

# Supreme Court Case Law on the Application of the Law of Ukraine “On Administrative Procedure”: A Review

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## Abstract

The Supreme Court’s case law in cases involving the Law of Ukraine “On Administrative Procedure” shows that this Law is increasingly being treated as one of the principal normative criteria for assessing the lawfulness of administrative activity falling within its scope. The Supreme Court uses this Law as a normative basis for reviewing whether public administration has acted, in particular, in accordance with the principles of legality, reasoned decision-making, proportionality, openness, ex officio examination of the facts by the administrative authority, good faith, timeliness, the guarantee of a person’s right to participate in administrative proceedings, and the guarantee of effective legal remedies.

Part one of Article 1 of the Law of Ukraine “On Administrative Procedure” is of particular importance for this approach. According to this provision, the Law regulates relations between executive authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, their officials, and other entities authorised to exercise public administration functions, on the one hand, and natural and legal persons, on the other, in relation to the examination and resolution of administrative cases through the adoption and enforcement of administrative acts. Article 4 of this Law defines the principles of administrative procedure, including, in particular, the rule of law, legality and legal certainty, reasoned decision-making, impartiality, good faith and prudence, proportionality, timeliness and a reasonable time, efficiency, the presumption of lawfulness of a person’s actions and claims, ex officio examination, the guarantee of a person’s right to participate in administrative proceedings, and the guarantee of effective legal remedies.

## **1. The Law of Ukraine “On Administrative Procedure” as a general standard of good public administration**

In its judgment of 18 September 2025 in case No. 560/8753/24, the Supreme Court noted that the Law of Ukraine “On Administrative Procedure” entered into force on 15 December 2023 and establishes uniform rules for the interaction of state authorities, local self-government bodies and other public bodies with natural and legal persons in the course of examining and resolving administrative cases. The subject matter of that dispute was a decision of a state registrar concerning amendments to information about a legal entity — that is, an act affecting the legal position of a private-law entity while also being connected with the functioning of a public register. The Supreme Court expressly linked the assessment of such a decision to the principles set out in Article 4 of the Law of Ukraine “On Administrative Procedure”, in particular legality, reasoned decision-making, proportionality and ex officio examination.

The application of this Law in a specific category of cases also requires verification that the exceptions established in part two of Article 1 of the Law are absent, as well as consideration of the specific features of administrative proceedings established by special legislation, which, under part two of Article 3 of the Law, must comply with the principles of administrative procedure.

Part four of Article 6 of the Law of Ukraine “On Administrative Procedure” is of particular importance for the practical role of the Supreme Court’s legal findings. It provides that legal findings on the application of legal provisions set out in Supreme Court judgments are binding on all administrative authorities that apply, in their activities, the regulatory legal act containing the relevant legal provision.

This finding confirms that a registration action or a decision of a state registrar which is individual in nature and affects a person’s legal position must be assessed in light of the applicable requirements of administrative procedure.

A similar significance attaches to the judgment of 24 January 2025 in case No. 520/14994/24, which concerned challenges to decisions of a local self-government body affecting the rights of a legal entity. This case may properly be regarded as an example of using part one of Article 1 of the Law of Ukraine “On Administrative Procedure” to substantiate the position that individual decisions of local self-government bodies which have external legal effect and affect a person’s legal position must be assessed not only from the standpoint of special legislation, but also through the lens of general administrative-procedural standards. Such an approach prevents reliance solely on legislation defining the powers of the relevant administrative authority, without due regard to the general guarantees afforded to individuals in their relations with public authorities.

## **2. The legality of administrative proceedings and the limits of discretionary powers**

One of the key provisions applied by the Supreme Court in its case law is Article 6 of the Law of Ukraine “On Administrative Procedure”. Part one of this Article requires an administrative authority to conduct administrative proceedings solely on the basis of, within the limits of authority, and in the manner provided for by the Constitution of Ukraine, this Law and other laws of Ukraine. Part two of Article 6 sets out requirements for the application by an administrative authority of other regulatory legal acts. Part three of Article 6 is of particular importance in cases involving discretion, as it defines the conditions for the lawful exercise of discretionary powers: such powers must be provided for by law; exercised within the limits and in the manner established by the Constitution and the law; used to achieve the purpose for which they were conferred; comply with the principles of administrative procedure; and not involve an unjustified departure from previous decisions of the administrative authority in identical or similar cases.

In case No. 320/16011/24, concerning the suspension of a company’s licence, the Supreme Court applied the principle of legality in the field of energy regulation. The essence of the dispute was that the National Energy and Utilities Regulatory Commission adopted resolutions that substantially affected the activity of a licensee, the distribution of natural gas and the functioning of the relevant market. The Supreme Court proceeded from the premise that an administrative authority must not only possess the relevant powers, but must also exercise them in compliance with the established procedure. In that case, the right of a participant in administrative proceedings to

submit explanations and comments under Article 54 of the Law of Ukraine “On Administrative Procedure” was also of particular importance.

The Supreme Court’s legal position in that case was that a violation of a person’s right to participate in the proceedings, the disregard of that person’s comments, and the failure to comply with procedural requirements cannot be treated as secondary defects in a case where the administrative act has a substantial impact on the rights of the licensee and on the socially important sphere of energy. For the private interest, this means protecting the licensee against non-transparent and hasty interference with its business activity. For the public interest, it means ensuring the stability, predictability and continuity of energy services.

The legality of the exercise of discretionary powers was also examined in case No. 560/5049/24, concerning the extension of the validity period of a placement permit for a temporary structure used for business activity. The Supreme Court stated that the procedure for examining an application to extend the validity period of such a permit is governed by the Law of Ukraine “On Administrative Procedure”. The courts were required to assess whether the architecture and urban planning authority had acted lawfully under Article 6 of that Law, in a reasoned manner under Article 8, and proportionately under Article 11, and whether the discretionary power had been used to achieve the purpose for which it was conferred.

This position is of considerable importance for small and medium-sized enterprises, as decisions concerning temporary structures often affect a person’s ability to continue business activity. At the same time, it also protects the public interest, since a local self-government body or its executive body may regulate urban space, but must do so in a predictable, consistent and reasoned manner, without disproportionate interference with a person’s acquired legal position.

In cases concerning administrative appeals in the field of state registration, the Supreme Court also applies part three of Article 6 of the Law of Ukraine “On Administrative Procedure” as a criterion for the lawful exercise of discretionary powers. This approach is examined in more detail in section 11 of this Review, which is devoted to judicial review and the limits of administrative appeals in the field of state registration.

### **3. Reasoned decision-making, impartiality, the presumption of lawfulness of a person’s actions, and ex officio examination**

In its judgment of 3 June 2025 in case No. 560/8264/24, the Supreme Court examined a dispute concerning a decision of the National Agency for Higher Education Quality Assurance finding academic plagiarism in a dissertation. The person concerned challenged a decision that adversely affected his or her academic reputation, professional status and legal position. The Supreme Court noted that Article 8 of the Law of Ukraine “On Administrative Procedure” requires an administrative authority to ensure that the circumstances of the case are properly and fully established, to examine the evidence and other materials directly, to take into account all circumstances relevant to the resolution of the case, and to provide reasons for the administrative act. At the same time, the Court also applied Article 9 on impartiality, Article 15 on the presumption of lawfulness of a person’s actions and claims, and Article 16 on ex officio examination.

The Supreme Court’s legal position in that case was that an administrative authority’s finding that a person had violated academic integrity cannot be based on assumptions, general assertions or incompletely verified materials. The administrative authority must act in a reasoned, impartial and ex officio manner, taking into account the presumption of lawfulness of the person’s actions and claims.

The significance of this position is twofold. For the private interest, it protects a person against reputational, professional and legal interference in the absence of a sufficient evidentiary basis. For the public interest, it does not deny the need to combat academic dishonesty, but requires that such efforts be pursued within the framework of a lawful procedure. In effect, the Supreme Court proceeded from the position that the public interest in ensuring the quality of education does not release an administrative authority from the duty to prove the factual grounds for an adverse decision, to act impartially, to establish the circumstances ex officio, and not to impose negative consequences on a person on the basis of unproven allegations.

In its judgment of 20 February 2026 in case No. 280/4630/25, the Supreme Court examined a dispute concerning a decision of an expert team of the Centre for the Assessment of a Person’s Functional Condition, which altered the

period of disability status established by a previous decision of a medical and social expert commission. The Court took into account Article 25 of the Law of Ukraine “On Administrative Procedure” concerning the transfer of competence to the successor of an administrative authority; Article 16 of that Law concerning the duty of an administrative authority to establish all relevant circumstances on its own initiative; and Article 6 concerning the exercise of discretionary powers in accordance with the purpose for which they were conferred. At the same time, the Supreme Court emphasised that the exercise of supervisory powers cannot take place outside the procedural guarantees afforded to the person concerned, and remitted the case for a new examination in order to verify, in particular, the lawfulness of the initiation of the review, the adequacy of the reasons for the decision, and the proper notification of the person concerned.

The application of the presumption of lawfulness of a person’s claims in social-law relations is illustrated by the judgment of 9 April 2026 in case No. 380/9003/25, concerning a monthly monetary payment to the child of a deceased Hero of Ukraine. In that case, the Supreme Court took into account Articles 4 and 15 of the Law of Ukraine “On Administrative Procedure” and agreed with the conclusions of the lower courts as to the need to interpret the legal regulation in favour of the implementation of the social guarantee provided for by law.

#### 4. The ex officio principle and the duty of an administrative authority to establish the facts on its own initiative

The ex officio principle, understood as the duty of an administrative authority to establish the relevant facts on its own initiative, provided for in paragraph 11 of part one of Article 4 and in Article 16 of the Law of Ukraine “On Administrative Procedure”, is one of the most practically significant principles in the case law developed by the Supreme Court. Its substance lies in the duty of an administrative authority to establish the circumstances relevant to the resolution of the case and, where necessary, to collect documents and other evidence on its own initiative. An administrative authority may not passively expect the person concerned to prove all material circumstances, especially where the necessary information is held by state authorities, local self-government bodies, or information resources connected with them.

In case No. 560/8264/24, the Supreme Court applied Article 16 of the Law of Ukraine “On Administrative Procedure” to proceedings concerning academic integrity and expressly stated that the principle of ex officio examination requires a public authority to collect the evidence and materials necessary for making a decision on its own initiative. The authority may not rely solely on statements or accusations without proper verification and evidence-gathering.

In case No. 420/31843/24, concerning the dismantling of an advertising structure, the Supreme Court also linked the burden of proof borne by a public authority with the principle of ex officio examination in administrative procedure. The Court stated that the burden of proof rests precisely on the public authority, and that the principle of ex officio clarification of all circumstances in the case corresponds to the principle of ex officio examination in administrative procedure, enshrined in paragraph 11 of part one of Article 4 and in Article 16 of the Law of Ukraine “On Administrative Procedure”. The practical significance of this position is that an administrative authority which applies to a court to secure the enforcement of an administrative act or to remove obstacles to its enforcement is not released from the standard of proper administrative proceedings.

The principle of ex officio examination was developed in particular detail in case No. 280/3642/23, concerning the recovery of administrative-economic sanctions for failure to comply with the quota for jobs for persons with disabilities. The Supreme Court applied part three of Article 16 of the Law of Ukraine “On Administrative Procedure”, according to which an administrative authority may not require a person to provide documents and information held by a state authority, a local self-government body, or an enterprise, institution or organisation belonging to the sphere of management of such an authority. The Court also referred to part two of Article 53 of this Law, which recognises data from national electronic information resources and the results of automated data processing as means of evidence, as well as to Article 62 concerning the conduct of administrative proceedings in automated mode.

This position is of considerable importance for digital public administration. An administrative authority should not shift onto a person the burden of submitting information that is already contained in national electronic information resources or can be obtained by the authority on its own initiative. For the private interest, this reduces the administrative burden and the risk of adverse consequences resulting from failure to provide information that the State already possesses. For the public interest, it promotes efficiency, resource savings and the reliability of administrative proceedings.

A separate manifestation of the principle of ex officio examination is the application of administrative-procedural standards to electronic information resources and automated administration.

In case No. 280/9417/24, the subject matter of the dispute was the recording of information in the Unified State Electronic Database on Education and the failure to act on an application to amend a certificate of an education applicant. The Supreme Court applied the principles of administrative procedure to the activity of the Ministry of Education and Science of Ukraine concerning the formation and correction of information in the Unified State Electronic Database on Education. The Court emphasised that, under part two of Article 4 of the Law of Ukraine “On Administrative Procedure”, these principles also apply to administrative activity of administrative authorities that does not require the adoption of administrative acts. At the same time, the Court distinguished such activity of the Ministry from the activity of the State Enterprise “Inforesurs” as the technical administrator of the Unified State Electronic Database on Education, which in that case was not a public authority. This approach is consistent with the position in case No. 280/3642/23 concerning the use of data from national electronic information resources and the results of automated data processing as means of evidence.

In case No. 420/34391/23, concerning the failure to examine an application for the granting of combatant status, the Supreme Court examined the inaction of the Ministry of Defence of Ukraine in a procedure directly affecting a person’s social and legal status. The Supreme Court proceeded from the position that, where an application is received by a body that is not itself competent to resolve the matter raised in it on the merits, that body is not entitled to adopt a passive position or, in effect, leave the application without an appropriate procedural response. The Court took into account part five of Article 21, Article 17, and paragraphs 1, 3, 8, 9 and 11 of part one of Article 28 of the Law of Ukraine “On Administrative Procedure”, concerning verification of competence, proper movement of the application, informing the person concerned, and the possibility of challenging the inaction of an administrative authority.

5. Review of applications: suspension of further processing due to formal defects and the duty to adopt an administrative act

The Supreme Court’s case law reveals the significance of the provisions of the Law of Ukraine “On Administrative Procedure” for cases in which an administrative authority fails to adopt the decision required by law upon a person’s application, or attempts to substitute such a decision with a letter, the return of documents, or the removal of the matter from consideration.

In its judgment of 12 May 2026 in case No. 240/11952/25, the Supreme Court concluded that removing an item from the agenda of a city council session without either granting permission or adopting a reasoned refusal constituted unlawful inaction, since the law provides for an exhaustive list of possible outcomes of the examination of the application. The simultaneous adoption of a decision on the division of the land plot was held to be unlawful as being contrary to the principles of good faith, proportionality, and the use of powers for the purpose for which they were conferred.

In its judgment of 22 July 2025 in case No. 580/710/24, the Supreme Court applied the provisions of the Law concerning the initiation of administrative proceedings, registration of an application, and suspending further processing of the application pending correction of formal defects. The Court proceeded from the position that formal defects in an application do not entitle an administrative authority to avoid its proper procedural examination.

A similar significance attaches to the judgment of 8 December 2025 in case No. 420/13975/24, in which the Supreme Court treated the improper response of a body of the Pension Fund of Ukraine to a person’s application for the restoration and proper payment of a pension as a violation of the administrative authority’s duty to examine the administrative case in a timely manner, to establish the material circumstances ex officio, and to adopt a reasoned decision.

## 6. The person's right to participate in administrative proceedings and the right to be heard

One of the central strands of the Supreme Court's case law concerns the application of paragraph 12 of part one of Article 4, Article 17 and Article 54 of the Law of Ukraine "On Administrative Procedure". Paragraph 12 of part one of Article 4 defines the guarantee of a person's right to participate in administrative proceedings as a principle of administrative procedure. Article 17 gives concrete expression to this right through the person's right to be heard, the right to information and consultation, and the right to submit documents and other evidence. Article 54 provides for the right of a participant in administrative proceedings to submit explanations and comments to the administrative authority before the administrative act is adopted.

In case No. 320/16011/24, the Supreme Court gave these provisions practical content in the context of regulatory proceedings in the energy sector. The claimant argued that it had been deprived of a real opportunity to influence the content of the decision of the National Energy and Utilities Regulatory Commission, since its comments had not in fact been taken into account. The Supreme Court proceeded from the position that Article 54 of the Law of Ukraine "On Administrative Procedure" guarantees a participant in the proceedings the right to submit explanations and comments, and that failure to respect this right indicates a breach of the principle of participation of interested persons in administrative proceedings.

This position means that the right to be heard is not reduced to a formal possibility to send a letter or receive information about the examination of the case. An administrative authority must ensure that the person has a genuine opportunity to influence the content of the future decision. For the private interest, this is a guarantee of protection against unilateral public-authority interference. For the public interest, it is a means of improving the quality of the administrative decision, since the authority is required to take steps to obtain additional information before adopting the act.

In case No. 440/14639/24, the Supreme Court applied the relevant guarantees in the field of social protection of internally displaced persons. The dispute concerned the cancellation of certificates of internally displaced persons, which affected access by the person concerned and minor children to social rights and guarantees. In assessing the arguments concerning breach of administrative procedure, the Supreme Court proceeded from the position that Article 12 of the Law of Ukraine "On Administrative Procedure" guarantees the openness of administrative proceedings, including the participant's right to know that proceedings have been initiated, the right to participate in them, and the right to inspect the case file. By contrast, the right of a person to be heard and to submit explanations, objections, documents and other evidence follows primarily from Article 17, as well as Article 54 of this Law.

At the same time, in this case the Supreme Court formulated an important limiting conclusion: a breach of individual procedural requirements may constitute a ground for declaring an administrative act unlawful only where such a breach led, or could have led, to the incorrect resolution of the case on the merits. Thus, the Supreme Court does not transform administrative procedure into a formal set of steps, but neither does it permit procedural guarantees to be ignored. What is decisive is whether the breach was material, whether it deprived the person of a genuine opportunity to protect his or her rights, and whether it could have affected the content of the administrative act.

In case No. 480/5652/24, which concerned a challenge to a decision of Sumy City Council, the Supreme Court examined the issue of a legal entity's access to administrative proceedings in land relations. The claimant argued that the local self-government body had failed to ensure its opportunity to participate in the procedure and to submit explanations and evidence. In this category of disputes, the right to participate in administrative proceedings is of particular importance, since a decision of a local council, although adopted by a collegial body, directly affects the property rights of a specific person. The practical significance of this legal position is that local self-government bodies must treat the examination of individual matters not as a purely internal organisational vote, but as administrative proceedings in which the person concerned has procedural rights.

## 7. Notification of the initiation of administrative proceedings

A separate body of Supreme Court case law concerns parts one and three of Article 49 of the Law of Ukraine “On Administrative Procedure”. Part one of this Article establishes the duty of an administrative authority to notify the addressee and interested persons of the initiation of administrative proceedings. Where the addressee or interested person is unknown, the administrative authority must use a special method of notification that ensures the greatest possible openness of the proceedings. Part three of Article 49 provides for the right of a person whose right, freedom or legitimate interest is affected by the case to apply for the status of an interested person.

In case No. 280/9029/24, the Supreme Court formulated a legal finding on the application of parts one and three of Article 49 of the Law of Ukraine “On Administrative Procedure”: where an administrative act is individual in nature but the addressee or interested person is unknown, this does not preclude the conduct of administrative proceedings; the administrative authority must ensure notification of the initiation of the proceedings in the manner prescribed by law, and a person whose right, freedom or legitimate interest is affected by the case may apply for the status of an interested person.

The substance of the case concerned a challenge to a decision of the Executive Committee of Zaporizhzhia City Council on eliminating the consequences of a violation of municipal improvement and public-space rules. The local self-government body acted in circumstances where the owner or user of the object had not been reliably identified. The Supreme Court did not deny that the administrative authority could act in such circumstances, but emphasised that the procedure must be adapted to the situation of an unknown addressee.

In this case, the Supreme Court found that, where it was objectively impossible to identify a specific addressee, placing information on the authority’s official website complied with the requirements of Article 49 of the Law of Ukraine “On Administrative Procedure”. The judgments of the lower courts were quashed and the claim was dismissed.

The practical significance of this position is that a local self-government body may not rely on the fact that the owner or user of an urban amenities object is unknown as a ground for effectively dispensing with administrative procedure. At the same time, this position also protects the public interest, since it allows the authority to act in the field of municipal improvement and public-space regulation even where the addressee of the act has not been reliably established, provided that proper notification is ensured and an interested person has the opportunity to join the proceedings.

## 8. Administrative acts, procedural decisions, and warnings on the application of enforcement measures

The Law of Ukraine “On Administrative Procedure” defines an administrative act in paragraph 3 of part one of Article 2, and a procedural decision in paragraph 10 of part one of Article 2. The case law of the Supreme Court shows that this distinction is not merely theoretical but also has practical significance, since it affects a person’s access to judicial protection, the possibility of challenging a particular expression of public authority, and the determination of the legal consequences for the person concerned.

In case No. 560/8264/24, the Supreme Court distinguished between a procedural decision and an administrative act in proceedings concerning academic integrity. The decision of the Ethics Committee of the National Agency for Higher Education Quality Assurance to submit a matter for consideration by the National Agency was procedural and did not, in itself, resolve the case on the merits. By contrast, the decision of the National Agency finding academic plagiarism already had an independent impact on the rights and interests of the person concerned and could therefore be subject to judicial review.

Of particular importance is the Supreme Court’s judgment of 31 March 2026 in case No. 380/841/25. In that case, the claimant challenged a demand issued by the Department of Natural Resources, Construction and Community Development of Lviv City Council for the voluntary dismantling of an outdoor dining terrace. The Supreme Court distinguished between an administrative act, a procedural decision, and a warning on the application of enforcement measures. The Court relied on paragraph 3 of part one of Article 2 of the Law of Ukraine “On Administrative Procedure”, which defines an administrative act, and paragraph 10 of part one of Article 2 of that Law, which defines

a procedural decision. At the same time, the Court applied Articles 93, 95, 98 and 100 of the Law of Ukraine “On Administrative Procedure” and concluded that a demand by an executive body of a local council for voluntary dismantling, preceding an order for compulsory dismantling, is, by its legal nature, a warning on the application of enforcement measures within the meaning of Article 98 of that Law.

Such a demand is not a neutral informational letter, since it sets a time limit for voluntary compliance, warns of possible compulsory consequences, and affects the person’s property and business interests. Therefore, in light of part one of Article 18, parts one and three of Article 78, and part three of Article 100 of the Law of Ukraine “On Administrative Procedure”, it must be open to challenge if it adversely affects the rights, freedoms or legitimate interests of the person concerned.

The Court also noted that, after the entry into force of the Law of Ukraine “On Administrative Procedure”, a permit document for an outdoor dining terrace, by its legal nature, corresponds to the characteristics of an administrative act of a local self-government body in the field of urban amenities.

In that judgment, the Supreme Court proceeded from the actual legal impact of the challenged document on the person concerned. For the purpose of determining whether a document may be challenged, what matters is not the name of the document or its formal place in the procedure, but whether it creates legally significant consequences for the person, sets a time limit for changing conduct, warns of compulsory measures, or otherwise affects the person’s property or business sphere. Accordingly, the formal classification of the demand as a warning does not, in itself, deprive it of the significance of an act capable of being subject to effective judicial review.

In the same case, the Supreme Court applied part three of Article 6 of the Law of Ukraine “On Administrative Procedure” concerning the lawfulness of the exercise of discretionary powers, parts one and two of Article 11 of that Law concerning proportionality, and part three of Article 11 concerning the exercise of discretionary powers for the purpose for which they were conferred. The Court drew attention to the need to verify whether the demand for complete dismantling was proportionate to the violation identified and whether that violation could have been remedied by less burdensome means. The practical significance of this position lies in establishing a balance between the community’s interest in regulating public space and the private interest of the person concerned in protecting property and business activity against disproportionate interference.

## **9. Bringing an administrative act to the attention of the person concerned**

The Supreme Court’s position on bringing an administrative act to the attention of the person concerned is of practical significance for administrative authorities. In case No. 420/31843/24, which concerned the dismantling of an advertising structure, the Supreme Court applied part four of Article 75 of the Law of Ukraine “On Administrative Procedure”. Under that provision, where the time of receipt of an administrative act sent by post, e-mail or transmitted by other means of telecommunication has not been recorded, the act is deemed to have been brought to the person’s attention on the fifth calendar day following the day on which it was sent by the administrative authority, except where the administrative act did not reach the person or reached the person later.

The Supreme Court formulated the practical conclusion that evasion of receipt of postal correspondence cannot serve as a basis for finding that the person to whom the correspondence was addressed was unaware of it. This position is significant not only for the field of outdoor advertising, but also for all administrative proceedings in which a person seeks to rely on lack of awareness of an act while failing to prove that the administrative authority acted improperly in sending or bringing the act to that person’s attention.

For the private interest, this position ensures the predictability of the consequences of administrative proceedings: a person has the right to proper notification, but may not abuse an unwillingness to receive correspondence. For the public interest, it ensures the enforceability of administrative acts, the stability of administrative activity, and prevents public administration from being blocked by artificial avoidance of communication with an administrative authority.

## 10. Effective legal remedies and access to the administrative court

**Article 18 of the Law of Ukraine “On Administrative Procedure” has independent significance for the case law of the Supreme Court as a provision guaranteeing effective legal remedies. It does not regulate a person’s right to participate in administrative proceedings; that matter is covered by Articles 17 and 54 of the Law. Instead, Article 18 guarantees a person’s right to challenge decisions, actions or inaction of an administrative authority through administrative appeal procedures and before a court**

In case No. 520/25213/25, the Supreme Court proceeded from the position that a person whose right or legitimate interest is adversely affected, or may be adversely affected, by an administrative act is an interested person within the meaning of paragraph 2 of part one of Article 27 of the Law of Ukraine “On Administrative Procedure”. The challenged order of the National Energy and Utilities Regulatory Commission was addressed to a third party, but required that party to initiate the termination of contracts with the claimant and could therefore directly and adversely affect the claimant’s rights. The Supreme Court applied Articles 78 and 80 of that Law, under which the right of appeal is not limited solely to the addressee of the administrative act.

The respondent argued that the dispute in fact concerned private-law contracts for the supply and sale of electricity. However, the Supreme Court proceeded from the position that the subject matter of the dispute was precisely an act of a public authority that could directly affect the rights and legitimate interests of a person, even if its implementation was connected with contractual relations between an electricity consumer and supplier.

This position is important for distinguishing administrative jurisdiction from private-law jurisdiction. The presence of private-law contracts among the factual circumstances of a dispute does not change the nature of a challenge to an administrative act where it is the authoritative order of the regulator that affects the person’s legal position. For the private interest, this means the possibility of effectively challenging a public-authority decision. For the public interest, it ensures judicial control over regulatory acts affecting the functioning of the energy market.

In case No. 320/18939/24, the Supreme Court emphasised that the constitutional principle of access to justice entails not only the formal possibility of applying to a court, but also the real capacity of a person to obtain effective judicial protection. Artificial restriction of the jurisdiction of administrative courts may lead to a situation in which a person is deprived of the possibility to challenge decisions of state authorities or local self-government bodies. In the context of the Law of Ukraine “On Administrative Procedure”, this approach is consistent with part one of Article 1, paragraph 3 of part one of Article 2, and Article 18, since the matter concerns an individual public-authority decision that affects a person’s rights and must be open to effective administrative or judicial challenge.

The Supreme Court applied similar reasoning in case No. 140/14817/24, which concerned actions of public authorities and an order in the field of registration of the statute of a religious organisation. At the same time, the Court expressly noted that the Law of Ukraine “On Administrative Procedure” was not in force at the time when the disputed legal relations arose. However, that Law further consolidated and systematised the approach according to which a person’s interaction with a public authority in relation to the exercise of his or her rights may constitute an administrative procedure, and the relevant decisions may qualify as administrative acts. Accordingly, the significance of this judgment for the present Review lies not in the direct application of the Law to the disputed relations, but in confirming the public-law nature of such relations and the person’s access to an administrative court.

In case No. 260/4753/24, the Supreme Court recognised as a public-law dispute a challenge to the inaction of the executive committee of a city council in the procedure for enabling a person with a war-related disability to exercise the right to free-of-charge major repairs of housing. The Court linked this conclusion to the concepts of an administrative case and an administrative act as defined in Articles 1 and 2 of the Law of Ukraine “On Administrative Procedure”, noting that the inaction of an administrative authority which results in the non-realisation of a person’s right may be challenged before an administrative court.

## **11. Judicial review and the limits of administrative appeal in the field of state registration**

The provisions of the Law of Ukraine “On Administrative Procedure” concerning judicial challenge to an administrative act and the limits of the exercise of supervisory powers by an administrative authority are of particular importance in cases concerning orders of the Ministry of Justice of Ukraine adopted following the examination of complaints in the field of state registration.

In this respect, the judgment of 19 December 2025 in case No. 260/1805/24 is of central importance.

The subject matter of the dispute in case No. 260/1805/24 was an order of the Ministry of Justice of Ukraine adopted following the examination of a complaint in the field of state registration of property rights. The Supreme Court classified such an order as an individual administrative act adopted in the exercise of public-authority management functions in the field of control over state registration. The Court directly took into account Article 89 of the Law of Ukraine “On Administrative Procedure”, which provides for the judicial procedure for invalidating an unlawful administrative act, and concluded that the dispute fell within administrative jurisdiction.

The practical significance of this position lies in strengthening guarantees of judicial review over decisions of administrative appeal bodies. For private individuals, local self-government bodies and other interested entities, it means that orders of the Ministry of Justice of Ukraine in the field of state registration are not internal or technical acts, but may have independent significance for a person’s legal position. For the public interest, this position ensures a balance between the prompt correction of registration violations and the need for judicial control over interference with the property sphere.

In case No. 140/10644/24, the Supreme Court applied part three of Article 6 of the Law of Ukraine “On Administrative Procedure” concerning the lawfulness of discretionary powers, part three of Article 11 of that Law concerning the use of powers for the purpose for which they were conferred, and part one of Article 16 concerning the duty to establish the circumstances relevant to the resolution of the case. The Supreme Court emphasised that the purpose of conferring powers on the Ministry of Justice of Ukraine to examine complaints in the field of state registration is to ensure the lawfulness of the registration procedure, not to resolve disputes concerning ownership of property.

This line of case law is complemented by the judgment of 9 October 2025 in case No. 320/48137/23, in which the Supreme Court considered an order of the Ministry of Justice of Ukraine adopted following a complaint by the Security Service of Ukraine concerning registration actions relating to the ultimate beneficial owners of legal entities as an administrative act capable of being subject to administrative judicial review. This case also highlights the importance of a person’s right to participate in the complaint examination procedure and to be properly notified of its consideration.

This approach has practical significance for participants in registration relations. It simultaneously requires the Ministry of Justice of Ukraine to act actively, carefully and comprehensively in establishing the circumstances, while also restraining the administrative authority from assuming judicial functions. Such a balance corresponds to the principle of legality provided for in Article 6 of the Law of Ukraine “On Administrative Procedure”, the principle of using powers for their proper purpose, and the principle of ex officio examination.

## **12. Proportionality of administrative acts and sanctions**

The principle of proportionality, enshrined in Article 11 of the Law of Ukraine “On Administrative Procedure”, is one of the key criteria of judicial review of administrative acts. An administrative authority must ensure the necessary balance between the adverse consequences for a person’s right, freedom or legitimate interest and the objectives pursued by the administrative act, while the negative consequences for the person and for public interests must be the least burdensome possible.

In case No. 120/13093/23, concerning a fine imposed by the National Energy and Utilities Regulatory Commission, the Supreme Court, applying the principles of proportionality and reasoned decision-making, took into account part two of Article 11 of the Law of Ukraine “On Administrative Procedure”. The Court proceeded from the position that an administrative act must be adopted in compliance with the necessary balance between the adverse

consequences for a person's right, freedom or legitimate interest and the objectives pursued by the administrative act, while the negative consequences for the person and for public interests must be minimised.

This position is relevant to all proceedings in which an administrative authority imposes sanctions. The mere existence of a violation does not, in itself, release the authority from the duty to give reasons for the type and amount of the sanction, to assess the nature of the violation, its consequences, the conduct of the person concerned, the presence or absence of harm, and the compatibility of the chosen measure with the purpose of administrative intervention. For the private interest, this provides protection against excessive punishment. For the public interest, it guarantees that the sanctions policy of administrative authorities is not punitive and automatic, but lawful, predictable and aimed at achieving a legitimate objective.

In case No. 380/841/25, discussed in more detail in section 8 of this Review, the principle of proportionality acquired the significance of an independent standard for reviewing not only the lawfulness of the interference, but also the intensity of the measure chosen by the administrative authority. For local self-government bodies, this means a duty to assess whether the chosen measure corresponds to the nature of the violation identified, whether it is necessary to achieve a legitimate aim, and whether there is a less burdensome way to remedy the violation in the fields of urban amenities, the placement of temporary structures, outdoor dining terraces, advertising structures and other objects in public space.

### 13. The materiality of a procedural violation and part three of Article 87 of the Law of Ukraine "On Administrative Procedure"

One of the most important trends in the Supreme Court's case law is the development of a balanced approach to the consequences of violations of administrative procedure. The Supreme Court does not equate every procedural violation with the automatic unlawfulness of an administrative act. At the same time, the Court does not devalue procedural guarantees. The key criterion is whether the violation of administrative procedure affected, or could have affected, the lawfulness of the resolution of the case on the merits.

In case No. 160/7445/25, the Supreme Court formulated one of its clearest findings on the application of part three of Article 87 of the Law of Ukraine "On Administrative Procedure": a violation by an administrative authority of the procedure prescribed by law does not render an administrative act unlawful if it did not affect, and could not have affected, the lawfulness of the resolution of the case on the merits. In a dispute concerning a decision of the state architectural and construction control authority, the Court emphasised that an urban development entity may not rely solely on formal procedural defects without refuting the substance of the established violation. Courts must verify whether procedural defects were material and whether they could objectively have affected the establishment of the facts and the content of the decision.

A similar approach was applied in case No. 440/14639/24 concerning the cancellation of certificates of internally displaced persons. The Supreme Court proceeded from the position that an administrative authority must ensure that the person has an opportunity to be heard, to participate in the procedure and to submit explanations and evidence. At the same time, the Court stated that a violation of individual procedural requirements may constitute a ground for declaring a decision unlawful only if such a violation led, or could have led, to the incorrect resolution of the case on the merits.

This approach is of fundamental importance for the development of administrative law. It demonstrates that the Law of Ukraine "On Administrative Procedure" is not an instrument for the formal invalidation of administrative acts on the basis of trivial procedural flaws. Its purpose is to ensure a fair, reasoned, proportionate and properly motivated resolution of an administrative case. At the same time, material violations that deprive a person of a genuine opportunity to participate, affect the establishment of the facts, or may alter the content of the decision may constitute grounds for declaring an administrative act unlawful, in accordance with their impact on the lawfulness of the resolution of the case on the merits.

## **14. Legal certainty, completed administrative proceedings, and the stability of an administrative act**

In case No. 280/3308/23, the Supreme Court formulated an important position concerning the completion of administrative procedure and the stability of a person's legal position. The subject matter of the dispute was the payment of a lump-sum monetary benefit. The Supreme Court stated that the conclusion regarding the completion of the administrative procedure for exercising a person's right to receive a lump-sum monetary benefit is consistent with paragraph 4 of part one of Article 2 of the Law of Ukraine "On Administrative Procedure", which defines administrative proceedings as a set of procedural actions and procedural decisions that ends with the adoption and, where necessary, the enforcement of an administrative act. The Court also applied Articles 87 and 88 of the Law concerning the lawfulness of an administrative act and the possibility of withdrawing a lawful administrative act due to a change in the law or a substantial change in factual circumstances.

The practical significance of this position lies in the protection of a person's legitimate reliance on completed administrative proceedings. Where a person has exercised a right under the regulation in force at the relevant time and the proceedings were completed by the adoption of the relevant administrative act, a subsequent change in subordinate legislation should not automatically worsen that person's position without compliance with the conditions laid down in the Law of Ukraine "On Administrative Procedure". For the private interest, this is a guarantee of the stability of an acquired legal position. For the public interest, it ensures trust in administrative acts and the predictability of public administration.

## **15. The narrowing of discretion and the public-law nature of disputes in related categories of cases**

A separate group consists of cases in which the Supreme Court applies the provisions of the Law of Ukraine "On Administrative Procedure" to determine the limits of an administrative authority's discretion and to confirm the public-law nature of disputes arising in related fields of state registration, land relations, subsoil use and occupational safety.

In case No. 480/3555/24, concerning the registration of a declaration of conformity of the material and technical base with occupational safety legislation, the Supreme Court proceeded from the position that, where a declaration submitted by a person complies with the requirements of the law, requiring the administrative authority to register it does not constitute judicial interference with discretionary powers. In such circumstances, discretion is absent or is narrowed to a single lawful decision — carrying out the registration action. This approach is consistent with the principle of legality laid down in Article 6 of the Law of Ukraine "On Administrative Procedure" and with the presumption of lawfulness of a person's actions and claims enshrined in Article 15 of that Law.

In case No. 320/46140/24, the Supreme Court stated that state registration of works and studies related to geological exploration of subsoil requires an assessment of its legal nature and its consequences for the rights of other subsoil users. Such a registration action cannot be treated as purely technical if it creates the official basis for obtaining a special permit and affects the legitimate interests of another person.

The Supreme Court's judgments in cases Nos. 480/5652/24 and 520/34082/23 are of particular significance for determining the jurisdiction of disputes. In case No. 480/5652/24, the Supreme Court, having regard to Articles 18, 71, 76, 77, 79 and 100 of the Law of Ukraine "On Administrative Procedure", formulated the conclusion that, as a general rule, disputes concerning decisions of administrative authorities adopted following the examination of applications within an administrative procedure fall to be examined by administrative courts. The Court applied a similar approach in case No. 520/34082/23. Accordingly, the presence of a property or land-related element in a dispute does not, in itself, alter its public-law nature if what is being challenged is an administrative act or an action of an administrative authority carried out within an administrative procedure.

## CONCLUSIONS

The Supreme Court treats the Law of Ukraine “On Administrative Procedure” as a general legislative standard of good public administration in cases falling within its scope. Part one of Article 1 of this Law is used to determine that the interaction of an administrative authority with a person in the process of resolving an individual case must take place in procedural form and must end with the adoption and, where necessary, the enforcement of an administrative act.

Under part four of Article 6 of the Law of Ukraine “On Administrative Procedure”, legal findings on the application of legal provisions set out in Supreme Court judgments are binding on all administrative authorities applying the relevant regulatory legal act. Accordingly, the Supreme Court’s case law on this Law is of direct relevance not only to judicial review, but also to day-to-day administrative activity.

The Supreme Court consistently links the Law of Ukraine “On Administrative Procedure” with the criteria of judicial review of the activity of public authorities. A substantive power of an administrative authority is not sufficient in itself; the authority must exercise that power in the manner prescribed by law and in compliance with the principles of legality, reasoned decision-making, proportionality, ex officio examination, and the person’s right to participate in the proceedings.

The Supreme Court’s case law has clarified the content of the principle of reasoned decision-making provided for in Article 8 of the Law of Ukraine “On Administrative Procedure”. An administrative act must be the result of a full establishment of the circumstances, examination of evidence, consideration of the person’s arguments, and a reasoned explanation of why the established facts lead to the relevant legal outcome.

**Article 16 of the Law of Ukraine “On Administrative Procedure” is given an active meaning through the Supreme Court’s case law. The principle of ex officio examination means that an administrative authority is obliged to collect the necessary materials on its own initiative, verify information, use available information resources, and refrain from shifting onto the person the burden of submitting data already held by the State or obtainable by the authority**

The Supreme Court clearly distinguishes between Article 17 and Article 18 of the Law of Ukraine “On Administrative Procedure”. Article 17 concerns the guarantee of a person’s right to participate in administrative proceedings, including the right to be heard. Article 18 concerns the guarantee of effective legal remedies, including the right to challenge decisions, actions or inaction of an administrative authority through administrative appeal or before a court.

In the Supreme Court’s case law, the person’s right to participate in administrative proceedings is understood substantively rather than formally. The person must have a genuine opportunity to submit explanations, comments and evidence, and to be heard before an adverse administrative act is adopted; the administrative authority, in turn, must duly consider such explanations, comments and evidence when making its decision.

The Supreme Court is developing case law according to which administrative acts, procedural decisions and warnings on the application of enforcement measures must be distinguished by reference to their actual legal consequences for the person concerned. If a demand, warning or other document creates legally significant consequences for a person or a threat of compulsory intervention, it cannot be excluded from effective judicial review solely because of its title or intermediate character.

The principle of proportionality, provided for in Article 11 of the Law of Ukraine “On Administrative Procedure”, is an independent criterion for reviewing administrative acts, especially in cases concerning sanctions, dismantling, suspension of licences, or the termination or alteration of a person’s legal status. An administrative authority must justify that the necessary balance has been struck between the adverse consequences for a person’s right, freedom or legitimate interest and the objectives of the administrative act, and that the negative consequences for the person and for public interests are the least burdensome possible.

The Supreme Court consistently limits the discretion of an administrative authority where the law and the established circumstances leave only one lawful course of action. In such cases, requiring the administrative authority to adopt a positive decision or carry out a registration action does not constitute judicial encroachment upon administrative discretion, but a means of restoring the lawfulness of administrative proceedings.

The Supreme Court is developing a balanced approach to the consequences of violations of administrative procedure. Having regard to part three of Article 87 of the Law of Ukraine “On Administrative Procedure”, a violation of administrative procedure does not render an administrative act unlawful if it did not affect, and could not have affected, the lawfulness of the resolution of the case on the merits. Courts must assess whether the procedural violation affected, or could have affected, the correctness of the resolution of the case on the merits, the establishment of the facts, and the content of the administrative act.

The Supreme Court’s case law demonstrates an evolution from the general use of principles of good administration to the direct application of specific provisions of the Law of Ukraine “On Administrative Procedure”. In earlier cases, the Court relied mainly on constitutional and procedural criteria of legality, reasoned decision-making and proportionality. After the Law entered into force, these standards received clear normative expression and began to be applied directly in cases concerning state registration, energy regulation, urban amenities, social protection, education, urban development control, administrative appeals and digital administration.

The judgments analysed show the formation of a system of practically significant approaches by the Supreme Court to the application of the provisions of the Law of Ukraine “On Administrative Procedure”. This case law is important not only for administrative courts, but also for administrative authorities and other entities whose activities fall within the scope of this Law, since it establishes standards of proper administrative proceedings, the reasoning of administrative acts, proportionate interference, effective administrative and judicial protection, responsible use of discretionary powers, and respect for the rights of the person in relations with public administration.

## Author’s Note

This Review is an authorial informational and analytical work and does not constitute an official review or an official position of the Supreme Court. It has been prepared on the basis of an analysis of Supreme Court judgments in which certain provisions of the Law of Ukraine “On Administrative Procedure” were applied or interpreted. The generalisations set out in this Review reflect the legal approaches of the Supreme Court within the subject matter of cassation review in the relevant cases and are not a substitute for reading the full texts of the judicial decisions. The assessments of the practical significance of these approaches for the private and public interest are the author’s own generalisations.

### Original Publication and Translation Note

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The present English version has been prepared for an international legal audience. The translation preserves the substance, structure and legal conclusions of the original Ukrainian text, while adapting certain terminology for clarity and readability for English-speaking lawyers, including lawyers from the European Union.

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46. The research concept, legal interpretation of sources, assessment of judicial practice, scholarly conclusions, and final version of the text belong to the author. All outputs obtained with the assistance of artificial intelligence tools were verified, critically assessed, and either accepted or rejected by the author.

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