prevailed in Austria, which did not recognize the possibility of the existence of a casuistic list of cases that determines the jurisdiction of administrative courts. However, history is known for examples of choosing a method when determining the competence of administrative justice bodies, which allows the enumeration of issues to be resolved by these bodies. This is the path taken by Prussia, whose law contained a significant list of cases in which the protection of administrative courts can be applied for. In France, from the position of O. Zubov (*Zubov, Oleksandr (2022)*), in addition to the general formula, numerous exceptions and additions to it are used, that is, we can talk about a mixed method of determining the competence of administrative justice bodies [20, p. 97].

Administrative-judicial activity is the result of the practical implementation of a certain part of the powers that, together with the subjects of the assignment, constitute the competence of the relevant executive authorities. With the help of this type of activity, the executive authority gives a legal assessment of the compliance of the behavior of the object of power influence with the established legal requirements. At the same time, the powerful influence of executive authorities has a law enforcement direction.

In particular, as noted in the work of Liliana Vişan (*Verginia Vedinaş, Liliانا Vişan, Diana Iuliana Pasăre (2007)*), with the help of administrative jurisdiction, “the protection of certain social goods and values (public order, public safety, rights and freedoms of citizens) is ensured by the implementation of bodies executive power of jurisdictional activity in connection with an administrative offense, in the process of which these bodies conduct an investigation, accuse the guilty person of committing an illegal act, consider a case about this act, issue a decision on the application of an administrative penalty to the offender, execute the decision adopted” [19, p. 75].

The process of applying any punishment goes beyond supervisory activity and acts as an independent form of administrative activity. This activity in the literature is rightly proposed to be understood as administrative-judicial. At the same time, we note that the existing view of administrative

jurisdiction as “law enforcement activity of state authorities and local self-government bodies authorized by review and resolve cases of administrative offenses” is very narrow. More broadly, administrative jurisdiction means the resolution of any individual cases in the event of a legal dispute, i.e. conflict situations.

In particular, Cătălin-Silviu Săraru (*Cătălin-Silviu Săraru (2017)*) includes three types of administrative proceedings as jurisdictional: proceedings in cases of administrative offenses, disciplinary proceedings and proceedings regarding citizen complaints [4, p. 213].

Administrative jurisdiction was also defined as the legally regulated activity of an authorized body of state power, an official in relation to the resolution of individual administrative cases (disputes) related to the administrative-legal relations of a citizen or a non-governmental organization with a state body (its official) in the exercise of public power by this body, as a rule, executive. According to Tushitta Murali (*Tushitta Murali (2020)*), this definition of administrative jurisdiction is not entirely justified, since in this case the content of administrative-jurisdictional activity is expanded to the limits of consideration of any individual case, that is, to the limits of the entire administrative process [17].

Therefore, the jurisdictional activity of the executive power bodies can consist in the consideration of complaints of citizens and legal entities by the executive power bodies, although such activity must be accompanied by the adoption of a decision to eliminate violations of the regime of legality and, if necessary, apply state - coercive measures to the offender. Therefore, it is possible to agree with the opinion of some scientists, according to which the system of jurisdictional proceedings includes proceedings on complaints of citizens.

In the literature, nevertheless, jurisdiction is most often identified with judicial proceedings, justice [2, p. 442]; with sub-department, jurisdiction of resolved cases [2, p. 443]; with the authority to decide cases and apply sanctions [3, p. 162].

As noted by Professor J. Tomlinson (*Tomlinson, Joe and Kirkham, Richard (2022)*), “jurisdiction is an independent type of law enforcement activity, and a central one at that. Its appearance is associated with the beginning of management with the help of law, the opportunity to seek protection of interests from a competent authority, a judge. The jurisdictional method of protecting public interests is reasonably considered to be the antithesis of “self-righteousness and revenge, these wild types of justice” [15].

It is worth noting that “wild” justice cannot be considered justice, it is arbitrariness. Tom Barkhuysen (Tom Barkhuysen, Willemien Ouden, Ymre E. Schuurmans (2012)) considers jurisdiction as a special kind of law-enforcement activity, the content of which is the consideration of a case about an offense, about a dispute on the merits, with the adoption of a decision on it. He notes that in the process of such activity, a legal case is resolved, legal protection is provided to violated or disputed interests, and a state-authority decision is issued. Although Tom Barkhuysen did not speak about the protection of citizens’ rights by special administrative courts, he pointed out that jurisdiction in the field of administrative and legal relations in the state is the most democratic way of resolving legal conflicts, which provides not only effective protection of the interests of the state, but also provides wide opportunities citizens to defend their rights and legitimate interests in the event of their violation, while referring to the legally enshrined right of citizens to challenge the actions of officials of state and public bodies, expanding the scope of judicial protection of subjective rights [14, p. 24].

In our opinion, the most appropriate is the general definition of Ye. Shkolnyi (*Shkolnyi, Ye. (2022)*), who notes that jurisdiction is understood as the legally established powers of certain bodies to consider and resolve cases in accordance with their competence [13].

Summarizing the views of administrative scientists on the essence of administrative jurisdiction. Salmond J. W. (*Salmond J. W. (1900)*) notes that administrative-jurisdictional activity has the following features peculiar only to it:

- 1) presence of a legal dispute (or offense). Jurisdiction arises only when it is necessary to resolve a dispute about the right or in connection with a violation of current legal norms. Regarding administrative jurisdiction, such disputes arise between parties to social relations regulated by administrative-legal norms, acquiring the character of administrative-legal disputes;

2) the basis of administrative-legal disputes, in the process of resolution of which a legal assessment of the behavior (actions) of the parties is carried out, are individual administrative cases. Consideration of only controversial specific cases is the content of the jurisdictions of its administrative process (for example, consideration of administrative offense cases, citizens' complaints);

3) due to its social significance, administrative-jurisdictional activity requires proper procedural and legal regulation. Establishing and proving events and facts, their legal evaluation is carried out within the framework of a special procedural form, which is important and mandatory for the jurisdiction. [22, p. 13].

Administrative jurisdiction is significantly different from other types of jurisdiction activities that exist within the framework of criminal and civil processes. It is a less detailed procedural activity.

So, administrative jurisdiction can be divided into three types:

1) administrative-regulatory, that is, the competence to resolve administrative cases arising on other grounds, except for the emergence of a dispute about the right and the commission of an administrative offense (cases on the issuance of licenses, state registration of motor vehicles, etc.);

2) administrative-judicial, that is, the competence of administrative courts to resolve relevant cases;

3) administrative-delict, i.e. competence to resolve cases of administrative offenses and issue resolutions on them.

It should be noted that the concept of administrative-delict jurisdiction should be distinguished from the concept of "administrative-criminal jurisdiction", which is only its component.

Returning to the issue of determining jurisdiction, it is worth noting that the literature states that the activity of the state, which is related to the consideration of a case of an offense or a legal dispute and the adoption of a decision on it, determines the content of the jurisdictional activity of any state authority.

That is, jurisdiction as a type of activity of state authorities is directly related to the protection of social relations and consists in consideration by state authorities of a legal case on its merits and the adoption of a decision on it, the implementation of which can be ensured by the coercive force of the state.

It should be noted that justice, as the main activity of the judiciary, is certainly the most perfect means of legal protection of the interests of the state and people, but it is by no means the only one. Therefore, administrative jurisdiction is one of the types of jurisdictional activity of state authorities and acts as an integral part of the implementation of executive power, namely "a specific type of law enforcement activity of its authorities" [16, p. 162].

According to Ryndiuk V. (*Ryndiuk V. (2019)*), the subject of administrative law is a set of social relations that arise in the process of the powerful activity of subjects of public executive power and the implementation of administrative proceedings. One of the groups of social relations belonging to the subject of administrative law consists of relations related to administrative proceedings [12, p. 119]. Specifying this point, Ryndiuk V. indicates that the subject of the specified field is, in particular, the relations of judges with other participants in administrative proceedings, connecting other areas of social relations regulated by the norms of administrative law with the activities of public authorities and individual public organizations. Within the scope of administrative proceedings, judges of local courts consider cases of administrative offenses. Administrative proceedings, as indicated by Ryndiuk V., are carried out in accordance with the rules of administrative law [12, p. 121].

Perlingeiro R. (*Perlingeiro, Ricardo (2022)*) believes that the following are ways to ensure legal protection of citizens in the sphere of public administration:

- administrative method; general judicial – consideration and resolution by courts of general jurisdiction when using the civil procedural form of complaints against actions;
- quasi-judicial (Anglo-American, Anglo-Saxon);
- judicial specialized, that is, administrative justice is characterized by the creation of specialized courts to resolve disputes on individual administrative cases arising in the sphere of functioning of administrative bodies [8, p. 233].

That is, the third independent type of administrative process is administrative proceedings as an organic procedural element of administrative justice as we can have in Ukraine. Administrative justice in the generally accepted sense of this concept means judicial control over the legality of acts and actions of public administration.

Retief F. (*Retief F, Fischer TB, Alberts RC, Roos C, Cilliers DP. (2020)*) researching the distinction between administrative jurisdiction and other types of jurisdiction in the field of judicial competence, separates the concepts of administrative justice and administrative proceedings [11, p. 153].

Adhering to a broad understanding of administrative justice, the author points out that the latter includes consideration of administrative disputes (not administrative cases) in a special (administrative) procedure for consideration by judicial and extrajudicial (quasi-judicial) administrative-jurisdictional bodies.

Administrative proceedings are not an activity of the administration, but a type of proceedings for consideration of administrative cases in a special manner, regulated by the norms of administrative procedural law.

Administrative proceedings as a component of the administrative process are considered by Reshota V. (*Reshota V. (2018)*) [10, p. 40]. Administrative proceedings are understood by the author as consideration in the order of cases established by law, the subject of the decision or one of the participants of which is the executive body of the state or local government, which exercises powers of an authoritative nature in relation to other subjects of law and which exercises the competence to perform state functions. Reshota V. refers to this type of process as an administrative-protective process. On his opinion, administrative proceedings have a dual nature: on the one hand, it is judicial activity to control administrative rule-making according to normative and non-normative legal acts (administrative process), on the other hand, it is the application of administrative punishments by courts (proceedings in cases of administrative offenses).

Sarpekov R. (*Sarpekov Ramazan (2022)*) understands administrative proceedings (administrative justice) as a special form of judicial power exercised by authorized judicial bodies (judges) based on the statements of citizens and other legal subjects in connection with the appeal of decisions and actions (inaction) of public administration bodies, their officials, normative and non-normative legal acts, the purpose of which is to resolve public legal disputes, administrative cases and exercise judicial control over public administration [9].

Considering administrative proceedings in the context of the formal content of administrative justice, Sarpekov R. defines the latter as a complex institution of state and administrative law that regulates the activities of judicial bodies to resolve public legal disputes in the sphere of state administration [9].

The question of administrative justice is an important aspect in the analysis of administrative-legal disputes. Thus, the limits of its action are a set of social relations that arise in the sphere of administrative activity, when the dispute has a public-legal nature, that is, in the sphere of public administration. Realizing the public interest, state authorities and local self-government bodies determine the public will in the form of a normative legal act, which extends to a certain territory and to all relevant subjects of "public administration" (natural and legal entities), thereby exerting influence of an authoritative nature on all areas of public life, as a result of which citizens enter into administrative legal relations with the state or local self-government bodies [5].

Along with this, the subject of public administration must exercise its powers within the framework of ensuring the maintenance of constitutional law and order in the state and the rights, freedoms and legitimate interests of all individuals and legal entities. The subject of management has the appropriate legal status, endowed with powerful powers, which proves the inequality of the parties in the legal relationship between the managing subject and the managed object and the possibility of forced exercise of public powers by the managing subject [1, p. 163].

It should be noted that private relations differ from the socio-legal interests of state administration, which is due to their legal content. It is in the sphere of social and legal interests of state administration that the action of administrative justice extends. As early as 1907, Anschütz G. (*Anschütz G. (1970)*) noted that administrative justice, when resolving an administrative-legal dispute, cannot apply the analogy of resolving private law claims, such a dispute should be resolved in accordance with the norms of current legislation and public interests [23, p. 18].

Along with this, the task of administrative proceedings coincides with the general tasks of justice, mainly in the matter of restoration of personal rights and freedoms of persons who have been violated.

The immediate object of administrative justice, in my opinion, is the resolution of public legal disputes in the field of public administration.

The central task of administrative justice, which characterizes its legal nature, is the annulment of an illegal normative-legal act of management, since it is with the help of administrative proceedings that judicial control and supervision of the activities of state authorities and local self-government bodies is carried out, rights, freedoms and legitimate interests are protected persons and order is restored on the territory of the state.

Analyzing administrative justice, it is necessary to pay attention to the models of its organization, which are determined by historical and legal reasons. Many elements existing in accordance with the principles of judicial procedure are common to various organizational models of administrative justice, in particular: competition between the parties, impartiality of the court, publicity, equality of parties before the court and the law, etc.

Despite the many views of specialists in the field of administrative and administrative procedural law on the essence, place and nature of the norms regulating administrative proceedings, their analysis indicates two established approaches to the problems of this legal institution. Representatives of the first approach equate administrative proceedings with proceedings in cases of administrative offenses, or to some extent include them in its structure, while broadly interpreting the category "administrative case". The second approach defines administrative proceedings as an element of administrative justice, understanding the latter as judicial control.

An integral element of justice is the completeness of judicial power, which assumes that all persons, without exception, are equal before the law and the court, placed in the same conditions. This axiom is confirmed by socio-historical practice and by is supported by international legal documents on human rights. According to Art. 8 of the Universal Declaration of Human Rights, every person has the right to effective restoration of rights by competent national courts in case of violation of his fundamental rights granted to him by the constitution or law [24, p. 149].

In turn, in Art. 6 of the Convention on the Protection of Human Rights and Fundamental Freedoms states that the purpose of ensuring the independence of the judiciary is to guarantee every person the fundamental right to a trial by a fair court only on legal grounds. This is a fundamental principle of the rule of law [24, p. 150].

At the same time, judicial control over administrative actions should be available to both individuals and legal entities.

A supporter of this concept is also Ovcharuk, S.S. (*Ovcharuk, S.S. (2015)*), because it fully corresponds to the best traditions of legal democracy and can satisfy modern domestic requirements and expectations of society regarding the functioning of effective control over the actions of public administration. Thus, the introduced judicial control has a double purpose: on the one hand, it protects individuals and legal entities from abuse of power by administrative bodies, and on the other hand, it contributes to the improvement of the activities of administrative bodies in the interests of society as a whole [7].

This makes it possible to determine the special purpose of administrative proceedings as a procedural and control activity of an administrative court in the field of public-legal relations.

In addition, it should be noted that in today's conditions, the issue of separating administrative courts from the system of courts of general jurisdiction is becoming relevant. One should agree with Ovcharuk, S.S. (*Ovcharuk, S.S. (2015)*), who believes that this is due to the modern level of administrative justice in Ukraine, as well as positive foreign experience. The proposed concept was introduced, in particular, in France and Germany, whose legal systems, including the system of administrative justice, are considered classic and are perceived as an example in many countries of the world [7].

In my opinion, the separation of administrative courts from the system of general jurisdiction courts in Ukraine today has a good reason and is aimed solely at improving the judicial system.

Presidential Decree No. 64/2022 of February 24, 2022, introduced martial law in Ukraine. Formally, the imposition of martial law does not affect the judicial process. In particular, in accordance with Article 26 of the Law of Ukraine “On the Legal Regime of Martial Law”, the reduction or acceleration of any form of legal proceedings under martial law is prohibited.

In general, the work of courts has undergone significant changes and depends on the situation in the region where the court is located. In particular, the following changes have taken place:

### 1. Changes in the territorial jurisdiction of cases.

With the introduction of martial law in Ukraine on February 24, 2022, given the impossibility of administering justice in certain territories of the state, the territorial jurisdiction of court cases was promptly changed.

Thus, as of July 2022, the Supreme Court published a list of courts in different regions of Ukraine whose territorial jurisdiction was changed due to the impossibility of administering justice during martial law.

In addition, the Supreme Court also periodically publishes information on the restoration of territorial jurisdiction of courts in areas where active hostilities are no longer taking place [25].

The courts located in the conditionally secure areas continue to operate as usual.

### 2. Renewal of procedural deadlines

The introduction of martial law in Ukraine did not stop the procedural deadlines in court cases.

However, even at the beginning of the full-scale invasion, the Supreme Court noted in its announcements on the website of the Judiciary of Ukraine that the introduction of martial law in Ukraine was a valid reason for the renewal of procedural deadlines.

In practice, the courts sometimes refuse to renew the procedural deadline, citing the fact that the territory of the applicant’s residence (location) is not (or was not) a direct zone of hostilities.

Thus, the Supreme Court emphasizes that the issue of renewal of the procedural term in case of its omission for reasons related to the introduction of martial law in Ukraine is decided on a case-by-case basis, taking into account the arguments provided in the application for renewal of such term. The mere fact of martial law in Ukraine cannot be a ground for renewal of the procedural term. Such a ground may be circumstances that arose as a result of the introduction of martial law and made it impossible for a party to the proceedings to perform procedural actions within the time limit established by law (decision of the Civil Court of Cassation of the Supreme Court of July 21, 2022 in case No. 127/2897/13-ц) [26].

Thus, the courts renew the missed procedural deadlines if the party to the case proves in the application for renewal of such deadline the existence of circumstances that arose as a result of the introduction of martial law and made it impossible to perform the procedural action in a timely manner.

For example, the Supreme Court has recognized valid reasons for missing the deadline for cassation appeal and renewed it if the application is substantiated by the fact of military service (decision of the Administrative Court of Cassation within the Supreme Court of July 15, 2022 in case No. 460/14618/21) [27].

### 3. Extension of general and special limitation periods.

On March 15, 2022, the Verkhovna Rada of Ukraine adopted the Law “On Amendments to the Tax Code of Ukraine and Other Legislative Acts of Ukraine Regarding the Validity of Provisions for the Period of Martial Law”, which supplemented the Civil Code of Ukraine with a separate clause on limitation of actions, extending the limitation period in certain cases.

It should be noted that the extension of the limitation period does not apply to the time limits for filing a lawsuit in administrative proceedings in public disputes, as the latter are procedural time limits regulated by the procedural law (the Code of Administrative Procedure of Ukraine) and are not limitation periods within the meaning of substantive law.

Therefore, in case of missing the deadline stipulated by the administrative procedural law, a person wishing to apply to the court for protection of his/her violated public rights and interests must file a motion to the court to renew the missed procedural deadline with proper justification of the validity of the reasons for such missed deadline.

#### 4. Application of online court proceedings

Given that in the context of military aggression against Ukraine, personal participation in a court hearing may be dangerous for the parties to the case, the courts actively practice issuing rulings (Article 195 of the Code of Administrative Procedure of Ukraine), at the request of the parties, to participate in a court hearing outside the courtroom in a video conference mode (for example, using the Easycon video conferencing system).

The case law in Ukraine shows that such requests are mostly granted - participation in a court hearing via videoconference outside the courtroom is ensured if there is a corresponding technical possibility.

The Grand Chamber of the Supreme Court, considering the cassation appeal, noted in its decision of June 07, 2022 in case No. 910/10006/19 that, given the conditions and circumstances under which justice should be administered and the need to comply with the principles of equality of all participants in the trial before the law and the court; publicity and openness of the trial adversarial nature of the parties and reasonable terms of consideration of the case, filing a motion with the court to consider the case by videoconference will allow to investigate and evaluate the arguments of the cassation appeal without violating the above principles of justice and at the same time guarantee and not expose the court session visitors to danger and potential threats to their lives, health and safety that may arise in the context of military aggression against Ukraine.

#### 5. Conclusions

Summarizing the above, it can be stated that today the issue of the concept and essence of jurisdictional activity of administrative courts has been comprehensively studied by many scholars with different points of view.

Researchers provide sufficient arguments in support of the administrative concept of the place of the rules governing administrative proceedings. At the same time, at the current stage of legal regulation, one cannot but take into account certain characteristic differences between administrative law and the rules governing administrative proceedings. The similarity of the procedural form of civil and administrative court proceedings, which is manifested in the existence of cross-sectoral institutions, does not support the classification of administrative proceedings as an institution of administrative and administrative procedure law. With regard to the study of legal presumptions, the value of the administrative concept lies in the fact that it shows the real impact of the specifics of substantive law on the procedural form of administrative case resolution by courts. This, in particular, is manifested in the burden of proof, which differs from civil proceedings, where legal presumptions play an important role.

Thus, the martial law in Ukraine has made its own adjustments to the court proceedings. However, even under martial law, the constitutional right to judicial protection cannot be restricted. Therefore, the measures currently being implemented by the judiciary are aimed at ensuring the possibility of considering court cases and not endangering the life and health of the participants in the judicial process.

#### References:

1. Baron H. Leonardo Bruni Aretino. Humanistisch-philosophische Schriften: Mit Einer Chronologie Seiner Werke und Briefe (German Edition) (German) Paperback: Vieweg+Teubner Verlag; 1928th edition (January 1, 1928). 284 p.
2. Boiko, I.V., Soloviova, O.M. (2020). Yevropeiski standarty ta ukrainskyi kontsept administratyvnoi protsedury. Modern researches: progress of the legislation of Ukraine and experience of the European Union. Riga: Izdavneciba "Baltija Publishing", p. 1, 442–462 [in Ukrainian].





3. Bond AJ, Fischer TB, Fothergill J. 2017. Progressing quality control in environmental impact assessment beyond legislative compliance. An evaluation of the IEMA EIA Quality Mark certification scheme. *Environ Impact Assess Rev.* 63:160–171. doi:<https://doi.org/10.1016/j.eiar.2016.12.001>.
4. Cătălin-Silviu Săraru. Administrative litigation systems in Europe. *Juridical Tribune.* 2017. Volume 7. Issue 1, June. P. 227–235.
5. European Parliament resolution of 9 June 2016 for an open, efficient and independent. European Union administration (2016/2610(RSP)). URL: <https://op.europa.eu/en/publication-detail/-/publication>.
6. Jafari, J., Khaleghian, J., Maleki, J. (2022). The legal system governing Tari's claim in the courts of law and the Court of Administrative Justice. *The Journal of Modern Research on Administrative Law.* Doi: 10.22034/mral.2022.552438.1301.
7. Ovcharuk, S.S. (2015). *Administratyvni protsedury v umovakh formuvannia pravovoi derzhavy* [Administrative procedures in the conditions of formation of the rule of law]. Extended abstract of Doctor's thesis. Kyiv (in Ukrainian).
8. Perlingeiro, Ricardo. Comparative Analysis of Administrative Justice Systems in Latin America. *Estud. Socio-Juríd* [online]. 2022, vol. 24, n. 1, pp. 233–265. Epub Aug 03, ISSN 0124 0579. <https://doi.org/10.12804/revistas.urosario.edu.co/sociojuridicos/a.10825>.
9. Sarpekov Ramazan Kumarbekovich Prospects for the constitutionalization of administrative justice in the EEU member states // Вестник Института законодательства и правовой информации Республики Казахстан. 2022. № 1 (68). URL: <https://cyberleninka.ru/article/n/prospects-for-the-constitutionalization-of-administrative-justice-in-the-eeu-member-states>.
10. Reshota V. Precedent as a source of administrative law in Ukraine. *Visegrad Journal on Human Rights.* 2018. № 3 (vol. 2). P. 39–141.
11. Retief F, Fischer TB, Alberts RC, Roos C, Cilliers DP. 2020. An administrative justice perspective on improving EIA effectiveness. *Impact Assess Project Appraisal* 2. 151–155.
12. Ryndiuk V. Legislation as a hierarchic system of decisions of normative content of public authorities. *Vysegrad Journal on Human Rights.* 2019. № 5 (vol. 3). P. 118– 122.
13. Shkolnyi, Ye. (2022). Chomu zakon pro adminprotseduru vazhlyvyi dlia vstupu Ukrainy do YeS? Reanimatsiyni Paket Reform. URL: <https://rpr.org.ua/news/chomu-zakon-pro-adminprotseduru-vazhlyvyy-dlia-vstupu-ukrainy-do-yes/> [in Ukrainian].
14. Tom Barkhuysen. Willemien Ouden, Ymre E. Schuurmans. The Lawon Administrative Procedures in the Netherlands. *NALL– Netherlands Administrative Law Library.* 2012, april-jun. P. 1–26. URL: <https://www.researchgate.net/publication>.
15. Tomlinson, Joe and Kirkham, Richard (2022) *Revisiting the Administrative Justice Legacy of New Labour.* In: Tucker, Adam and Gordon, Michael, (eds.) *The New Labour Constitution.* Hart/Bloomsbury, Oxford
16. The efficiency of tools for social interaction between public authorities and civil society. *Amazonia Investiga,* 11(51), 161–170. 2022 <https://doi.org/10.34069/AI/2022.51.03.15>. Volume 11 – Issue 51 / March 2022.
17. Tushitta Murali. Judicial precedent is a source of Law. *Pleiades. Intelligent legal solutions.* 2020. December 28. URL: <https://blog.ipleaders.in/judicial-precedentsource-law>.
18. Fischer TB. 2022. Taxonomies of sustainable investment and existing decision support approaches of EIA, SEA and CBA – a silver bullet for sustainable development? A response to Dusík and Bond. *Impact Assess Project Appraisal.* 40:118–122. doi:<https://doi.org/10.1080/14615517.2022.2033926>.
19. Verginia Vedinaş, Liliana Vişan, Diana Iuliana Pasăre. Argumentare juridică europeană în favoarea necesităţii modificării Legii contenciosului administrativ. Succintă prezentare a Legii nr. 262/2007. *Revista de Drept Public.* 2007. No. 3. P. 70–78.

20. Zubov, Oleksandr (2022). Administrative procedures for fair and effective justice in Ukraine. *Entrepreneurship, Economy and Law*, 3, 96–99, doi: <https://doi.org/10.32849/2663-5313/2022.3.14>.
21. R.C. Alberts, F.P. Retief, J. Arts, C. Roos, D.P. Cilliers & T.B. Fischer (2022) EIA decision-making and administrative justice: the substance of just decisions, *Impact Assessment and Project Appraisal*, 40:4, 296–304, DOI: 10.1080/14615517.2022.2066445.
22. Salmond J.W. The Theory of Judicial Precedents. *The Law Quarterly Review*. 1900. Vol. XVI. № 64. P. 13–24.
23. Anschütz G. Justice and administration. *Journal of the Ministry of Justice*. – 1907. – No. 7. – P. 18–25.
24. Holkebeer, Mieke (2004). "Out of the Crooked Timber of Humanity: Humanising Rights in South Africa". In Erik Doxtader, Charles Villa-Vicencio (ed.). *To Repair the Irreparable Reparation and Reconstruction in South Africa*. Cape Town: David Philip Publishers. pp. 149–165. ISBN 978-0864866189.
25. [https://supreme.court.gov.ua/userfiles/media/new\\_folder\\_for\\_uploads/supreme/rozporyadjennya/25\\_07\\_2022\\_Vidnovleno\\_pidsudnist.pdf](https://supreme.court.gov.ua/userfiles/media/new_folder_for_uploads/supreme/rozporyadjennya/25_07_2022_Vidnovleno_pidsudnist.pdf).
26. <http://iplex.com.ua/doc.php?regnum=106017678&red=10000358826a25cee905eddcc6ccb7cd7726b7&d=5>.
27. <http://iplex.com.ua/doc.php?regnum=105267322&red=100003d500acaf11b46fea038b31c70d8056b8&d=5>.

---

**Oksana Bratasyuk,**  
*PhD in Law,*  
*Associate Professor of Constitutional,*  
*Administrative and Financial law*  
*West Ukrainian National University (Ternopil)*  
*Visiting Researcher of Osnabrueck University, Germany*  
*e-mail: [rosoliak@gmail.com](mailto:rosoliak@gmail.com)*  
*<https://orcid.org/0000-0002-5871-4386>*