

CODE OF ADMINISTRATIVE PROCEDURE
(clauses related to elections/referenda)

Art 24 Administrative judicial proceedings perform by the panel of judges

1. Administrative cases with subject of complaint on decisions, actions or inaction of the Cabinet of Ministers of Ukraine, ministry or another central executive authority, National Bank of Ukraine, their officials and officer, election commission (referendum commission), a member of this commission shall be considered and decided by district administrative court panel of three judges.

{Part 1 of article 24 with amendments made by the Law # 2181-VI dated 13/05/2010}

2. Administrative cases shall be considered and decided by the district administrative court and by local general court, which acts as administrative court, by the chamber of three judges as well on the request of the judge in case of their complexity.

{Part 2 of article 24 with amendments made by the Law # 1475-VI dated 05/06/2009, # 2453-VI dated 07/07/2010; in edition of the Law # 4054-VI dated 17/11/2011}

3. Review of the judicial award in administrative procedure of appeal instance shall be made by the panel composed of three judges.
4. Review of the judicial award in administrative procedure of cassation instance shall be made by the panel composed of not less than three judges.

{Part 4 of article 24 with amendments made by the Law # 4054-VI dated 17/11/2011}

5. Administrative cases, which fall within the jurisdiction of Kyiv Appeal administrative court as a court of first instance, shall be considered and decided by the panel of three judges.

{Article 24 has been added by new part in accordance with the Law # 2453-VI dated 07/07/2010}

6. Administrative cases, which fall within the jurisdiction of the High Administrative Court of Ukraine as first-instance administrative court shall be considered and decided by the panel composed of not less than five judges.

7. The question on the acceptance of the administrative case to be considered by the Supreme Court of Ukraine shall be decided by the High Administrative Court by the panel of five judges.

{Article 24 has been added by new part in accordance with the Law # 4054-VI dated 17/11/2011}

8. Review of the judicial decisions in administrative cases by the Supreme Court of Ukraine shall be executed collegially.

{A part of article 24 with amendments made by the Law # 2953-IV dated 06/10/2005; in edition of the Law # 2453-VI dated 07/07/2010}

Chapter 6

Evidence

Article 69. Definition of evidence

1. The evidence in administrative proceedings shall be any evidence on which the court determines the presence or absence of circumstances that justify the claims and objections of persons involved in the case and other circumstances relevant for the proper resolution of the case. These data are set by the court based on explanations of the parties, third parties and their representatives, testimony, written and physical evidence, conclusions of experts.
2. Evidence is provided to the court by the persons involved in the case. Court may offer to provide additional evidence or request additional evidence at the request of the persons involved in the case or on its own initiative.

Article 70 Relevance and admissibility of evidence.

1. Relevant is the evidence, which contains information on the subject of proof. Court does not take into consideration the evidence which is not relevant to the subject of proof.
2. Parties have the right to prove relevance of the particular evidence to prove their claims or objections.
3. Evidence obtained in violation of the law is not taken into account by the court while deciding the case.
4. Circumstances which by law must be confirmed by certain means of proof cannot be proved by any other means of proof, unless there is no dispute on such circumstances.

Article 71. The burden of proof.

1. Each party must prove the circumstances on which its claims and objections are based, except as prescribed Article 72 of this Code.
2. In administrative cases concerning the unlawfulness of decisions, actions or inactions of the authority the burden of proof in regard to the legality of their actions or inactions is imposed on the respondent if he objects an administrative claim.
3. If a person who is involved in the case, can't independently provide evidence, it should informed the court about the reasons why these evidence can't be provided, and indicate where they are or could be. Court helps in fulfilling this duty and requests necessary evidence. Court issues the ruling on obtaining the evidence or refusal to request them. The ruling of the court on refusal to request the evidence is not contested. Objections against it may be included in the appeal or cassation appeal the court's decision, taken upon the consideration of the case.

{Part 3 of article 71 with amendments made by the Law #2453-VI dated 07/07/2010}

4. Authorities shall submit to court all available documents and materials that could be used as evidence in the case. In case of failure to do so the court shall request mentioned documents and materials.
5. The court may collect evidence on its own initiative.

6. If a person who is involved in the case, without good cause does not provide evidence upon the request of the court in order to confirm the circumstances to which it refers, the court shall decide the case based on available evidence.

Article 72. Grounds for dismissal of the burden of proof

1. Circumstances established by the court in its decision in administrative, civil or commercial matters, which has come into force, shall not be subject to proof in course of considering other cases which involve the same person or persons in regard to whom these circumstances are established.

2. Circumstances recognized by the court as publicly known do not need to be proven.

3. Circumstances that are recognized by parties may not be proven in the court, if parties do not object it and there is no doubt about the authenticity of these circumstances and voluntariness of recognition.

4. The judgment in a criminal case or decision of the court in case related to the administrative wrongdoing, which has entered into force, shall be binding for the administrative court that hears the case in regard to the legal consequences of the action or inaction of the person against whom the judgment or decision of the court was rendered only with regard to the question whether there has been an act and whether it is committed by that person.

{Part 4 of article 72 with amendments made by the Law # 245-VII dated 16/05/2013}

Article 161. Questions, which are decided by the court, while issuing the decision (resolution).

1. To issue the decision (resolution), court decides:

- 1) whether there were circumstances that justified claims and objections, and what evidence they are confirmed by;
- 2) whether there are other facts, which matter for the resolution of the case and evidence to support them;

{Paragraph 2 of part 1 of article 161 with amendments made by the Law #2453-VI dated 07/07/2010}

- 3) what legal norm should be applied in the regard to these legal relations;
 - 4) whether claim (complaint) should be satisfied or rejected;
 - 5) how to distribute the costs (legal fees) among the parties;
 - 6) whether there is a ground to allow the immediate enforcement of the decision;
 - 7) whether there are grounds to terminate the measures which were imposed to ensure the administrative claim (complaint).
2. To decide what legal norm should be applied in regard to particular legal matters, court is obliged to take into the consideration the conclusions of the Supreme Court of Ukraine, set in the decisions, issued as the result of the judicial review of statements requesting the review of the court decision based on the grounds, prescribed by p.1 part 1 of the Article 237 of this Code.

Article 172. Particularities of proceedings in cases on contesting decisions, actions or omissions of election commissions, referendum commissions, as well as members of those commissions

1. The subjects of the corresponding election process* (except for election commissions) and initiative groups for referendum, as well as other subjects of initiating a referendum shall have the right to contest decisions, actions or inactions of election commissions, referendum commissions, as well as members of those commissions.
2. A voter (a citizen who has the suffrage right in the corresponding elections or referendum) may contest a decision, action or omission of an election commission, a referendum commission, or members of those commissions, if such decision, action or omission infringes his/her personal election rights or interests regarding participating in the election process or referendum process.
3. Decisions, actions or inactions of the Central Election Commission regarding its establishment of the election results or results of an all-Ukrainian referendum, shall be contested to the High Administrative Court. All other decisions, actions or omissions of the Central Election Commission or a member of this Commission shall be contested to the Kyiv Administrative Court of Appeals.

{Part 3 of article 172 in edition of the Law # 1616-VI dated 21/08/2009; with amendments made by the Law # 1699-VI dated 04/11/2009}

4. Decisions, actions or inactions of the election commission of the Autonomous Republic of Crimea, oblast election commissions, rayon, city (including cities of Kyiv or Sevastopol) rayon in the cities election commission for preparation and conduct of local elections; territorial (district) election commissions for preparation and conduct of the elections of the President, members of the Parliament; oblast commissions for referendum and the commission of the Autonomous Republic of Crimea for the all-Ukrainian referendum; as well as members of the mentioned commissions – shall be contested to a district (*okruzhnyi – in Ukr.*) administrative court at the location of the respective commission.

{Part 4 of article 172 in edition of the Law # 161-VI dated 21/08/2009; with amendments made by the Law # 2487-VI dated 10/07/2010, # 2453-VI dated 07/07/2010}

5. Decisions, actions or inactions of election commissions, referendum commissions or members of those commissions – with an exception of decisions, actions or inactions determined by parts three and four of this Article – shall be contested to the local general court as an administrative court at the location of the respective commission.
6. Complaints on decisions, actions or inactions of election commissions, referendum commissions or members of those commissions may be filed with an administrative court within five days since the day of adoption of the decision, commitment of an action or inactions.
7. Complaints on decisions, actions or inactions of election commissions, referendum commissions or members of those commissions, that took place before the election day, may be submitted to the administrative court within the term envisaged by part six of this Article, but not later than at 24:00 of the day preceding the election day.

* See Art.12 of the electoral law.

8. Complaints on decisions, actions or inactions of precinct election commissions, precinct referendum commissions or members of those commissions, that took place on the election day, during count of votes and establishing voting results at a polling station, may be submitted to the administrative court **within two days** since the day of adoption of the decision, commitment of an action or inaction.
9. The court shall accept a complaint on decisions, actions or inactions of election commissions, referendum commissions or members of those commissions regardless of the fact if the court fee has been paid or not. In case if the court fee has not been paid as of the time of resolution of the dispute, the court shall at the same time decide on charging the court fee according to the rules of the court expenses' distribution established by this Code.
10. The court shall immediately notify the corresponding election commission or referendum commission and the higher-level commission on receiving a complaint and on the court decision thereabout.
{Part 10 of Article 172 with amendments made by the Law # 709-VII dated 21/11/2013}
11. The court shall resolve administrative cases defined by this Article within two days after receiving a complaint. The court shall resolve administrative cases on the complaints received before the election day within two days, but not later than two hours before the beginning of voting. The administrative cases on the complaint received on the day of voting shall be resolved by the court before the end of voting. Administrative cases on the complaint received on the day of voting but after the end of voting, shall be resolved by the court within two days after receiving a complaint.
{Part 11 of article 172 in edition of the Law # 1616-VI dated 21/08/2009}
{Part 11 of article 172 was recognized as constitutional in accordance with the Decision of the Constitutional Court # 26-pn/2009 dated 19/10/2009}
12. Non-arrival to the court session of the persons, who have been duly notified, shall not impede the court proceedings.

Article 173. Particularities of proceedings in cases on correction of voter lists

1. Any person, who has the suffrage right in the corresponding elections or referendum, shall have the right to file an administrative complaint on correction of the voter list, incl. on inclusion or exclusion from the list of him/her personally or other persons.
2. The local general court as an administrative court at the location of the respective commission shall handle administrative complaints on correction of the voter list.
3. An administrative complaint on correction of the voter list is filed with the administrative court without payment of the court fee. A complaint may be filed no later than two days before the election day. During the process of review of the complaint the court requests information from appropriate agency on State registry of the voters to clarify the information about the voter.
{Part 3 of article 173 in edition of the Law # 3099-IV dated 17/11/2005; with amendments made by the Law # 4061-VI dated 17/11/2011}
4. The court shall decide on administrative complaints concerning correction of voter lists within two days after receiving the complaint, but no later than two days before the election day; and if a complaint has

come two days before the election day, it shall be considered immediately.

{Part 4 of article 173 in edition of the Law # 3099-IV dated 17/11/2005}

5. Non-arrival to the court session of the persons, who have been duly notified of the date, time and venue of consideration of the case, shall not impede the court proceedings.
6. Rulings of the administrative court on amendments to the voter lists shall be implemented immediately.

Article 174. Particularities of proceedings in cases on contesting decisions, actions or inactions of executive authorities, local self-government bodies, mass media, enterprises, institutions and organizations, as well as their officials and staff members, creative staff members of mass media, violating the legislation on elections and referendum

{The title of the Article 174 with amendments made by the Law # 709-VII dated 21/11/2013}

1. Election commission, candidate, party (bloc), local organizations of party (bloc), local organization of the parties that are subjects of the corresponding election process, referendum commissions, initiative group for referendum, as well as other subjects of initiating a referendum shall have the right to contest decisions, actions or inactions of executive authorities, local self-government bodies, mass media, informational agencies, enterprises, institutions and organizations, as well as their officials and staff members, creative staff members of mass media, violating the legislation on elections and referendum.

{Part 1 of article 174 with amendments made by the Law # 2487-VI dated 10/07/2010, #709-VII dated 21/11/2013}

2. A voter (a citizen who has the suffrage right in the corresponding elections or referendum) may contest a decision, action or inaction of executive authorities, local self-government bodies, enterprises, institutions and organizations, as well as their officials and staff members, if such decision, action or inaction infringes his/her personal election rights or interests regarding participating in the election process or referendum process.
3. A complaint on the decisions, actions and inactions of the state executive bodies, local self-government bodies, as well as their officials and employees shall be filed with the district administrative court at their location. A complaint on decisions, actions or inactions of mass media, informational agencies, enterprises, institutions and organizations, as well as their officials and staff members, creative staff members of mass media and informational agencies, violating the legislation on elections and referendum, shall be filed with the local general court as an administrative court at their location.

{Part 3 of article 174 with amendments made by the Law # 2487-VI dated 10/07/2010, #709-VII dated 21/11/2013}

4. A complaint may be lodged with the administrative court within the term established by parts 6-7 of Article 172 of this Code.
5. The court shall decide on the administrative cases defined by this Article, within the term established by part 11 of Article 172 of this Code.
6. Non-arrival to the court session of the persons, who have been duly notified of the date, time and venue of consideration of the case, shall not impede the court proceedings.

7. If a court when considering election-related case finds the violation by mass media or informational agency of the election law requirements, it shall immediately notify thereof the National Council of Ukraine on television and radio broadcasting, the central body of executive power carrying out the state policy in information and publishing spheres, the Central Election Commission, the respective district election commission.

{Article 174 has been added with part 7 in accordance with the Law # 709-VII dated 21/11/2013}

Article 175. Particularities of proceedings in cases on contesting actions or inactions of candidates, their proxies, parties (blocs), a local organization of a party, their officials and proxies, initiative groups for referendum, other subjects of initiating a referendum, official observers from the subjects of the election process

{The title of Article 175 with amendments made by the Law # 2487-VI dated 10/07/2010}

1. Candidates, parties (blocs), local organizations of parties that are subjects of the corresponding election process, initiative groups for referendum, as well as other subjects of initiating a referendum shall have the right to contest actions or inactions of candidates, their proxies, parties (blocs), local organizations of parties, their officials and proxies, initiative groups for referendum, other subjects of initiating a referendum, official observers from the subjects of the election process violating the election or referendum legislation.

{Part 1 of Article 175 with amendments made by the Law # 2487-VI dated 10/07/2010}

2. A voter (a citizen who has the suffrage right in the corresponding elections or referendum) may contest actions or inactions of the subjects established by part 1 of this Article, if those actions or inactions infringe his/her personal election rights or interests regarding participating in the election process or referendum process.
3. A complaint on actions or inactions of candidates to the presidential post, initiative groups for an all-Ukrainian referendum, other subjects of initiating an all-Ukrainian referendum, violating the election or referendum legislation, shall be filed with the district (*okruzhnyi – in Ukr.*) administrative court, whose territorial jurisdiction extends to the city of Kyiv. A complaint on actions or inactions of candidates to deputies of a village, town council, candidates to head of village, town councils, their proxies shall be lodged with the local general court as an administrative court at the place where the action was committed or was supposed to be committed. A complaint on other issues envisaged by this Article, shall be submitted to the district (*okruzhnyi – in Ukr.*) administrative court at the place where the action was committed or was supposed to be committed.

{Part 3 of article 175 with amendments made by the Law # 2487-VI dated 10/07/2010}

4. A complaint may be lodged with the administrative court within the term established by parts 6-7 of Article 172 of this Code.
5. The court shall decide on the administrative cases defined by this Article, within the term established by part 11 of Article 172 of this Code.
6. Non-arrival to the court session of the persons, who have been duly notified of the date, time and venue of consideration of the case, shall not impede the court proceedings.
7. A court shall immediately notify a respective election or referendum commission and higher-level

commission regarding the opening of proceedings in case and a decision rendered by a court.

{Article 175 has been added by part 7 in accordance with the Law #709-VII dated 21/11/2013}

Article 176. Particularities of court proceedings in cases related to the election of the President of Ukraine

1. An election commission, a candidate for the President of Ukraine, a party (bloc) that is a subject of the election process, a voter whose lawful rights or interests guaranteed by law were infringed have a right to contest a decision or actions of an association of citizens, an election bloc, its officer or an authorized representative related to the election process except for those decisions or actions that pursuant to the law and the statute (provisions) of a respective association of citizens belong to its internal organizational activities or its exclusive competence.
2. A candidate for the President of Ukraine, a party (bloc) that is a subject of the election process or a district election commission may contest in court actions or inactions of the mass media, their owners, officers and officials who violated the procedure regulating activities of the mass media during the election process as provided for by law, including pre-election campaigning, namely concerning the provision on mandatory refutation of false information they published about a candidate or a party (bloc) that nominated its candidate
3. A candidate for the President of Ukraine, a party (bloc) that is a subject of the election process have a right to contest actions of another candidate for the President of Ukraine or his/her proxy when such actions are aimed at violating the order established by law concerning the procedure for nomination of a candidate, organization of an election contest actions, other violations of their rights and elections rights of the citizens. The voter has a right to contest the actions of a candidate for the President of Ukraine or his/her proxy when such actions infringe the voter's election rights.
4. Decisions, actions and inaction of the state authorities, local self-government bodies, enterprises, institutions, establishments and organizations, their officials and officers can be contested to the procedure stipulated by Article 174 of this Code. Acts and actions of blocs, associations of citizens except for those that pursuant to the law and the statute (provisions) of a respective association of citizens belong to its internal organizational activities or its exclusive competence - shall be contested at the location of the respective associations of citizens, bloc, pursuant to the procedure stipulated by Article 175 of this Code.
5. Acts or inaction of mass media, its owner, official or creative staff member may be contested pursuant to the procedure stipulated by Article 174 of this Code.
6. Decisions, acts or inaction of Election Commissions including decisions of the Central Election Commission on establishment of the results of election may be contested pursuant to the procedure stipulated by Article 172 of this Code.
7. Actions of candidates for the President of Ukraine, their proxies shall be contested to the Kyiv Administrative Court of Appeals.
8. Decisions, acts or inaction of polling station election commissions and their members may be contested to the administrative court at the location polling station election commission.
9. Decisions, acts or inaction of district election commissions or their members may be contested to the district administrative court at the location of such district election commission pursuant to the procedure stipulated by Law.
10. The court considers and resolves administrative cases based on complaints dealing with violations

committed after termination of voting on polling stations within two days after the day of voting.

{Part 10 of article 176 has been recognized as constitutional in accordance with the Decision of the Constitutional Court # 26-pn/2009 dated 19/10/2009}

11. The decision of an appeal instance on election disputes is final and may not be contested. The decision of the Higher Administrative Court of Ukraine rendered upon a claim concerning the election results is final and may not be contested pursuant to the appeal or cassation procedure.
12. Powers and authorities of the court as provided for in Article 117 of this Code may not be applied by courts to the disputes related to designation, preparation and conduct of election of the President of Ukraine.

{Article 176 in edition of the Law # 1616-VI dated 21/08/2009 – a change has been recognized as unconstitutional in accordance with the Decision of the Constitutional Court # 26-pn/2009 dated 19/10/2009}

Article 177. Particularities of court decisions upon consideration of cases related to the election process or the referendum process, and their appealing

1. Having found violations of the election or referendum legislation, the court shall define in its ruling a way of protection of the infringed rights and interests, as well as a procedure for elimination of all consequences of those violations in accordance with the law or shall take other decision envisaged by the law. In case of discovering violations, which might provide grounds for bringing a person to liability not under the rules of this Code, the court shall adopt a separate ruling with indication of existence of such violations and it shall send it to authorities or persons authorized to take measures established by the law in that connection.

{Part 1 of article 177 in edition of the Law # 3099-IV dated 17/11/2005}

2. Copies of court decisions shall be immediately handed over to the persons participating in the case or sent to them if they were not present at the decision announcement.
3. Decisions of the first instance courts on cases defined by Articles 172-175 of this Code shall come into effect after expiration of the term for their appealing; or in case if they are appealed – from the moment of announcement of a decision by the court of the appeal instance. Decisions of the High Administrative Court shall become effective from the moment of their announcement and shall not be subject to further appeals.

{Part 3 of article 177 with amendments made by the Law # 2487-VI dated 10/07/2010}

{Part 4 of article 177 has been excluded by the Law # 2487-VI dated 10.07.2010}

5. Court decisions on cases envisaged by Articles 172-175 of this Code may be appealed under the appeal

procedure within two days after the day of their announcement, whereas court decisions adopted before the election day – not later than 4 hours before the voting starts.

{Part 5 of article 177 with amendments made by the Law # 2487-VI dated 10/07/2010}

6. Corresponding administrative courts of appeals shall be courts of the appeal instance. In cases considered by a Kyiv Administrative Court of Appeals according to part 3 of Art.172 of this Code, the High Administrative Court shall be a court of the appeal instance.

{Part 6 of article 177 with amendments made by the Law # 1616-VI dated 21/08/2009}

7. A court of the appeal instance shall consider a case within two days after expiration of the term for appealing, with notification of the persons participating in the case. An appeal on a court decision adopted before the election day shall be considered not later than two hours before the voting begins.

8. Non-arrival to the court session of the persons, who have been duly notified of the date, time and venue of consideration of the case, shall not impede the appeal proceedings.

9. A court of the appeal instance may not return the case for new consideration. A decision of a court of appeals shall be final.

10. During the review of the cases, related to the election process or referendum, and their appeal, part 4 of the article 20 of this Code shall not be applied.

{Article 177 has been added with part 10 by the Law # 1616-VI dated 21/08/2009}

Article 178. Particularities of representation in cases related to the election process or referendum process

1. A person registered according to the election law as an authorized representative or proxy of a candidate, shall act as a representative of the corresponding candidate in cases related to the election process without any additional authorization.
2. A person registered according to the election or referendum law as an authorized person (representative) of a party (bloc), local organization of parties, initiative group for referendum, shall act as a representative of the corresponding party (bloc), local organization of parties, initiative group for referendum in cases related to the election process or referendum process without any additional authorization.

{Part 2 of article 178 with amendments made by the Law # 2487-VI dated 10/07/2010}

3. A respective certificate issued in compliance with the procedure established by the election or referendum law shall be considered a document confirming authorities of the representatives defined by parts 1 and 2 of this Article.

Article 179. Particularities of calculation of deadlines in cases related to the election process or referendum process, and consequences of their breaches

1. The rules of parts 2-10 of Article 103 of this Code shall not apply to calculation of deadlines established

by Articles 172-177 of this Code.

2. The deadlines established by Articles 172-177 of this Code shall be calculated by calendar days and hours.
3. The last day of the time period, which should end as a result of a certain event, shall be the day before the day of this event.
4. The day of inaction shall be the last day of the legally established term, when certain action was supposed to be committed or certain decision was supposed to be adopted.
5. The day when a court receives a complaint shall be considered a day of submission of that complaint or appeal. Deadlines for filing complaints and appeals established by Articles 172-177 of this Code, may not be renewed. The court shall leave without consideration complaints and appeals submitted after expiration of those deadlines.

Article 227. Grounds for cancellation of judgments in the direction of affairs to continue the proceeding or to a new review

1. The reason for the cancellation of judgments of courts of first instance and (or) the appeal courts and referral of the case for further consideration shall be a violation of substantive or procedural law, which has led to the rendering of illegal decisions, which prejudice further proceedings in the case.

{Part 1 of Article 227 with amendments made by the Law # 2453-VI dated 07/07/2010}

2. The reason for the cancellation of judgments of courts of first instance and (or) the appellate courts and sending the case to a new trial shall be a violation of procedural law, which has made the determination of the facts of the case, being important for rendering a right decision, impossible.

{Part 2 of article 227 with amendments made by the Law # 2453-VI dated 07/07/2010}

{Part 3 of article 227 has been excluded by the Law # 2453-VI dated 07/07/2010}

4. The case is forwarded to the appellate court for further consideration or for a new consideration, if only these violations have been admitted by this court. In all other cases the matter is referred to the Court of first Instance.
5. Conclusions and reasons, based on which decisions have been cancelled, shall be binding upon a court of first instance or court of Appeal when considering the case.

Article 237. Grounds for the submission of the statement to review the court decisions.

1. The statement to review the court decision in administrative cases, might be submitted only for the following reasons:
 - 1) Ambiguous application by a court (courts) of cassation instance of the same norms of material law, which has led to the rendering of different (in their content) court decisions in similar legal matters;
 - 2) If the international judicial body, jurisdiction of which is recognized by Ukraine, established violation by Ukraine of its international obligations in course of the court proceedings;
 - 3) Breach of material or procedural rules which has led to the rendering by the High Administrative

Court of Ukraine of an illegal court decision on matters specified in article [171¹](#) of this Code.

{Part 1 of article 237 has been added with paragraph 3 in accordance with the Law # 887-VII dated 14/03/2014}