

Administrative procedures in the activities of the State Tax Service of Ukraine

Artem Sniezhko,

Postgraduate degree seeker at Scientific Institute of Public Law

ORCID: <https://orcid.org/0009-0006-5298-5181>

Abstract. The article, based on the analysis of scientific views of researchers, discloses the general theoretical content of the concepts of "procedure," "legal procedure," and "administrative and legal procedure." The most characteristic properties that characterise the category of «administrative procedure» have been allocated. The author's own approach to the interpretation of the concept of «administrative procedure» in the context of the activities of tax authorities is proposed.

It is substantiated that in the legal plane the concept of «procedure» denotes consistent, systematised actions aimed at the implementation of the right and its impact on social and legal relations. The consequence of their commission is the regulation of social relations and social behaviour, as well as a change in the legal reality on the territory of our state.

The following features of administrative procedures as a legal phenomenon are allocated: firstly, it is a model of official, authoritative, administrative activities of authorised bodies and officials, which consists of a system of consistent, interrelated actions and operations; secondly, the catalyst for the implementation of the administrative procedure is the need to ensure the implementation of the functions of the state within the framework of the relevant sphere of social and legal life, as well as the rights, freedoms, and interests of individuals and legal entities that need to receive from the state the solution of relevant individual issues; Thirdly, procedures always have an external legal result in the form of an administrative act issued by an authorised right.

It is found that administrative procedures in the activities of the tax authorities of Ukraine are separate groups of purposeful, legally significant actions and operations, regulated by legislative and subordinate normative legal acts, united by a single goal and tasks, which are carried out by the bodies and divisions of the State Tax Service of Ukraine in order to implement the functions of control and collection, as well as to ensure the rights, freedoms, and legitimate interests of individuals and legal entities in the tax and financial sector. the result of which is the issuance of an administrative act – a decision or action of a legally significant nature.

Key words: procedures, administrative procedure, tax authorities, State Tax Service of Ukraine, tax system.

Problem statement. In carrying out their activities, the tax authorities of Ukraine implement a number of procedures that are of an administrative nature. In this context, it should be noted that the problem of the content of administrative procedures has been a topical topic of scientific research for many years. Discussions also continue on the adoption of the long-awaited Law of Ukraine "On Administrative Procedure," which regulates the relations of executive authorities, authorities of the Autonomous Republic of Crimea, local self-government bodies, their officials, and other entities authorised by law to perform the functions of public administration, with individuals and legal entities regarding the consideration and resolution of administrative cases in the spirit of the democratic and legal process defined by the Constitution of Ukraine. the rule of law and for the purpose of ensuring the rule of law, as well as the obligation of the state to ensure and protect the rights, freedoms, or legitimate interests of man and citizen [1]. Its provisions raised many new questions and haven't yet resolved: what are the final administrative procedures since the interpretations given in the document conflict with the conceptual vision of scientists.

State of the study. For a considerable period of time, the problem of the content and significance of administrative procedures in the activities of public authorities has been the subject of numerous theoretical and legal studies. In particular, I.V. Boyko, O.V. Zvizdai, O.T. Zyma, V.F. Pohorilko, S.M. Seryohin, O.M. Solovyova, O.F. Fritsky, O.M. Chernenchenko, A.V. Shcherba, and many others paid attention to this issue. Despite the deep scientific elaboration, there are still many areas of public administration in which the essence of administrative procedures has not been properly covered.

Purpose and objectives of the study. The purpose of the study is to define the concept of administrative procedures in the activities of tax authorities. In accordance with this goal, the objectives of scientific research are: to reveal general legal and administrative interpretations of the category of "procedure"; to highlight the specific features of administrative procedures that determine its specificity among other similar scientific categories; to formulate the author's approach to the interpretation of the essence of administrative procedures directly in the activities of tax authorities.

Scientific novelty of the study. The scientific novelty of the article lies in that it has further developed a theoretical approach to the definition of the concept of administrative procedures in the activities of tax authorities.

Presentation of the main material. At the beginning of the scientific study, it is worth noting that the word "procedure" has the following etymology: 1) an officially established or customary order for the implementation or execution of something; 2) the therapeutic measure prescribed by the doctor; 3) in programming, a block with or without formal parameters, the execution of which takes place after bringing it to a state of readiness for execution [2, p. 1179].

In the legal doctrine, the concept of procedure is actively used and is debatable. To date, many approaches to the interpretation of this category have been developed, including encyclopaedia value. For example, the authors of the Legal Encyclopaedia note: a procedure is a process regulated by law and other normative legal acts, that consists of successive actions and is aimed at achieving a legal result. The essence of a legal procedure is determined by the nature of the substantive legal relationship, the

implementation of which it serves [3; 4, p. 136].

In the textbook "Theory of State and Law," the concept of "procedure" is associated with the following legal phenomena: firstly, the law-making process, which should be understood as a system of interdependent procedures (stages) during the adoption and amendment of both laws and by-laws; secondly, the legislative process (this is the procedure for adopting a law, which consists of certain stages – independent, logically completed stages and organisational and technical actions); Thirdly, law enforcement is the authoritative, organising activity of the competent state bodies and officials, carried out in a procedural manner, which consists in the individualisation of legal norms in relation to specific subjects and specific life cases in the act of applying the rules of law [5, p. 389, 297, 317]. As V.V. Duma writes, legal procedure is an integral part of substantive law. Unlike processes, it is regulated by substantive legal norms and contributes to the implementation of substantive regulatory legal relations. That is, it is a law enforcement activity that has a procedural form. The essence of the latter is expressed in the regulated legal procedure for the performance of law enforcement actions that ensure the proper application of the law. The procedural form is characterised by the presence of the rights of participants in the law enforcement process, as well as guarantees of legality, validity, and expediency of application of the rules of law [6, p. 101].

Generalising the above scientific interpretations and approaches, it can be pointed out that in the legal understanding, the concept of "procedure" refers to consistent, systematic actions aimed at the implementation of the law and its impact on social and legal relations. The consequence of their commission is the regulation of social relations and social behaviour, as well as a change in the legal reality on the territory of our state.

In the field of administrative law, the content of the category of "procedure" is narrowed down to the procedure for considering a legal fact and making a normatively expressed decision, which is determined by the definition presented in the Law of Ukraine, "On Administrative Procedure." According to Article 2 of the above-mentioned law, the administrative procedure is disclosed as the procedure for consideration and resolution of the case determined by law. The content of the latter is as follows: a case concerning public law relations to ensure the exercise of a right, freedom, or legitimate interest of a person and/or the fulfilment of his/her duties determined by law, the protection of his/her right, freedom, or legitimate interest, which is considered by an administrative body [1].

In turn, scientific definitions are divided between those scientists who undoubtedly support and share the vision of the legislator and scientists who propose to consider the category differently from the approach proposed in the normative formulation. Thus, the first group of scholars is represented by O.V. Pabat, who believes that in the context of the phenomenon of administrative procedure, it is about the consideration and resolution by an administrative body or its official of cases related to specific individuals, who are the second party in these relations. Hence, the administrative procedure is a general model of

proceedings, establishes a uniform procedure for consideration and resolution of individual administrative cases by administrative bodies and their officials, and consists of the following elements: initiation of the procedure or notification of the parties to the process; gathering and sharing all relevant information to the parties; hearing (both formal and informal), less often by an administrative court; resolution of the case [7, p. 74].

In turn, O.Yu. Salmanova defends the position that the administrative procedure is a set of successive actions of the subject of power to implement the tasks assigned to it, which is carried out in strict accordance with the law and is aimed at ensuring the implementation of rights, freedoms, and legitimate interests by individuals and legal entities [8, p. 313]. N.R. Nyzhnyk gives the following definition of the concept: "Procedure is a set of generally accepted and special rules, officially established or adopted in accordance with custom, which determine the implementation of various acts, actions, forms of interaction between participants in public administration relations, or the procedure for registration of some cases aimed at achieving a certain result" [9, p. 198; 10, p. 107]. According to the interpretation of I.V. Boyko, O.T. Zyma, and O.M. Solovyova, the administrative procedure is a structured, normatively fixed procedure for the adoption of administrative acts or the conclusion of administrative and legal contracts, aimed at resolving specific cases in the field of public administration [11, p. 7]. In the thesis research of D.S. Denysiuk, the opinion is expressed that the administrative procedure is a variety of managerial actions of the executive power and their local representatives, which determine the procedure and rules for the preparation of control and supervisory actions, office work, and various other similar management actions [12, p. 84].

Based on the above-stated, we can draw the following conclusions about the essence of administrative procedures as a legal phenomenon in general and in the field of activity of the tax authorities of Ukraine, in particular:

- Firstly, the administrative procedure is a model of official, authoritative administrative activities of authorised bodies and officials, which consists of a system of consistent, interrelated actions and operations. They are united by a single ultimate goal and objectives and also have a legal nature because their content and meaning are fully regulated by legislative and subordinate legal documents that enshrine the legal status of a particular subject of public law relations;

- Secondly, the catalyst for the implementation of the administrative procedure is the need to ensure the implementation of the functions of the state within the framework of the relevant sphere of social and legal life, as well as the rights, freedoms, and interests of individuals and legal entities that need to receive from the state the solution of relevant individual issues;

- Thirdly, procedures always have an external legal result in the form of issuing an administrative act by an authority, which, according to the Law of Ukraine "On Administrative Procedure," is a decision or legally significant action of an individual nature, taken (committed) by an administrative body to resolve a specific case and aimed at acquiring, changing, terminating, or exercising the rights and/or obligations of an individual (persons).

Conclusions. Thus, the specified features show the narrow content of the administrative procedure and the presence of clear requirements for its content. Hence, not every example of administrative activity of an authorised subject of public law, power relations, can be described by this category. In view of this, it is worth supporting the position of the scientists of the first group, who share the approach to the definition of the procedure proposed in the Law of Ukraine "On Administrative Procedure." Thus, administrative procedures in the activities of the tax authorities of Ukraine are separate

groups of purposeful, legally significant actions and operations, regulated by legislative and subordinate normative legal acts, united by a single goal and tasks, which are carried out by the bodies and divisions of the State Tax Service of Ukraine in order to implement the functions of control and collection, as well as to ensure the rights, freedoms, and legitimate interests of individuals and legal entities in the tax and financial sector. the result of which is the issuance of an administrative act – a decision or action of a legally significant nature.

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