



Moroz Svitlana

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Moroz Svitlana,
PhD in Law, Attorney
Attorneys Association Dictum Law Company
Kyiv, Ukraine
ORCID <https://orcid.org/0009-0009-0499-3170>
e-mail: moroz@dictum.ua

Riabchenko Olena,
Doctor of Law, Professor,
Head of the Department of Administrative Law, Process and Customs Security,
State Tax University
Irpina, Kyiv region, Ukraine
ORCID <https://orcid.org/0000-0001-6631-2830>
e-mail: 80677171865@ukr.net

Renewal of terms in the course of the administrative proceeding as the court's discretionary powers

Abstract. The article studies scientific and professional approaches to defining the concept of discretionary powers. Additionally, to define this concept, legal regulations of the European Union have been considered. To analyze the definition for discretionary powers in the administrative proceeding, the authors use the practices of the European Court of Human Rights and the national court, specifically the Supreme Court as part of the Cassation Administrative Court.

In this scientific research, the domestic legislation concerning the legal nature of courts' discretionary powers in administrative proceedings has been analyzed. Procedural law norms are studied in terms of legal regulation of terms in an administrative proceeding, consequences of their omission for a party, and the mechanism for their renewal are considered.

The courts' discretionary powers to renew terms during administrative proceedings are outlined. The understanding of the practical implementation of the court's discretionary powers during the renewal of procedural terms in the course of an administrative proceeding is studied, and the practical problematics of the mentioned subject matter is analyzed through the prism of the established national judicial practice.

Key words: public-law dispute, administrative proceeding, procedural terms, court's powers, discretionary powers, justice, rights protection.

Research Problem Formulation. Currently in Ukraine, the judicial system is still undergoing reforms, where administrative proceedings, without exaggeration, can be considered one of the primary means of protecting rights and interests of natural persons and legal entities in the area of public-law relations from violations by authorities. This protection should take place "...through fair, unbiased, and timely consideration of cases"¹. Improving administrative procedure in Ukraine will contribute to: introduction of additional guarantees for natural persons and legal entities for a fair trial; overcoming the fragmentation of the judiciary; ensuring optimization and unification of judicial procedures by both ordinary and specialized courts at all stages and at all levels in accordance with European standards². To uphold

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Declaration of Competing Interest

The author declare that they have no conflict of interest.

¹ Литвин Н. А., Ярош А.О. Адміністративне судочинство як основний засіб захисту прав та інтересів фізичних і юридичних осіб у сфері публічно-правових відносин. *Наше право*. 2020. № 1. С. 22.

² Там само. С. 27.



Moroz Svitlana,
Riabchenko Olena

RENEWAL OF TERMS
IN THE COURSE OF
THE ADMINISTRATIVE
PROCEEDING AS THE COURT'S
DISCRETIONARY POWERS

the above-mentioned provisions, it is advisable to consider the issue of the practical implementation of the court's discretionary powers, which directly affect the fair, unbiased, and timely consideration of cases. Furthermore, it should be stressed that the relevance of the research topic arises from the absence of a legislative definition concerning the grounds and conditions for renewing missed terms in administrative proceedings. There is a need for scientific and practical research regarding the court's practical exercise of discretionary powers during renewal of procedural terms, identification of challenges, and ways to address them.

Analysis of Essential Researches and Publications: The issue of the court's discretionary powers was studied by: O. H. Kryzhova in the scientific article *Discretionary powers of the court in the context of the rule of law*; A. S. Ulasevych in the research *Manifestation of the "spirit" of law in the court's discretionary powers*; M. Onishchuk in the research paper *On the issue of judicial control over the discretion of the authority*; N. A. Lytvyn and A. O. Yarosh in the research paper *Administrative proceedings as the primary means of protecting the rights and interests of natural persons and legal entities in public-law relations*.

The Article Purpose is to define the concept of the court's discretionary powers, to shape the understanding of the practical implementation of these powers during the renewal of procedural terms in the course of the administrative proceeding, and to single out practical issues.

Main Content Presentation.

In recent years, the debate among scholars and practicing lawyers regarding the renewal of procedural terms within the framework of administrative proceedings, and especially the renewal of terms for appeals to the court, has not subsided.

This debate has become even more contentious with the onset of quarantine measures and the declaration of martial law throughout Ukraine. It is because some natural persons and business entities lacked the objective means for appealing to the court to protect or restore their rights.

The contentious nature of the issue of renewing terms in an administrative proceeding is specifically linked to the fact that the renewal of terms falls under the court's discretionary powers.

Below we will consider what the concept of court's discretionary powers means and the problematic aspects of their implementation during term renewal.

In accordance with Article 19 of the Constitution of Ukraine, bodies of state power and bodies of local self-government and their officials are obliged to act only on the grounds, within the limits of authority, and in the manner envisaged by the Constitution and the laws of Ukraine³.

As stipulated in Article 125 of the Constitution of Ukraine, administrative courts operate to protect the rights, freedoms, and interests of persons in the realm of public-law relations⁴.

Article 19 of the Code of Administrative Proceedings of Ukraine (hereinafter referred to as the CAP of Ukraine) sets out that the jurisdiction of administrative courts extends to cases in public law disputes⁵.

Thus, administrative courts must operate solely within the bounds of their authority and in the manner defined by the legislation with the aim of protecting rights and interests of persons in the realm of public-law relations as a result of which a dispute has arisen.

The problematics of the topic of Renewal of terms in the course of the administrative proceeding as a discretionary power of the court is due to the absence of a legal definition for the grounds and conditions of renewing missed terms, the need for scientific and practical research concerning the practical implementation of courts' discretionary powers during term renewal, and the identification of specific problems with their potential solutions.

The Article Purpose is to define the concept of the court's discretionary powers, to form an understanding of the practical implementation of the court's discretionary powers during the renewal of procedural terms in the course of administrative proceedings, as well as to single out practical issues.

We have determined that the courts' discretionary powers regarding term renewal stem from their authority to decide, at their discretion, both the issue of renewing the procedural term and whether the parties truly have had valid reasons for missing it.

It has been concluded that currently the practical implementation of the discretionary powers by the court in terms of renewal of terms is as follows:

1) the court's interpretation of omission of a procedural term by a party as acting in bad faith;

2) the inability by the party to prove validity of reasons for omission on the basis of the criteria established by judicial practice:

- objectively insurmountable circumstances;
- circumstances that are beyond the party's control;
- real obstacles and difficulties;

3) the party's inability to substantiate the validity of reasons for omitting the procedural term with an adequate body of evidence.

4) determination by the court of term renewal as a breach of legal certainty.

At present, to address the outlined challenges in the practical implementation of discretionary powers when renewing procedural terms in administrative proceedings, we see a solution in the for-

³ Конституція України: Закон України від 28.06.1996 № 254к/96-ВР: URL <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>

⁴ Кодекс адміністративного судочинства України – Закон України від 06.07.2005 № 2747-IV: URL <https://zakon.rada.gov.ua/laws/show/2747-15#Text>

⁵ Там само.



mation by the Supreme Court of a sustainable judicial practice. It includes establishing a unified approach to handling such cases and embedding a standardized interpretation of the grounds for renewing procedural terms in judicial practice. The development of a sustainable judicial practice by the Supreme Court will prevent courts of other instances from interpreting and applying grounds for term renewal in an ambiguous manner.

**Moroz Svitlana,
Riabchenko Olena**

**RENOUVELLEMENT
DES MANDATS DANS
L'ORDRE DES PROCÉDURES
ADMINISTRATIVES EN
TANT QUE POUVOIR
DISCRÉTIONNAIRE DU
TRIBUNAL**

Texte du résumé. L'article examine les approches scientifiques et professionnelles de la définition du concept de « pouvoirs discrétionnaires », et examine également les actes juridiques normatifs de l'Union européenne pour définir ce concept. Pour analyser la définition des « pouvoirs discrétionnaires dans les procédures administratives », les auteurs utilisent la pratique de la Cour européenne des droits de l'homme et la pratique du tribunal national, à savoir la Cour suprême dans le cadre de la Cour administrative de cassation.

Cette étude scientifique analyse la législation nationale concernant la nature juridique des pouvoirs discrétionnaires des tribunaux dans les procédures administratives. Les normes du droit procédural en matière de réglementation légale des délais dans les procédures administratives, les conséquences de leur omission pour la partie et le mécanisme de renouvellement sont étudiés.

Le renouvellement des mandats dans le cadre d'une procédure administrative est considéré comme un pouvoir discrétionnaire des tribunaux. La compréhension de la mise en œuvre pratique des pouvoirs discrétionnaires du tribunal lors du renouvellement des délais de procédure dans l'ordre d'exécution des procédures administratives est étudiée, les problèmes pratiques de la question mentionnée sont analysés à travers le prisme de la pratique judiciaire nationale établie.

L'objectif de l'article est de définir la notion de pouvoir discrétionnaire du tribunal, de comprendre la

Article 118 of the CAP of Ukraine envisages that terms within which procedural actions are taken are defined by the law, and if not specified by the law, they are determined by the court. Article 121 of the CAP of Ukraine outlines the procedure for the renewal and extension of procedural terms. As detailed in Part 1 of Article 121 of the CAP of Ukraine, a term set by the law can be renewed by the court upon the application of a person, whereas a term set by the court can be extended⁶. In this article, we specifically consider the court's discretionary powers during the renewal of terms defined by the law, as this topic sparks debates and demands attention from scholars. The controversy of the topic is due to the fact that when renewing a term, which is already established by law and has been breached by one party, the court must adhere to such fundamental principles of administrative proceedings as: reasonableness, impartiality, good faith, and prudence, aiming to prevent the violation of the rights of the other party. Since the current legislation does not specify criteria for reasonableness, impartiality, good faith, and prudence, the court effectively decides on the renewal of terms at its discretion. This becomes a challenging aspect that requires additional research.

In support of the conclusion that the court actually solves the issue of term renewal at its own discretion, we cite the relevant provisions defined by Article 121 of the CAP of Ukraine:

Part 1 of this article stipulates that the court, upon the application of a case party, renews a missed procedural term set by law if it finds the reasons for its omission valid.

According to Part 3, an application for the renewal of a procedural term is considered by the court where the procedural action, for which the term has been missed, is to be taken;

In line with Part 6 on the renewal of a procedural term, the court issues a resolution⁷ on refusal to renew the procedural term.

In conclusion, it should be emphasized that the procedural law defines the following procedure for the renewal of a missed procedural term:

a person who has missed the deadline for a specific procedural action has the right to apply to the court with a request to renew the missed procedural term. Such a request must be submitted along with the procedural document/action for which the term has been missed. The request for term renewal should specify the grounds that objectively led to the missing of such a term, justify the seriousness of reasons for such omission, and if available, provide a corresponding evidence;

the court examines such a request to determine whether there are indeed objective reasons that have led to the term dismissal, and whether these reasons are valid (or serious);

as a result of considering the request, the court should issue a resolution specifying which specific valid (or serious) reasons it agrees with.

It is worth noting that the court can renew procedural terms set by law for parties to take certain procedural actions, in particular:

- filing a lawsuit with the court. It is necessary to note that the CAP of Ukraine (Article 122) defines general terms for filing to the court. Moreover, special terms can be set by other legal regulations (for instance, Articles 56 and 122 of the Tax Code of Ukraine establish special terms for appealing tax notices-rulings).
- submission of evidence (Article 79 of the CAP of Ukraine);
- filing a counterclaim (Article 177 of the CAP of Ukraine);
- intervention of a third party in a case (Article 49 of the CAP of Ukraine);
- submission of evidence to confirm incurred court expenses (Part 3 of Article 143 of the CAP of Ukraine);

⁶ Кодекс адміністративного судочинства України – Закон України від 06.07.2005 № 2747-IV: URL <https://zakon.rada.gov.ua/laws/show/2747-15#Text>

⁷ Там само.

- filing an application for the adoption of an additional court decision (Article 252 of the CAP of Ukraine);
- submission of an application for clarification of a court decision (Article 254 of the CAP of Ukraine);
- submission of a motion for consideration of a case according to the rules of a simplified action proceeding (Article 259 of the CAP of Ukraine);
- submission of a withdrawal in a case is considered according to the rules of a simplified action proceeding (Article 261 of the CAP of Ukraine);
- filing an appeal (Article 295 of the CAP of Ukraine);
- joining the appeal (Article 302 of the CAP of Ukraine);
- supplementing, amending, withdrawing an appeal or abandoning it (Article 303 of the CAP of Ukraine);
- filing a cassation appeal (Article 329 of the CAP of Ukraine);
- submission of an application for judicial supervision over the execution of a court decision (Articles 382, 287 of the CAP of Ukraine), etc.

After analyzing the procedure for renewing established terms by the court, we can conclude that the court's discretionary powers in this procedural action are rooted in the following:

firstly, the law does not specify the criteria by which the court recognizes reasons for missing the established term;

secondly, the grounds for which the court can consider the reasons for omission to be valid are also not defined;

thirdly, considering the general principles of administrative proceedings and the procedure for adopting a court decision, the court must decide at its discretion whether the reasons were indeed valid and whether there are objective grounds to approve the application and renew the terms, providing a legal justification for its decision.

Thus, when addressing the issue of term renewal, the court exercises its discretionary powers precisely because the law does not specify the boundaries, limitations, and specific reasons for renewing terms, and in this regard, the court acts at its own discretion.

In the Appendix to Recommendation No. R(80)2 of the Committee of Ministers of the Council of Europe dated January 24, 1980, the term discretionary powers is defined as powers that leave an administrative body with a certain degree of freedom regarding the decision that needs to be made, allowing it to choose from several legally acceptable decisions the one it deems most appropriate⁸.

The Order of the Ministry of Justice of Ukraine On the Approval of the Methodology for Conducting Anti-Corruption Examination defines discretionary powers as the collective rights and duties of state authorities and local self-government bodies, persons authorized to perform state or local self-government functions. They grant the authority to determine at one's own discretion, in whole or in part, the type and content of the administrative decision to be made, or the possibility to choose one from several possible administrative decisions, as outlined in a legal regulation or its draft⁹.

Having analyzed the aforementioned definitions of *discretionary powers*, we can indeed ascertain that the renewal of a missed term is a discretionary power of the court. As we previously pointed out, the court independently decides on the renewal of a missed term and is endowed with a certain freedom in this regard since *the law does not stipulate specific conditions under which the court renews a term*, except that the reasons for its omission

mise en œuvre pratique du pouvoir discrétionnaire du tribunal lors du renouvellement des délais procéduraux dans l'ordre des procédures administratives, de mettre en évidence les questions pratiques.

Conclusions. Les pouvoirs discrétionnaires du tribunal concernant le renouvellement du délai de procédure sont tels et sont nés du fait que le tribunal, à sa propre discrétion, décide de la question du renouvellement du délai de procédure et de la question de savoir si les parties avaient réellement de bonnes raisons de manquer le délai de procédure. Dans le même temps, malgré le fait qu'il n'existe aucune restriction légale au renouvellement des mandats, le tribunal considère la question du renouvellement des mandats sur la base du fait que ces pouvoirs sont encore limités précisément par « l'importance des motifs des mandats ». À la suite de l'analyse ci-dessus de la pratique judiciaire, nous pouvons tirer une conclusion concernant la mise en œuvre pratique des pouvoirs discrétionnaires du tribunal en matière de renouvellement des mandats :

1) l'interprétation par les tribunaux du manquement au délai procédural par une partie comme un comportement malhonnête ;

2) Incapacité de la partie à prouver le bien-fondé des motifs de l'omission selon les critères de la pratique judiciaire établie :

- les circonstances objectivement insurmontables ;

- des circonstances qui ne dépendent pas de la volonté de la partie ;

- les obstacles et difficultés réels ;

3) l'impossibilité pour la partie au processus de confirmer la validité des raisons du non-respect du délai procédural avec une base probante appropriée ;

4) la détermination par le tribunal du renouvellement du mandat comme violation de la sécurité juridique.

À l'heure actuelle, nous voyons la solution des aspects problématiques soulignés de la mise en œuvre pratique des pouvoirs discrétionnaires lors du renouvellement des délais de procédure dans les procédures administratives à travers le prisme de la formation d'une pratique judiciaire stable par la Cour suprême, la définition d'une approche unifiée de résoudre la catégorie de tels cas et consolider dans la pratique judiciaire une interprétation unifiée des motifs de renouvellement des délais de procédure . La formation d'une

⁸ Додаток до Рекомендації № Р(80)2 Комітету Міністрів Ради Європи від 24 січня 1980 року: URL [https://publicsearch.coe.int/#k=%22R\(80\)2%22%201980#f=%5B%5D](https://publicsearch.coe.int/#k=%22R(80)2%22%201980#f=%5B%5D)

⁹ Про затвердження Методології проведення антикорупційної експертизи — Наказ Міністерства юстиції України від 24.04.2017 № 1395/5: URL <https://zakon.rada.gov.ua/laws/show/v1395323-17#Text>

pratique judiciaire stable à la Cour suprême empêchera les tribunaux d'autres instances d'interpréter et d'appliquer de manière ambiguë les motifs de renouvellement des délais de procédure manqués.

Mots-clés: contentieux public, procédure administrative, modalités procédurales, pouvoirs judiciaires, pouvoirs discrétionnaires, justice, protection des droits.

Moroz Svitlana,
Riabchenko Olena

ERNEUERUNG VON FRISTEN IN DER REIHENFOLGE VON VERWALTUNGSVERFAHREN ALS ERMESSENSBEFUGNIS DES GERICHTS

Der Artikel untersucht wissenschaftliche und professionelle Ansätze zur Definition des Begriffs „Ermessensbefugnisse“ und untersucht auch die normativen Rechtsakte der Europäischen Union zur Definition dieses Begriffs. Um die Definition von „Ermessensbefugnissen in Verwaltungsverfahren“ zu analysieren, ziehen die Autoren die Praxis des Europäischen Gerichtshofs für Menschenrechte und die Praxis des nationalen Gerichts, nämlich des Obersten Gerichtshofs als Teil des Kassationsverwaltungsgerichts, heran.

Diese wissenschaftliche Studie analysiert die innerstaatliche Gesetzgebung hinsichtlich der Rechtsnatur der Ermessensbefugnisse der Gerichte in Verwaltungsverfahren. Es werden die verfahrensrechtlichen Normen zur gesetzlichen Regelung von Fristen im Verwaltungsverfahren, die Folgen ihrer Unterlassung für die Partei und der Verlängerungsmechanismus untersucht.

Die Verlängerung von Fristen im Verfahren eines Verwaltungsverfahrens gilt als Ermessensbefugnis der Gerichte. Es wird das Verständnis der praktischen Umsetzung der Ermessensbefugnisse des Gerichts bei der Erneuerung von Verfahrensfristen in der Reihenfolge der Durchführung von Verwaltungsverfahren untersucht, die praktischen Probleme der genannten Frage werden durch das Prisma der etablierten nationalen Gerichtspraxis analysiert.

Der Zweck des Artikels besteht darin, den Begriff der Ermessensbefugnisse des Gerichts zu definieren, ein Verständnis

must be valid. Additionally, *the criteria for determining the validity of such reasons are also not defined by the law.*

The European Court of Human Rights (ECHR) decision in the case *Ponomaryov v. Ukraine* dated 03.04.2008 (paragraph 47, application No. 3236/03) states that “the court recognizes that the decision on the renewal of the term for appeal falls within the discretionary powers of the national courts; however, such powers are not unlimited. Courts are required to indicate the grounds. However, even then, the possibility of renewal will not be unlimited, as parties should take measures within reasonable time intervals to find out about the status of the known court proceeding. In each case, national courts must verify whether the grounds for renewing the appeal terms justify an intervention in the principle of *res judicata* (author's note: a legal doctrine stemming from Roman law signifying the finality of a court decision that has entered into legal force) ¹⁰, especially as in this case, where the national legislation does not limit the discretionary powers of the courts either in time or in grounds for renewing the terms.” ¹¹

As a result, in the *Ponomaryov v. Ukraine* case, the ECHR concluded that the renewal of terms falls within the discretionary powers of the courts. At the same time, the fundamental approaches to understanding the practical implementation of the discretionary powers studied in this article, which the ECHR formulated in its decision in the *Ponomaryov v. Ukraine* case, began to be quoted and used by national courts when addressing the issue of term renewals, in particular:

- renewal is not unlimited;
- the parties must take measures within reasonable time intervals;
- the parties must ascertain the status of the known court proceeding within a reasonable timeframe;
- courts should verify whether there are grounds for term renewal.

The Cassation Administrative Court as part of the Supreme Court, in its decision dated July 26, 2022, in case No. 640/3437/21, states: “The institution of terms in the administrative proceeding contributes to achieving legal certainty in public-law relations and also encourages participants to act in good faith while performing their duties. These terms limit the time during which such legal relations can be considered disputed; after these terms are completed, if no one has appealed to the court for dispute resolution, the relations become stable.

Only those circumstances that were or are objectively insurmountable, meaning they do not depend on the will of a person who has filed the administrative lawsuit, are recognized as valid reasons for missing the established term. These relate to genuinely significant circumstances, obstacles, or difficulties that have made a timely appeal to the court impossible. Such circumstances must be substantiated with appropriate and relevant evidence.” ¹²

In its decision dated August 12, 2021, in case No. 640/2471/21, the Supreme Court as part of the Cassation Administrative Court, states: “Therefore, the panel of judges considers the conclusions of both the court of first instance and the appellate court to be quite reasonable regarding the absence in the evidence and arguments presented by the plaintiff of a real impossibility to exercise the right to court defense within the term established by procedural law. Efforts to appeal actions or inaction of an authority and to compel it to act after nearly 20 years must be properly justified and

¹⁰ Інтернет ресурс Вікіпедія: URL https://uk.wikipedia.org/wiki/Res_judicata

¹¹ Рішення Європейського суду з прав людини Справа «Пономарьов проти України» 3 квітня 2008 року: URL https://zakon.rada.gov.ua/laws/show/974_434#Text

¹² Постанова Верховного Суду у складі Касаційного адміністративного суду у від 26 липня 2022 року у справі № 640/3437/21: URL <https://reyestr.court.gov.ua/Review/105444315>

documented. This should prove the existence of objectively insurmountable circumstances beyond one's control and genuine valid reasons for the term omission.»¹³

Conclusions. Therefore, the court's discretionary powers regarding the renewal of a procedural term arise from the fact that the court decides at its discretion on the matter of renewing the procedural term as well as on whether the party truly have had valid reasons for missing the established term.

At the same time, despite the fact that there are no legislative restrictions as to term renewals, the court considers the issue of renewing terms based on the understanding that such powers are still limited by "the validity of the reasons for missing established terms".

Stemming from the above-mentioned analysis of judicial practice, we can draw a conclusion regarding the issue of practical implementation of the court's discretionary powers in terms of term renewal:

the court's interpretation of omission of a procedural term by a party as acting in bad faith;

the inability by the party to prove validity of reasons for omission on the basis of the criteria established by judicial practice:

objectively insurmountable circumstances;

circumstances that are beyond the party's control;

real obstacles and difficulties;

the party's inability to substantiate the validity of reasons for omitting the procedural term with an adequate body of evidence.

determination by the court of term renewal as a breach of legal certainty.

At present, to address the outlined challenges in the practical implementation of discretionary powers when renewing procedural terms in administrative proceedings, we see a solution in the formation by the Supreme Court of a sustainable judicial practice. It includes establishing a unified approach to handling such cases and embedding a standardized interpretation of the grounds for renewing procedural terms in judicial practice. The development of a sustainable judicial practice by the Supreme Court will prevent courts of other instances from interpreting and applying grounds for term renewal in an ambiguous manner.

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für die praktische Umsetzung der Ermessensbefugnisse des Gerichts bei der Erneuerung von Verfahrensfristen in der Reihenfolge von Verwaltungsverfahren zu entwickeln und praktische Fragen hervorzuheben.

Schlussfolgerungen. Die Ermessensbefugnisse des Gerichts hinsichtlich der Verlängerung der Verfahrensfrist sind solche und ergeben sich aus der Tatsache, dass das Gericht nach eigenem Ermessen über die Frage der Verlängerung der Verfahrensfrist entscheidet und ob die Parteien tatsächlich gute Gründe für das Versäumen hatten. Gleichzeitig geht das Gericht davon aus, dass die Frage der Verlängerung von Amtszeiten trotz der Tatsache, dass es keine rechtlichen Beschränkungen für die Verlängerung von Amtszeiten gibt, auf der Tatsache beruht, dass diese Befugnisse immer noch gerade durch die „Bedeutung der Gründe für die Amtszeit“ begrenzt sind. Als Ergebnis der obigen Analyse der Gerichtspraxis können wir eine Schlussfolgerung hinsichtlich der praktischen Umsetzung der Ermessensbefugnisse des Gerichts im Hinblick auf die Erneuerung von Amtszeiten ziehen:

1) Die gerichtliche Auslegung des Versäumens der Verfahrensfrist durch eine Partei als unredliches Verhalten;

2) Unfähigkeit der Partei, die Gültigkeit der Gründe für die Unterlassung nach den Kriterien der etablierten Gerichtspraxis nachzuweisen:

- objektiv unüberwindbare Umstände;

- Umstände, die nicht vom Willen der Partei abhängen;

- echte Hindernisse und Schwierigkeiten;

3) Unmöglichkeit der Prozesspartei, die Gültigkeit der Gründe für das Versäumen der Verfahrensfrist mit einer geeigneten Beweisgrundlage zu bestätigen;

4) Feststellung durch das Gericht, dass die Verlängerung der Frist einen Verstoß gegen die Rechtssicherheit darstellt.

Derzeit sehen wir die Lösung der skizzierten problematischen Aspekte der praktischen Umsetzung von Ermessensbefugnissen bei der Erneuerung von Verfahrensfristen in Verwaltungsverfahren durch das Prisma der Bildung einer stabilen gerichtlichen Praxis durch den Obersten Gerichtshof, der Definition eines einheitlichen

¹³ Постанова Верховного Суду у складі Касаційного адміністративного суду у від 12 серпня 2021 року у справі № 640/2471/21: URL <https://reyestr.court.gov.ua/Review/98947383>

Ansatzes Lösung der Kategorie solcher Fälle und Konsolidierung einer einheitlichen Auslegung der Gründe für die Erneuerung von Verfahrensfristen in der Gerichtspraxis. Die Bildung einer stabilen Rechtsprechungspraxis des Obersten Gerichtshofs wird es den Gerichten anderer Instanzen unmöglich machen, die Gründe für die Erneuerung versäumter Verfahrensfristen mehrdeutig auszulegen und anzuwenden.

Schlüsselwörter:
öffentlicher Rechtsstreit,
Verwaltungsverfahren,
Verfahrensfristen,
Gerichtsbefugnisse,
Ermessensspielraum, Justiz,
Rechtsschutz.

Postanova Verkhovnoho Sudu u skladi Kasatsiinoho administratyvnoho sudu u vid 26 lypnia 2022 roku u spravi № 640/3437/21: URL <https://reyestr.court.gov.ua/Review/105444315> [in Ukrainian].

Postanova Verkhovnoho Sudu u skladi Kasatsiinoho administratyvnoho sudu u vid 12 serpnia 2021 roku u spravi № 640/2471/21: URL <https://reyestr.court.gov.ua/Review/98947383> [in Ukrainian].

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