

Legal Certainty and Temporal Applicability in the Jurisprudence of the Supreme Court of Ukraine

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Abstract

Introduction. The temporal application of legislative acts constitutes one of the most conceptually complex questions in contemporary administrative law. It is intrinsically linked to the principles of legal certainty, legitimate expectations, and the stability of public-law relations. Judicial practice increasingly confronts situations in which legislation changes during ongoing legal relationships, where a "statutory gap" arises following a decision of the Constitutional Court of Ukraine, or where factual circumstances evolve after a judicial decision has been delivered. In such cases, the tension between legal predictability and the dynamic evolution of the law becomes decisive.

The constitutional framework, enshrined in Articles 6, 8, 19, and 58 of the Constitution of Ukraine, provides the foundation for determining which law is applicable: the law in force at the moment a right arose, at the time an application was submitted, or at the time an administrative act or judicial decision was adopted. In its case law, the Supreme Court has consistently held that ongoing legal relations are governed by the legislation in force at the time the relevant decision is taken, unless the law expressly provides otherwise. This approach ensures a dynamic yet foreseeable model of legal regulation.

The issue assumes particular importance in disputes concerning social protection, pension recalculation, lump-sum compensation, subsoil use, regulatory policy, and academic responsibility. Across these categories, the Supreme Court has developed several key guiding principles: distinguishing the initial acquisition of a right from its subsequent modification; determining the legally relevant date for the calculation of benefits; rejecting judicial "gap-filling" in the absence of a statutory mechanism; differentiating between prospective and retrospective effects of judicial decisions; applying newly introduced procedural safeguards to ongoing administrative proceedings.

A central conceptual element in this jurisprudence is the distinction between substantive rights and the procedural framework for their implementation. The introduction of new administrative procedures – such as the mandatory procedural requirement of leaving an application without action pending the rectification of deficiencies pending rectification of deficiencies to allow for the rectification of deficiencies – does not alter the substance of the underlying right but strengthens the guarantees for its realization. Conversely, the absence of a legislative mechanism cannot be compensated through judicial law-making, would raise serious concerns under the constitutional principle of separation of powers and the requirements of Article 6 of the Constitution.

The Supreme Court's case law also demonstrates a clear understanding of the limits of cassation review. The cassation court reviews the legality of judicial decisions based on the factual and legal circumstances existing at the time of their adoption. Subsequent changes in the legal situation may justify reopening proceedings on the grounds

of newly discovered circumstances, but they do not justify setting aside an otherwise lawful judgment through cassation. This approach safeguards the stability of the legal order and the principle of finality of judgments.

This review systematizes the Supreme Court's recent jurisprudence on the temporal effect of legislation, ongoing legal relations, institutional succession of public authorities, and the limits of judicial intervention in matters reserved to legislative discretion. Its purpose is to articulate doctrinal guidelines for the uniform temporal application of law, to prevent impermissible retroactive interference with acquired rights, and to ensure an appropriate balance between public interest and individual rights.

Keywords: temporal application of law; legal certainty; ongoing legal relations; legitimate expectations; non-retroactivity; prospective effect; newly discovered circumstances; separation of powers; administrative procedure.

This review analyzes 11 Supreme Court rulings that shape modern approaches to the application of legal norms over time and the implementation of the principle of legal certainty. The decisions are organized chronologically and cover the practice of 2025.

Procedural guarantees when extending payment deadlines in foreign economic activity: the priority of the new administrative procedure

The company filed a lawsuit against the Ministry of Economy of Ukraine. The plaintiff demanded to cancel the order refusing to issue an opinion on the extension of the payment deadlines (180 days) under the contract for the import of a line of complex technical equipment. The refusal of the department was based on the alleged insufficient justification of the need for an extension of the deadlines and the absence of notification letters from the counterparty at the time of filing the application.

The Chernihiv District Administrative Court, by its decision of January 21, 2025, upheld by the Sixth Administrative Court of Appeal decision of July 16, 2025, granted the claim. The courts found that the plaintiff had provided evidence of the complexity of the technical product and the delay in its packaging in India. In addition, the courts noted that since the legal relationship regarding the consideration of the application was ongoing, the Ministry of Economy should have applied an updated procedure that provided for the possibility of eliminating the shortcomings.

The Supreme Court, upon cassation review, upheld the judgments of the lower courts. The court emphasized that the key aspect of the case is the change in the applicable regulatory framework during the consideration of the plaintiff's application. The Ministry of Economy adopted an order to refuse on November 27, 2024, while on November 19, 2024, amendments to Procedure No. 104 came into force, which introduced the mandatory institution of "leaving the application to remedy deficiencies" to correct deficiencies.

The reasoning of the Judgment is based on the principle that the new regulation applies to ongoing legal relations from the date of its entry into force. The court emphasized that the introduction of the procedure for leaving the application without action for 10 working days is an essential procedural guarantee for business under martial law. Refusal to issue an opinion without providing an opportunity to eliminate deficiencies in the documents violates the principle of proportionality and the legitimate expectations of the business entity for a fair administrative procedure.

When making its decision, the Court relied on Articles 8 and 58 of the Constitution of Ukraine, Article 13 of the Law of Ukraine "On Currency and Currency Transactions", as well as the Law of Ukraine "On Administrative Procedure". The legal position on the validity of regulatory acts in time for ongoing relations, set out in the Decision of the Constitutional Court of Ukraine dated July 12, 2019 No. 5-p(I)/2019, was taken into account.

The main legal conclusions of the Supreme Court in this case are:

1. The procedure for considering an application for extension of the payment deadlines for foreign economic operations is an ongoing legal relationship, and therefore the decision based on the results of such consideration must be made in accordance with the legislation in force on the date of adoption of the relevant order (administrative act).
2. The introduction of the institution of leaving the application without action in Procedure No. 104 is a mandatory procedural guarantee that obliges the Ministry of Economy of Ukraine to first provide the applicant with the

opportunity to eliminate deficiencies in the preparation or completeness of documents within 10 working days, and not to immediately refuse to issue an opinion.

3. Refusal to issue an opinion when there is a procedural possibility to leave the application without action indicates a violation of the principle of proportionality and the balance of public and private interests between adverse consequences for the individual and the goals of state regulation, which is an independent basis for recognizing the decision of the authority as unlawful.

Judgment of the Supreme Court of November 25, 2025 in case No. 620/16073/24 (administrative proceedings No. K/990/34144/25) – <https://reyestr.court.gov.ua/Review/132067804>

Recalculation of civil servant pensions and the decision of the Constitutional Court of Ukraine: why courts cannot fill legislative gaps on their own

An individual filed a lawsuit with the Administrative Court against the Main Department of the Pension Fund of Ukraine in Khmelnytskyi Oblast, requesting that the decision to refuse to recalculate the pension be declared unlawful and annulled and that the fund body be ordered to carry out such recalculation. The claimant, being a recipient of a civil servant's pension, assigned in accordance with the Law of Ukraine "On Civil Service" dated December 16, 1993 No. 3723-XII, insisted on recalculating payments in the amount of 90% of the current salary based on updated certificates issued in 2022. He motivated his demands by the fact that an increase in the salaries of working employees should automatically lead to an adjustment of pension payments to former employees.

The Khmelnytskyi District Administrative Court, by its decision of June 1, 2022, which was upheld by the decision of the Seventh Administrative Court of Appeal dated November 14, 2024, partially satisfied the claim. Lower courts proceeded from the fact that since the pension was assigned before 2015, the person has the right to its recalculation in accordance with the norms in force at the time of assignment. At the same time, the courts relied on the Decisions of the Constitutional Court of Ukraine dated June 18, 2020 No. 5-p(II)/2020 and dated December 23, 2022 No. 3-p/2022, believing that the recognition of certain restrictions as unconstitutional restores the person's right to recalculation in court.

The Supreme Court, following the results of the cassation review, did not agree with the conclusions of the lower courts, set aside the judgments and rendered a new decision to completely refuse to satisfy the claim. The court stated that at the time of the plaintiff's application for recalculation, the current legislation of Ukraine did not and does not provide a legal basis or a procedural mechanism for recalculation of pensions assigned under the Law of Ukraine "On Civil Service" dated December 16, 1993 No. 3723-XII, in connection with the change in the size of the salaries of current employees.

In its reasoning, the Supreme Court held that the Law of Ukraine "On Civil Service" dated December 10, 2015 No. 889-VIII, which entered into force on May 1, 2016, fundamentally changed the principles of pension provision for civil servants. The new regulation provides for the implementation of such provision in accordance with the Law of Ukraine "On Compulsory State Pension Insurance", which does not contain such a basis for recalculation as an increase in salary for the relevant position. The court emphasized that the final provisions of the new law retained only the right to assign a pension according to the old norms for certain categories of persons, but did not provide for the possibility of its further recalculation.

An important legal argument of the Court was the analysis of the principle of direct effect of law in time. The Supreme Court clarified that the legislation in force at the time of the application for such recalculation is applicable to legal relations regarding pension recalculation, and not that which was in force at the time of the initial assignment of payments. Since at the beginning of 2022 the current regulations did not determine the procedure and conditions for the recalculation of civil servants' pensions, the pension authority acted within the principle of legality, since it did not have a regulatory basis for satisfying the application.

The Court paid special attention to the interpretation of the Decision of the Constitutional Court of Ukraine dated December 23, 2022 No. 3-p/2022. The Supreme Court emphasized that the recognition of the provisions of the law as unconstitutional in the part that made it impossible to recalculate pensions imposes on the Verkhovna Rada of Ukraine the obligation to eliminate the "statutory gap" by adopting appropriate amendments. However, until such regulatory regulation is made, the decision of the Constitutional Court in itself does not create a direct right to

automatic recalculation, since the courts are not empowered to independently develop a procedural mechanism and determine the sources of financing of such payments.

The Supreme Court emphasized the observance of the constitutional principle of the separation of state powers, enshrined in Article 6 of the Constitution of Ukraine. An attempt by an administrative court, in the absence of a law, to oblige a state body to make payments according to the new formula would be a direct interference in the competence of the legislator. The Court noted that determining the parameters of social policy and the procedure for implementing citizens' constitutional rights to social protection is the exclusive discretion of parliament, and courts should act only within the established legislative procedures.

In addition, the Court analysed international standards, in particular the provisions of the European Social Charter (revised). It was noted that the implementation of the State's obligations in the field of social rights is carried out primarily through the adoption of a clear and predictable legislative framework. The lack of regulation of the issue of recalculation at the level of the law is a problem of national legal policy, and not a case of individual discrimination, which makes it impossible to resolve this gap by means of judicial consideration of a specific case.

The main legal conclusions (positions) of the Supreme Court in this case.

1. Recognition by the Constitutional Court of Ukraine of the provisions of the law as unconstitutional does not give a person the right to automatic pension recalculation until the Verkhovna Rada of Ukraine legislatively establishes a special procedural mechanism for the implementation of such a right.
2. The law in force at the time of filing the application shall apply to legal relations regarding pension recalculation, and the current legislation on civil service and compulsory insurance does not provide for the recalculation of civil servant pensions in connection with an increase in the salaries of working civil servants.

Judgment of the Supreme Court of September 17, 2025 in case No. 560/5257/22 (administrative proceedings No. K/990/48570/24) – <https://reyestr.court.gov.ua/Review/130290835>

Priority of the date of initial determination of the disability group for calculating the OGD regardless of subsequent changes in its causal link

An individual filed a lawsuit with the Administrative Court against the Ministry of Defense of Ukraine, requesting to declare unlawful and cancel the item of the minutes of the commission meeting on the assignment of a one-time cash benefit in connection with the establishment of the III group of disability. The essence of the dispute was the plaintiff's disagreement with the calculation of the amount of benefit based on the subsistence minimum for 2010. The plaintiff insisted that since in 2022 he was first diagnosed with a disability with a causal link of "disease related to the defense of the Motherland", the calculation should be carried out as of January 1, 2022, which significantly increases the amount of the payment.

The Vinnytsia District Administrative Court, by its decision dated May 15, 2024, satisfied the claims, and the Seventh Administrative Court of Appeal, by its Judgment dated January 16, 2025, left this decision unchanged. Lower courts were guided by the fact that on May 17, 2022, the plaintiff was first diagnosed with a disability with a causal connection with the defense of the Motherland, and therefore, this date is the moment of the emergence of the right to assistance in a new amount. Also, by an additional decision in favor of the plaintiff, the costs of professional legal assistance were recovered.

The Supreme Court, following the results of the cassation review, overturned the decisions of the courts of first and appellate instance and adopted a new decision, by which it completely refused to satisfy the claim. The court concluded that the Ministry of Defense of Ukraine had lawfully calculated the benefit based on the subsistence minimum for the year of the initial establishment of disability (2010). The Supreme Court emphasized that a change in the causal link of disability without changing its group does not create a new independent right to payment according to the social standards relevant at that time.

In motivating the ruling, the Supreme Court relied on the provisions of Article 16 of the Law of Ukraine "On Social and Legal Protection of Military Personnel and Members of Their Families", which defines a lump-sum cash benefit as a one-time guaranteed payment. The court noted that the legal nature of such benefit is related to the moment of initial loss of working capacity or establishment of disability. Further clarifications or changes in circumstances within

the same disability group may be grounds for additional payment, but do not change the base date for determining the subsistence minimum.

The Supreme Court applied the provisions of Part Four of Article 16-3 of the Law of Ukraine "On Social and Legal Protection of Servicemen and Members of Their Families", which states that in the event of a change in the causal link of disability, which gives the right to a larger amount of assistance, the payment is made taking into account previously paid amounts. The court emphasized that the legislator specifically used the construction "including as a result of various, unrelated diseases" to emphasize a unified approach to calculating assistance from the moment of the first establishment of the status of a person with a disability of the relevant group.

In accordance with the Procedure for the Assignment and Payment of a One-Time Cash Benefit in Case of Death, Disability, or Partial Disability Without Establishing Disability of Military Personnel, approved by Resolution of the Cabinet of Ministers of Ukraine dated December 25, 2013 No. 975, the date of the right to benefit in case of establishing disability is the date indicated in the MSEC certificate on its initial establishment. The court stated that the clarification of the causal connection in 2022 is not an "initial examination" within the meaning of the law, since the plaintiff had the status of a disabled person of group III since 2010.

In its analysis, the Court referred to the European Social Charter (revised), ratified by the Law of Ukraine of 14 September 2006 No. 137-V. Article 12 of the Charter obliges the state to maintain a social security system at a satisfactory level. The Court interpreted this standard as requiring stability and predictability of legal regulation. The approach applied by the Court to calculating the payment ensures equality of rights for all servicemen and prevents unjustified multiple occurrence of the right to the same lump-sum benefit due to formal changes in documents.

Regarding the cancellation of the additional decision on the recovery of legal aid costs, the Supreme Court was guided by Articles 132 and 139 of the Code of Administrative Procedure of Ukraine. Since the claims were completely denied, the plaintiff's legal costs are not subject to reimbursement from the defendant's budget allocations. The additional decision is an integral part of the main one, and therefore the cancellation of the decision on the merits of the dispute automatically entails the cancellation of the decision on the allocation of costs.

The main legal conclusions (positions) of the Supreme Court in this case.

1. The amount of a lump sum cash benefit is directly related to the date of the first establishment of disability, and a change in the causal link of disability does not change the moment the right accrued to determine the subsistence minimum.
2. The right to assistance is a one-time payment, and further payment in the event of a change in the causal link is made based on the subsistence minimum indicators of the year when the disability of the relevant group was first established, regardless of breaks in the status of a person with a disability.

Judgment of the Supreme Court of September 10, 2025 in case No. 120/845/24 (administrative proceedings No. K/990/6355/25) – <https://reyestr.court.gov.ua/Review/130115296>

Determination of the calculation period for the payment of a one-time cash benefit when changing the basis for establishing disability to one related to the defense of the Motherland

The person filed a lawsuit with the administrative court against the Ministry of Defense of Ukraine, requesting that the actions regarding the assignment of a one-time cash benefit in connection with the establishment of Group II disability, which occurred as a result of an injury related to the defense of the Motherland, be declared unlawful, based on the subsistence minimum for 2021. The plaintiff demanded that the Ministry be obliged to recalculate and pay the benefit based on the Statutory subsistence level for employable persons as of January 1, 2023, since it was this year that disability was first established under circumstances giving the right to such a payment.

The essence of the dispute was the legality of the defendant's application of the subsistence minimum indicators of previous years. The plaintiff insisted that the injury received in October 2022 while performing a combat mission was an independent insured event, which led to the establishment of the corresponding disability group in March 2023. Instead, the Ministry argued its position by stating that the person was established as having Group II disability as a result of a domestic injury in 2021, and therefore, in the opinion of the department, 2021 is the time of the initial establishment of disability for the purposes of calculating the benefit.

The Zhytomyr District Administrative Court, by its decision of August 19, 2024, satisfied the claims, recognizing the Ministry's position as erroneous. The Seventh Administrative Court of Appeal, by its decision of December 4, 2024, supported the conclusions of the court of first instance and left the decision unchanged, noting that the moment of the right to assistance is related precisely to the date of establishment of disability due to the defense of the Motherland, and not to the date of establishment of disability for reasons not related to military service.

The Supreme Court, having reviewed the case in cassation, left the cassation appeal of the Ministry of Defense of Ukraine without satisfaction, and the decisions of the lower courts unchanged. The Court agreed that the calculation of the lump-sum cash benefit should be carried out taking into account the amount of the subsistence minimum established by law for able-bodied persons as of January 1, 2023. Thus, the Court finally confirmed the person's right to receive the payment in full in accordance with current social standards.

In motivating the Judgment, the Supreme Court relied on the provisions of Article 16 of the Law of Ukraine "On Social and Legal Protection of Military Personnel and Members of Their Families", which defines a lump sum as a state-guaranteed payment to persons who have suffered health damage while performing military service duties. The norms of the Procedure for the Assignment and Payment of a Lump Sum Benefit in the Event of Death, Disability, or Partial Loss of Working Ability Without Establishing Disability of Military Personnel, approved by Resolution of the Cabinet of Ministers of Ukraine dated December 25, 2013 No. 975, were also applied.

The court emphasized that for the correct application of the legislation, it is not any fact of establishing disability as such that is decisive, but namely the fact that is directly related to the performance of military service duties or the defense of the Fatherland. Since the disability established in 2021 was the result of an accident not related to service, it did not fall under the scope of a special law and did not give rise to the right to assistance. Therefore, such a fact cannot be considered a "primary establishment of disability" within the meaning of the norms regulating the social protection of military personnel.

The Supreme Court paid special attention to the fact that the health injury in 2021 and the injury during hostilities in 2022 are two separate insured events with different legal consequences. The defendant's formal combination of these events led to an unjustified underestimation of the amount of the payment. The court indicated that the plaintiff's right to receive assistance under a special law arose for the first time only in 2023, when the MSEC confirmed the connection of disability with the defense of the Motherland, which determines the settlement date.

Additionally, the Court took into account Ukraine's international obligations, in particular the provisions of Article 12 of the European Social Charter (revised), ratified by the Law of Ukraine of September 14, 2006 No. 137-V. It was noted that the state must maintain the social security system at a satisfactory level. The use of the outdated subsistence minimum for calculating the benefit for injuries received in 2022 does not comply with the state's obligation to ensure the effective implementation of the rights of servicemen to social protection.

The main legal conclusions (positions) of the Supreme Court in this case.

1. The legal significance for calculating the amount of benefit is precisely the fact of the initial establishment of disability due to military service, since cases of disability due to domestic reasons are not subject to special legislation.
2. The amount of a one-time cash benefit should be determined based on the subsistence minimum as of January 1 of the calendar year in which disability was first established under an independent insurance event provided for by the Law of Ukraine "On Social and Legal Protection of Military Personnel and Members of Their Families."

Judgment of the Supreme Court of September 2, 2025 in case No. 240/4278/24 (administrative proceedings No. K/990/415/25) - <https://reyestr.court.gov.ua/Review/129947122>

Supreme Court: Appealing a regulatory act in another court is not an unconditional basis for suspending proceedings in a case

An administrative case was pending in the Supreme Court on the claim of a military pensioner, a liquidator of the Chernobyl accident, against the territorial body of the Pension Fund of Ukraine. The subject of the dispute was the appeal of the actions of the Pension Fund of Ukraine regarding the application of reducing coefficients for pension payments in 2025, established by Resolution of the Cabinet of Ministers of Ukraine No. 1 of January 3, 2025.

The circumstances of the case indicated that the Third Administrative Court of Appeal had stayed the proceedings in the case until the decision in another case (concerning the legality of the CMU Judgment No. 1 itself) entered into force. The Court of Appeal considered that since the disputed relations were regulated by this act, establishing its compliance with the law in another proceeding had a preliminary significance and made the consideration of the current case objectively impossible.

The Supreme Court disagreed with such conclusions, upheld the plaintiff's cassation appeal, overturned the ruling to stay the proceedings, and sent the case to the court of appeal for further consideration.

The panel of judges emphasized that the institution of staying the proceedings cannot be used to evade the court from fulfilling its obligation to independently assess the circumstances of the case. The court indicated that the presence of sufficient evidence and a regulatory framework in the case materials allows establishing the facts and providing them with a legal assessment without waiting for the results of other legal proceedings.

Particular attention was paid to the principle of the validity of regulatory legal acts in time. The court explained that even if an act is declared invalid in the future, such a decision usually has prospective effect and does not automatically change the legal assessment of actions taken during the period when the act was valid.

In this case, the Supreme Court formulated the following legal conclusions:

The limits of "objective impossibility": the court does not have the right to stay the proceedings if the evidence collected in the case allows for the independent establishment and assessment of the circumstances that are the subject of consideration. The presence of another legal dispute regarding the validity of a regulatory act does not relieve the court from the obligation to consider the case on its merits within a reasonable time.

Lack of a prejudicial connection: challenging a regulatory act "for the future" does not establish facts that would be of decisive importance for assessing actions already taken by the subject of public authority. The result of such a challenge does not prevent the court from applying the legislation in force at the time of the dispute.

Protection of the right to a reasonable time: unfounded suspension of proceedings, especially in cases of minor complexity (social disputes), is a violation of the right of an individual to access justice and contradicts the objectives of administrative justice. The court should use its own powers to resolve the dispute, and not replace them with waiting for decisions of other courts.

Judgment of the Supreme Court of July 30, 2025 in case No. 160/2031/25 (administrative proceedings No. K/990/22855/25) - <https://reyestr.court.gov.ua/Review/129201659>

Supreme Court: Ministry of Justice is the legal successor of the Ministry of Internal Affairs in the field of social protection of former employees of the penitentiary system

An administrative case was pending in the Supreme Court on appeal against a claim by a former employee of the internal affairs bodies against the Department for the Execution of Criminal Punishments and the Ministry of Justice of Ukraine. The subject of the dispute was the unlawful inaction of the departments in not granting a one-time cash benefit in connection with the plaintiff being diagnosed with Group II disability.

The courts established that the plaintiff served in a penal institution, which at the time of his dismissal in 1997 was part of the structure of the Ministry of Internal Affairs of Ukraine. In 2010, he was assigned the II group of disability for an indefinite period due to an injury related to the performance of official duties. Despite the fact that the specialized commission of the Department of the Ministry of Justice initially recognized the plaintiff's right to assistance, the Ministry of Justice later returned the materials for revision, and the plaintiff was recommended to contact the bodies of the Ministry of Internal Affairs, since he was dismissed from their structure.

Lower courts partially satisfied the claim. They proceeded from the fact that the plaintiff acquired the right to assistance in accordance with Procedure No. 707, in force at the time of establishing disability, and the Ministry of Justice, as the legal successor of the functions of the liquidated State Penitentiary Service, is the appropriate entity to consider such an application. The Supreme Court did not agree with the arguments of the Ministry of Justice's cassation appeal and left the decisions of the lower courts unchanged.

The Court emphasized that in Ukraine there has been a continuous process of institutional succession in the field of execution of criminal sentences: from the relevant departments of the Ministry of Internal Affairs through the State

Department and the Penitentiary Service to the modern Department of the Ministry of Justice of Ukraine. Since the Ministry of Justice is the legal successor in terms of implementing state policy in the field of execution of sentences, it is it that is responsible for the social security of persons who served in these institutions.

In this case, the Supreme Court formulated the following legal conclusions:

The principle of continuity of succession: the state cannot avoid fulfilling its positive obligations regarding the social protection of citizens by referring to internal organizational changes or reorganization of ministries. In the event of liquidation or reform of the body, the obligations are transferred to the entity to which the relevant management functions are transferred.

The effect of the law in time: the right to receive a lump-sum cash benefit and its amount are determined by the legislation in force at the time the person's disability group was established. In this case, this is Order No. 707, which continues to regulate legal relations that arose before 2015.

Procedural legality: the authorized executive body is obliged to make a final decision based on the results of considering the application - on the assignment of assistance or on the refusal to assign it. Returning documents for "revision" without making a decision is essentially a form of unlawful inaction.

Judgment of the Supreme Court of July 10, 2025 in case No. 240/5266/24 (administrative proceedings No. K/990/51143/24) - <https://reyestr.court.gov.ua/Review/128776572>

Pensions for employees of the State Penitentiary Service: the Supreme Court recognized the priority of a special law for preferential calculation of years of service

The dispute arose between a former employee of the State Penitentiary Service and the pension fund body, which refused to grant the plaintiff a pension for years of service, citing the lack of 25 calendar years of service, as provided for by the Law of Ukraine "On Pension Provision for Persons Discharged from Military Service and Certain Other Persons" dated 09.04.1992 No. 2262-XII.

The court of first instance granted the claim, but the court of appeal overturned this decision and dismissed the claim, supporting the position of the pension fund body.

The Supreme Court overturned the appellate court's ruling and changed the reasons for the first instance court's decision, which this court relied on when granting the claim.

Key legal conclusions of the Supreme Court:

1. Relations regarding preferential crediting of years of service for employees of the State Penitentiary Service of Ukraine are directly regulated by the Law of Ukraine "On the State Penitentiary Service of Ukraine" dated 23.06.2005 No. 2713-IV. It is this Law that determines the conditions for the right to a pension for years of service of the specified category of employees and has priority in disputed legal relations.
2. The requirement for 25 years of service for the assignment of a long-service pension, established by point "a" of part one of Article 12 of the Law of Ukraine "On Pension Provision for Persons Discharged from Military Service and Certain Other Persons", may be met by taking into account preferential periods of service, namely, the application of multiple coefficients in accordance with part four of Article 23 of the Law of Ukraine "On the State Penitentiary Service of Ukraine". This approach does not change the actual length of service, but provides for its accounting in a preferential ratio, which allows a person to acquire the right to a pension earlier.
3. The provisions of the Procedure for calculating years of service, assigning and paying pensions and cash benefits to persons entitled to a pension in accordance with the Law of Ukraine "On pension provision for persons discharged from military service and certain other persons", except for conscripts and members of their families and persons equated to them", approved by the Resolution of the Cabinet of Ministers of Ukraine dated July 17, 1992 No. 393, regulate the procedure for calculating years of service and determining the amount of the pension. This Procedure No. 393 is not a legislative basis for determining the right to a pension for employees of the State Penitentiary Service, since in disputed legal relations, special provisions of the Law of Ukraine "On the State Penitentiary Service of Ukraine", which have higher legal force and directly regulate the issue of preferential calculation of years of service for assigning pensions to employees of this service, are subject to application. It is the provisions of this Law that ensure the implementation of the constitutional right of the relevant person to social

protection, guaranteed by Article 46 of the Constitution of Ukraine. The application of Procedure No. 393 in such a category of cases is unacceptable, since it would lead to a narrowing of the content and scope of the right, which is directly prohibited by Article 22 of the Constitution of Ukraine.

Judgment of the Supreme Court of June 19, 2025 in case No. 160/32341/23 (administrative proceedings No. K/990/51008/24) <https://reyestr.court.gov.ua/Review/128262832>

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The inadmissibility of plagiarism as a continuing violation and the retrospective effect of academic integrity standards

The dispute arose from a claim filed by a person who received a PhD in Medical Sciences in June 2014 against the National Agency for Quality Assurance in Higher Education. The plaintiff demanded that the decisions of the Ethics Committee and the National Agency itself, which established facts of academic plagiarism in his dissertation, be annulled. The key argument in the claim was the defendant's lack of authority to review work protected before the entry into force of the Law of Ukraine "On Higher Education" of 2014, which, according to the plaintiff, violated the principle of irreversibility of the law in time (Article 58 of the Constitution of Ukraine).

The Khmelnytskyi District Administrative Court and the Seventh Administrative Court of Appeal dismissed the claim. Lower courts stated that although the concept of "academic plagiarism" was legislated later, the obligation to adhere to scientific ethics and refer to sources of borrowings existed at the time of the dissertation defense. In addition, the decision of the Ethics Committee was recognized as a procedural act that does not generate independent legal consequences, and therefore cannot be a separate subject of appeal.

The Supreme Court partially satisfied the cassation appeal in the procedural part, overturning the decisions of the lower courts regarding the requirement to cancel the submission of the Ethics Committee and closing the proceedings in this part, since such an act is a purely internal procedural step. As for the confirmation of the legality of the decision of the National Agency on establishing the fact of plagiarism, the Supreme Court left the decision unchanged, recognizing the regulator's actions as lawful and justified.

Motivating its position, the Supreme Court noted that academic liability has a different legal nature than criminal or administrative, since it belongs primarily to the sphere of academic ethics. The Court emphasized that plagiarism is inherently an ongoing violation: as long as the scientific work remains available to the public and is used in scientific circulation, it continues to violate the rights of the authors of the original sources. Thus, the detection of borrowings in works protected before 2014 is not a retrospective application of new sanctions, but is a mechanism for stopping the ongoing violation and protecting intellectual property.

The court emphasized that ethical norms prohibiting the appropriation of other people's results were enshrined in Ukrainian legislation long before 2014, in particular in the Law of Ukraine "On Copyright and Related Rights" of 1993 and the Procedure for Awarding Academic Degrees of 2013. Therefore, the National Agency, when conducting the inspection, only uses a new procedure to establish the facts of violations of the standards that were in force at the time of the creation of the scientific work. The principle of legal certainty cannot be used as a shield to legitimize academic dishonesty.

The Judgment focused on the application of the provisions of the Law of Ukraine "On Administrative Procedure", which establishes the principles of reasonableness and formality. The Supreme Court indicated that the National Agency acted as an administrative body, ensuring proper collection of evidence and providing the plaintiff with the opportunity to defend his rights, even if the latter did not exercise the right to provide explanations. A notification to a work email address was recognized as a sufficient measure of informing a person within the framework of administrative proceedings.

The main legal conclusions of the Supreme Court:

The ban on academic plagiarism is not a "new" norm introduced only in 2014. The obligation to adhere to scientific ethics and respect the authorship of others existed both at the level of laws (the Law of Ukraine "On Education" of 1991, the Law of Ukraine "On Scientific and Scientific-Technical Activity" of 1991) and at the level of subordinate legislation (the Procedure for Awarding Academic Degrees). Therefore, checking a dissertation for plagiarism under

the new procedural rules does not violate Article 58 of the Constitution of Ukraine, since it does not establish liability for acts that were not previously recognized as offenses (ethical violations).

Plagiarism in scientific work that is freely available or used to confirm the qualifications of a scientist is an ongoing violation. Every fact of citing such work or referring to it as a source of scientific knowledge continues to harm the authors of original ideas. Therefore, checking such works is a necessary tool to stop ongoing copyright infringement and ensure the public interest in the purity of the academic environment.

Academic liability differs significantly from criminal, administrative or disciplinary liability in its purpose and legal nature. It is aimed not at punishing a person as such, but at verifying the authenticity of a scientific result and protecting the reputation of the entire scientific community. The detection of plagiarism many years after the defense is a form of preventive influence and restoration of justice, which correlates with the principle of the rule of law.

Courts of administrative jurisdiction are not authorized to conduct their own expert assessment of the presence or absence of plagiarism (this is the discretion of the National Agency). The task of the court is solely to verify compliance with the administrative procedure, the validity of the regulator's conclusions, and ensure the right of the person to be heard when making a decision.

Judgment of May 30, 2025 in case No. 560/8264/24 (administrative proceedings No. K/990/5781/25)
<https://reyestr.court.gov.ua/Review/127846893>

Supreme Court: Change in circumstances after the decision is made is not grounds for cassation review. The cassation court reviews the legality of the court decision based on the factual circumstances that existed at the time of its adoption.

The Supreme Court considered the case on the claim of the National Commission for State Regulation of Energy and Utilities (NCRECU) against a business entity in the energy and utilities sectors (company) for the collection of debt in the form of a fine and penalty.

The dispute arose due to the Company's failure to pay the fine imposed by the National Commission for the Regulation of Energy and Utilities of Ukraine on May 31, 2019. The National Commission for the Regulation of Energy and Utilities of Ukraine requested that the defendant be charged a fine of UAH 17,000 and a penalty of UAH 17,000.

The Dnipropetrovsk District Administrative Court, by its decision of March 9, 2023, left upheld by the Judgment of the Third Administrative Court of Appeal of June 1, 2023, refused to satisfy the claim of the National Commission for the Regulation of the National Energy and Power Sector of Ukraine.

The courts of first and appellate instance proceeded from the fact that the Judgment of the National Commission for the Regulation of the Energy and Utilities Commission of Ukraine on the imposition of a fine was canceled by the decision of the District Administrative Court of Kyiv dated July 29, 2022 in case No. 640/10904/19, therefore there are no legal grounds for collecting a fine and penalty.

The Supreme Court, by its Judgment of May 27, 2025, dismissed the cassation appeal of the National Commission for the Regulation of Energy and Utilities of Ukraine, and the decisions of the courts of first and appellate instances remained unchanged.

The court of cassation confirmed that the lower courts had rightfully refused to satisfy the claim, since at the time of their decisions, the NCRECU Judgment imposing the fine had been canceled.

The Supreme Court emphasized that the cancellation of the Judgment imposing a fine eliminates the legal grounds for its compulsory collection.

If the act that is the basis for enforcement is annulled by the court, there is no legal basis for further enforcement actions, since the relevant obligation loses its legal force.

The validity of an individual act of a public authority is a condition for the emergence and existence of legal consequences associated with it, in particular the obligation to pay a fine. The cancellation of such an act, even if it is temporary or subject to further review, eliminates the legal basis for its enforcement.

The Supreme Court emphasized that in the event that the NCRECU applies to the court with a claim against a business entity operating in the relevant field for the collection of a fine, the administrative court verifies the presence of legal grounds for imposing a fine on the business entity operating in the relevant field; it must also assess whether the collection of a fine and penalty is proportional to the violation committed.

Whereas cassation review is limited to verifying the correctness of the application by the courts of first and/or appellate instance of the norms of substantive and procedural law at the time of adoption of the contested decisions (Article 341 of the Code of Administrative Procedure of Ukraine).

The function of the cassation court is to review errors of law made by lower courts, not to reassess circumstances that have changed since these decisions were made.

At the time of the court decisions in the case, the lower courts acted lawfully, since the Judgment of the National Commission for the Regulation of Energy and Utilities Regulatory Commission on the imposition of a fine was invalid due to its cancellation by the court.

The argument of the NCRECU that the court of cassation subsequently overturned the decision in case No. 640/10904/19 on the annulment of the NCRECU Judgment No. 921 was rejected as a basis for overturning the contested decisions in this case.

The Supreme Court clarified that such a change in circumstances may be grounds for reviewing the case based on newly discovered circumstances, in accordance with Article 361 of the Code of Administrative Procedure of Ukraine, and not for overturning a substantively correct decision in the cassation review procedure. This approach ensures compliance with the principle of legal certainty and stability of judicial decisions.

Legal conclusions of the Supreme Court:

The court of cassation reviews the legality of the court decision based on the factual circumstances that existed at the time of its adoption.

The annulment by the court of an act of individual action (in particular, a Judgment imposing a fine) eliminates the legal basis for its enforcement.

Subsequent annulment of a court decision, which was the basis for the court's decision in another case, is not a basis for annulment of this decision in cassation. An effective procedural mechanism in such a case is an appeal to the court of first instance with an application for review of the court decision based on newly discovered circumstances on the basis of paragraph 3 of part two of Article 361 of the Code of Administrative Procedure of Ukraine.

Judgment of the Supreme Court of May 27, 2025 in case No. 160/9858/19 (administrative proceedings No. K/990/26997/23) <https://reyestr.court.gov.ua/Review/127668181>

Supreme Court: Special procedure for granting land for subsoil use applies only to permits obtained at auction

The company (plaintiff) filed a lawsuit with the administrative court against the Donetsk Regional Military-Civil Administration (defendant) and the State Institution (third party). The plaintiff demanded to cancel the order of the head of the Donetsk Regional State Administration regarding the provision of a state-owned land plot to a third party, as well as to recognize the illegality and cancel the state registration of this land plot. The plaintiff justified his claims by the fact that the disputed land plot is necessary for him to use the subsoil in accordance with the special permit received, while the third party is not a subsoil user.

By the decision of the Donetsk District Administrative Court of June 22, 2022, the claim was fully satisfied. The court of first instance proceeded from the fact that the defendant, having previously agreed to provide the subsoil for use to the plaintiff, transferred the land plot to a third party who is not a subsoil user. In addition, the plaintiff, having received permission to use the subsoil, was unable to exercise his right due to the absence of the relevant land plot in use.

By the decision of the First Administrative Court of Appeal dated December 21, 2023, the decision of the court of first instance was canceled, and a new decision was adopted to refuse to satisfy the claim. The court of appeal

noted that at the time of the adoption of the contested order (June 30, 2020), the plaintiff had not yet acquired the status of a subsoil user, since a special permit for subsoil use was issued to him only on October 28, 2021.

The company filed a cassation appeal with a demand to cancel the decision of the court of appeal and to leave in force the decision of the court of first instance. The plaintiff argued that the court of appeal incorrectly applied the provisions of Article 18-1 of the Code of Ukraine on Subsoil, since land plots cannot be transferred for permanent use to any person other than the subsoil user. Also, according to the plaintiff, the transfer of land plots to persons who are not subsoil users is possible only for rent or on other fixed-term rights and only for a period until the land plot is transferred to the subsoil user.

The Supreme Court, having considered the cassation appeal, decided to leave the latter unsatisfied, and the Judgment of the First Administrative Court of Appeal of December 21, 2023 unchanged.

The Supreme Court concluded that the decision of the court of appeal meets the requirements of procedural law, and the arguments of the cassation appeal are unfounded. The court of cassation noted that the rights and obligations of a subsoil user arise from the date of receipt of a special permit for the use of subsoil. Since the plaintiff received such a permit only on October 28, 2021, that is, after the adoption of the contested order (June 30, 2020), he did not have the status of a subsoil user at the time of adoption of this order.

The Supreme Court also emphasized that the provisions of Article 18-1 of the Subsoil Code of Ukraine, which establish the features of the disposal of land plots where minerals are located, apply exclusively in cases where a special permit for the use of subsoil was granted based on the results of an auction or competition. Since the plaintiff applied for a special permit for the use of subsoil without holding an auction (in a non-auction procedure), the effect of Article 18-1 of the Subsoil Code of Ukraine does not apply to the legal relations that arose in this case.

The court also noted that the current legislation provides for a special mechanism for the forced withdrawal of land plots of state or municipal ownership from permanent use for the purposes of extracting minerals of national importance. Such a mechanism may be applied if the relevant person has a valid special permit for the use of subsoil and subject to compliance with the relevant procedure provided for by the Land Code of Ukraine.

The main legal conclusions of the Supreme Court:

The provisions of Article 18-1 of the Subsoil Code of Ukraine, which regulate the special procedure for the disposal of land plots of state and municipal property, apply exclusively in cases where the business entity has already acquired the status of a subsoil user (after obtaining a special permit) and this permit was granted based on the results of an auction or competition. This article does not apply to persons to whom a special permit was granted in a non-auction procedure.

The legal status of a person who has only received approval from an executive body to use subsoil and has submitted an application to the State Service for Geology and Mineral Resources, but has not yet received a special permit, is not equated to the status of a subsoil user within the meaning of the Subsoil Code of Ukraine for the purposes of applying special rules for land management.

Judgment of the Supreme Court of April 15, 2025 in case No. 200/315/22 (administrative proceedings No. K/990/21415/24) – <https://reyestr.court.gov.ua/Review/126633217>

Supreme Court: local government body is obliged to follow the procedure for publishing technical documentation on normative monetary valuation (for taxation purposes)

The company appealed to the administrative court with a lawsuit against the Petriv Village Council of the Vyshgorod district of the Kyiv region and the Main Department of the State Geocadastre in the Kyiv region, demanding to declare the decision of the village council dated July 8, 2021 No. 397 "On approval of technical documentation on the normative monetary valuation of lands of the village of Lyutizh" illegal and invalid, as well as to cancel two extracts on the normative monetary valuation of land plots formed on its basis.

The Kyiv District Administrative Court, by its decision of October 26, 2023, upheld by the Judgment of the Sixth Administrative Court of Appeal dated April 24, 2024, satisfied the claim. The appeal against these decisions was filed by the Petriv Village Council, which disagreed with the recognition of its decision as a regulatory act and referred to the incorrect application of substantive law.

The Supreme Court partially satisfied the cassation appeal, changed the motivational and operative parts of the decisions of the lower courts regarding the moment when the extracts from the technical documentation became invalid, determining that they are invalid from March 26, 2024 - the date of entry into force of the decision in a previously decided similar case.

The Supreme Court agreed with the conclusion of the lower courts that Decision No. 397 is a regulatory act, since it was adopted by a local government body, changed the norms of law, applied to an unspecified circle of persons, and was subject to repeated application in the field of economic relations and taxation.

The court took into account the content of Article 1 of the Law of Ukraine "On the Principles of State Regulatory Policy in the Sphere of Economic Activity" No. 1160-IV, according to which an act that establishes legal norms, is applied repeatedly and concerns an unspecified circle of persons in the sphere of economic activity or administrative relations is considered regulatory.

In addition, taking into account the fact that the village council did not publish the draft decision with the regulatory impact analysis in accordance with Articles 9 and 13 of Law No. 1160-IV, the Court concluded that the latter violated the mandatory procedure for adopting a regulatory act. According to Article 36 of this Law, such a violation is grounds for declaring the act invalid.

The court also applied constitutional norms: part one of Article 13, according to which land is the object of property rights of the Ukrainian people, as well as Article 19 of the Constitution of Ukraine, which obliges authorities to act exclusively in the manner prescribed by law.

The Judgment cited in detail the provisions of Articles 201, 206 of the Land Code of Ukraine and Articles 13, 15, 18, 20, 23 of the Law of Ukraine "On Land Valuation" No. 1378-IV, which regulate the procedure for approving technical documentation and the need for its official publication for further use in taxation.

As part of the analysis of the legality of the submitted extracts, the Supreme Court recalled that, in accordance with Article 20 of Law No. 1378-IV and Order of the Ministry of Agrarian Policy and Food of Ukraine dated November 25, 2016 No. 489, an extract from technical documentation is not an independent legal act, but only records the information approved in the relevant decision of the council.

The panel of judges noted that the effect of decision No. 397 ceased on March 26, 2024, based on the Judgment in case No. 320/10212/22, and therefore, the extracts issued on its basis lost their validity from that date. Until the specified time, they remain valid and subject to application.

The court emphasized that maintaining the validity of extracts until the basic act is declared invalid is necessary to ensure legal certainty, stability of public legal relations, and protection of the rights of individuals, in particular taxpayers and state authorities.

The main legal conclusions of the Supreme Court in this case:

The decision of a local government body on approval of technical documentation on the normative monetary valuation of land, which is of a general nature and affects the taxation procedure, is a regulatory act, the procedure for its adoption, in particular its publication, must comply with the provisions of the Law of Ukraine "On the Principles of State Regulatory Policy in the Sphere of Economic Activity."

Extracts from technical documentation formed on the basis of a regulatory act lose their validity simultaneously with the recognition of this act as invalid and do not create independent legal consequences.

Judgment of the Supreme Court of March 10, 2025 in case No. 320/10183/22 (administrative proceedings No. K/990/20687/24) – <https://reyestr.court.gov.ua/Review/125756611>

Pension guarantees for Chernobyl liquidators: the Supreme Court emphasized the importance of taking into account the date of pension assignment and length of service

The plaintiff, a person with a second-group disability and a participant in the liquidation of the consequences of the Chernobyl accident, appealed to the court with a demand to oblige the Pension Fund to recalculate the pension without applying the "two-component formula", in accordance with Articles 56 and 57 of Law No. 796-XII. The

defendant, the Main Directorate of the Pension Fund in the Khmelnytskyi region, considered the application of these provisions without taking into account the changes made to the legislation since 2017 to be erroneous.

The court of first instance granted the claim, and the appellate court left the decision unchanged. The courts proceeded from the fact that the procedure for calculating pensions for persons affected by the Chernobyl disaster is of a preferential nature and does not depend on the conditions for granting a pension under Law No. 1058-IV.

The Supreme Court partially satisfied the defendant's cassation appeal, overturned the decisions of the previous instances and sent the case back to the court of first instance for a new trial. The panel of judges found that the lower courts had failed to clarify the decisive circumstances - the actual length of the plaintiff's insurance period and the date of the pension award.

The Supreme Court emphasized that, based on Articles 16, 22, 46 and 58 of the Constitution of Ukraine, as well as decisions of the Constitutional Court of Ukraine (in particular, No. 6-p/2018, No. 5-pn/2002, No. 8-pn/2005), the state is obliged to prevent the rights of persons affected by the Chernobyl disaster from being restricted. Such persons are entitled to special guarantees of social protection, including in the field of pension provision.

The Supreme Court emphasized that the wording of paragraph 2 of Article 56 of Law No. 796-XII, which was in force at the time of the pension assignment, retains legal force and should be applied if it is more favorable. The transition to the new conditions of pension calculation is possible only if they are voluntarily chosen by the pensioner.

At the same time, the Supreme Court concluded that without accurately establishing the plaintiff's insurance experience and the date of pension assignment, it is impossible to apply the preferential mechanism for calculating the overtime bonus. The court of first instance must clarify these circumstances during a new hearing.

The case also applied the principle of the irreversible effect of laws in time (Article 58 of the Constitution of Ukraine) and emphasized the need to comply with the standards of effective judicial protection (Articles 2, 242 of the Code of Administrative Procedure of Ukraine).

Thus, the Supreme Court provided the necessary procedural guarantees for the proper consideration of the case, preventing a simplified decision without a full investigation of the key circumstances.

The first key legal conclusion: when determining the right of a person affected by the Chernobyl disaster to an increase in pension for overtime work in accordance with Clause 2 of Article 56 of Law No. 796-XII, the wording of this provision in force at the time of awarding the pension should be applied.

The second key legal conclusion: to apply the preferential pension increase mechanism in accordance with Law No. 796-XII, it is necessary to accurately establish the amount of insurance experience and the date of pension assignment, since these data are crucial for the application of the relevant provisions.

Judgment of the Supreme Court of February 6, 2025 in case No. 560/4564/24 (administrative proceedings No. K/990/31811/24) – <https://reyestr.court.gov.ua/Review/124983776>

Conclusions based on the results of the review of the legal positions of the Supreme Court

The analysed case law suggests a differentiated application of the principle of *tempus regit actum*, but clarifies its differentiated application: while substantive rights are governed by the law in force at the moment the right arises, newly introduced procedural norms apply immediately to ongoing proceedings, provided that they do not impair acquired rights. In ongoing legal relations, the introduction of additional procedural guarantees (in particular, the right to correct deficiencies in the application) has priority over the regulation that was in effect at the time of initiating the application. This ensures the dynamic compliance of the administrative procedure with the principle of good governance and current standards of protection of individual rights.

The recognition of a norm as unconstitutional and the resulting emergence of a "statutory gap" does not empower courts to independently create mechanisms for the implementation of the law. In the absence of a procedure established by law and certain sources of funding, a court decision cannot replace the will of the legislator. This approach ensures strict adherence to the constitutional principle of the separation of powers and protects the judicial branch from assuming law-making functions that are not inherent to it.

The moment of the initial occurrence of the right to social assistance (establishment of disability) is usually the baseline for determining the amount of benefits. A subsequent change in circumstances within the same legal status (clarification of the causal link) is considered a modification of the existing right, and not the emergence of a new one. This ensures the unity of the methodology for calculating the benefit based on the subsistence minimum indicators that were in effect at the time of the initial insured event, and guarantees the predictability of the state's budgetary obligations.

The establishment of facts of academic plagiarism in works protected before the entry into force of the new legislation is not considered a retrospective application of the law. Since the scientific result is in public circulation, the violation of copyright and standards of integrity is qualified as a state that continues over time. This allows the use of modern verification procedures to protect the public interest and the purity of the academic environment, where legal certainty cannot serve as a tool for legitimizing the violation.

Internal organizational changes in the structure of the state apparatus (reorganization, liquidation or transfer of functions between ministries) do not exempt the state from fulfilling positive obligations to citizens. Succession in public law is carried out on a functional basis: the obligation to implement social guarantees passes to the entity to which the administrative competences have been transferred. Refusal to consider the claims of a person due to the absence of succession in respect of the debts of the liquidated body is recognized as a form of unlawful inaction.

A decision of a local government body that has the characteristics of a regulatory legal act creates legal consequences from the moment of its adoption until the moment of its official recognition by a court as invalid. Procedural irregularities for adopting an act do not automatically eliminate all legal facts derived from it (extracts, calculations) for past periods. Such a restriction on the retroactivity of a court decision is aimed at preserving legal certainty, the stability of public legal relations and preventing destabilization of the tax system.

The object of cassation review is the legality of a court decision, based on the legal regulation that existed at the time of its adoption. A subsequent change in legislation or the cancellation of individual acts that were the basis for the decision is not evidence of a judicial error in the understanding of the Code of Administrative Procedure of Ukraine. An appropriate procedural tool for responding to such changes is the institution of case review based on newly discovered circumstances, which ensures the stability of final court decisions.

In the event of a conflict between the provisions of the law establishing a preferential procedure for calculating seniority (years of service) and government acts that do not take such procedure into account, the provisions of the law shall prevail. Failure by the Cabinet of Ministers to comply with the obligation to bring subordinate legislation into line with new legislative norms cannot limit the constitutional right of a person to social protection. The direct effect of the law in such disputes is a mechanism for preventing the narrowing of the content and scope of existing rights and freedoms.

The analysed case law demonstrates a more differentiated and functionally structured application of the principle of legal certainty in matters of temporal applicability. Rather than altering its normative essence, the Supreme Court refines its methodology by distinguishing between substantive rights, procedural safeguards, and institutional succession, thereby ensuring a balance between stability and the effective operation of current law.

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This review is of an exclusively scientific and analytical nature and reflects a doctrinal vision of trends emerging in the practice of the Supreme Court. The presented theses are not an official interpretation of the law, are not normative in nature, and do not limit the court in choosing a legal position when considering specific cases in the future.

Material files

[Original author file](#)