

## PROSPECTS FOR THE FUNCTIONING OF SPECIALIZED ADMINISTRATIVE COURTS IN UKRAINE

**Goal.** The paper reveals the prospects for the functioning of specialized administrative courts in Ukraine. **Methods.** For achievement of research purposes, the author uses general scientific and special legal methods of cognition. Analysis and synthesis, induction and deduction have been used to reveal the features of the competence of specialized administrative courts in Ukraine. Historical-legal and comparative-legal methods have been used to compare the scope of powers of the newly established Specialized District Administrative Court and Specialized Appeal Administrative Court with the Supreme Administrative Court of Ukraine. Formal-legal and prognostic methods have been used to analyze the further possibility of considering cases by specialized administrative courts in Ukraine. **Results.** It has been demonstrated how the high status of specialized administrative courts will ensure the implementation of the Bangalore Principles of Judicial Conduct by judges of these courts and will increase public confidence in the court, since the establishment of a specialized administrative court is an urgent need, consistent with Ukraine's European integration aspirations. It has been described that the successful step of the legislator was the replacement of the name "Kyiv City District Administrative Court" (which duplicates the name of the already established Kyiv City District Administrative Court) with "Specialized District Administrative Court". However, the finalized name, which combines the term combinations "Specialized District" / "Specialized Appellate", is controversial, since it does not fully separate the legal status of such specialized courts from ordinary district and appellate administrative courts. **Conclusions.** Firstly, it has been proposed to relieve the Supreme Court as a court of cassation from the atypical for a court of such a high level of authority to resolve cases as a court of first and appellate instance. The powers of the Supreme Court established by the part four of the Article 22 and the part three of the Article 23 of the Code of Administrative Procedure of Ukraine are to be transferred to the competence of the Specialized District Administrative Court and the Specialized Appellate Administrative Court. All cases considered by the Administrative Court of Appeal in the appellate district that includes the city of Kyiv, sanction disputes, including those resolved by the Supreme Anti-Corruption Court, are to be transferred to the jurisdiction of specialized administrative courts, which will contribute to ensuring the rule of law and the unity of judicial practice. Secondly, it has been proven that in this way the guarantees of a person's access to court will be implemented in the context of guaranteeing the right to appellate and cassation review, and the high status of specialized administrative courts with their typical powers to resolve resonant public-law disputes will be supported. At the same time, it is necessary to ensure the independence of the judges of this court, minimizing possible corruption risks in their activities.

**Key words:** rule of law, administrative justice, jurisdiction, instance, proceedings.

**Barikova Anna,**

*Dr. habil. in Law,  
Associate Professor,  
Associate Professor  
at the Department  
of Administrative Legal  
Disciplines  
National Academy  
of Internal Affairs  
orcid.org/0000-0002-  
9707-0106  
anna.barikova@gmail.  
com*

## 1. Introduction

The relevance of the research topic is due to the European integration dimension of the reform of the system of administrative courts in Ukraine. Therefore, the creation of a higher specialized administrative court was a condition of the International Monetary Fund, the European Commission and was established in the Ukraine Facility plan. At the same time, after the liquidation of the Higher Administrative Court of Ukraine and the District Administrative Court of Kyiv, a somewhat controversial step in the implementation of public policy was the division of the competence of these subjects between the Supreme Court, the Kyiv District Administrative Court, the Kyiv City District Administrative Court (which has not begun to consider disputes yet) and two more newly established specialized administrative courts (the Specialized District Administrative Court and the Specialized Appeal Administrative Court). Therefore, it is necessary to determine the optimal number and competence of such courts.

**Materials and methods.** The empirical basis of the research was the regulatory acts on the implementation of administrative justice (the Constitution of Ukraine, the Code of Administrative Justice of Ukraine and the Law of Ukraine “On the Judicial System and Status of Judges”), as well as legislative initiatives on the creation of specialized administrative courts in Ukraine. The features of the functioning of specialized administrative courts have been studied by I. Antypova, V. Bevzenko, Yu. Heorhiievskyi, O. Kapynos, R. Melnyk, O. Svyda, M. Smokovych, V. Tylchik, V. Chumak and other researchers. At the same time, the competence and prospects for the activities of the newly created specialized administrative courts have not been sufficiently studied.

The methodological basis of the research is general scientific and special legal methods of cognition. Analysis and synthesis, induction and deduction have been used to reveal the features of the competence of specialized administrative courts in Ukraine. Historical-legal and comparative-legal methods have been used to compare the scope of powers of the newly established specialized administrative courts with the Supreme Administrative Court of Ukraine. Formal-legal and prognostic methods have been used to analyze the further possibility of considering cases by specialized administrative courts in Ukraine.

**The purpose of the research** is to reveal the prospects for the functioning of specialized administrative courts in Ukraine.

## **2. Legal status of specialized administrative courts**

The Article 125 of the Constitution of Ukraine, in particular, stipulates that the judicial system in Ukraine is built on the principles of territoriality and specialization and is determined by law. In accordance with the law, higher specialized courts might operate. Administrative courts operate to protect the rights, freedoms and interests of individuals in the area of public legal relations (Constitution, 1996). Part two of the Article 31 of the Law of Ukraine “On the Judicial System and the Status of Judges” refers the Specialized District Administrative Court and the Specialized Appeal Administrative Court to higher specialized courts (Law No. 1402-VIII, 2016).

Higher specialized courts are characteristic of continental legal systems, although they operate worldwide within the framework of the International Association of Higher Administrative Jurisdictions (IASAJ, 2025): Europe (Austria, Belgium, Bulgaria, Croatia, Czech Republic, Finland, France, Germany, Greece, Italy, Lithuania, Luxembourg, Netherlands, Poland, Portugal, Sweden, Switzerland, Ukraine); Middle East (Egypt, Turkey); Asia (China, Taiwan, Iran, Thailand); Africa (Algeria, Benin, Burkina Faso, Cameroon, Côte d’Ivoire, Gabon, Guinea, Lebanon, Madagascar, Mali, Morocco, Mozambique, Senegal, Togo, Tunisia); North America (Canada); Latin America (Colombia); South America (Brazil, Chile, Mexico, Uruguay).

One could agree with the doctrinal approach according to which the higher specialized courts of Ukraine in the judicial system are an important element in the system of administering justice and ensuring human rights and fundamental freedoms, since such courts are an instance designed to protect legitimate interests in certain categories of cases, and their activities are defined at the level of a separate regulatory act that determines their legal status, and therefore their place in the judicial system of Ukraine (Chumak, 2020, pp. 255–256). The following guarantees for the activities of higher specialized courts in Ukraine could be distinguished (Antipova, 2021, pp. 7–8): a) guarantees of the legal status of judges of higher specialized courts, *i.e.* independence and inviolability of judges; judicial immunity; creation of conditions for comprehensive professional development and advanced training of judges; competitive public procedure for selecting judges; a clear, exhaustive list of the powers of judges and the grounds for their termination; guaranteeing the personal safety and security of judges by the state; adequate social security for judges; b) guarantees of organizational autonomy of higher specialized courts, such as independence of territorial location of courts; organizational isolation of these courts, which constitute a separate link in the judicial system; special procedure for financing and management of funds; c) procedural guarantees of higher specialized courts in Ukraine, aimed at observing the legal form and procedure of the judicial process in order to adopt a fair and objective judicial decision: impossibility of delegating powers to administer justice; clear consolidation of the form and procedure for conducting the judicial process during consideration

of certain categories of cases; observance of the principles of judicial process; equality of participants in the judicial process; clear consolidation of requirements for the behaviour of participants in the judicial process, the violation of which might entail liability; functioning of appellate chambers for appealing court decisions.

Thus, the creation of specialized administrative courts in Ukraine corresponds to world practice and will contribute to the implementation of the tasks of administrative justice. The high status of specialized administrative courts will ensure that judges of these courts comply with the Bangalore Principles of Judicial Conduct and increase public confidence in the court.

### **3. Organizational and legal dimension of the formation of specialized administrative courts**

The establishment of the Specialized District Administrative Court and the Specialized Appeal Administrative Court on the basis of the draft law No. 13302 dated of 2025, May 19 (Draft Law No. 13302, 2025) was preceded by a number of legislative initiatives to determine the legal status and competence of the relevant courts.

In particular, the draft law No. 12206 dated of 2024, November 14 provided for the creation of the High Court of Public Law Disputes (with the qualification requirements established in the legislation of Ukraine for a judge of a specialized court, as well as the opportunity to participate in the competition for persons with at least seven years of professional experience in the area of law in civil service positions in state authorities whose powers extend to the entire territory of Ukraine) with the competence to decide the following cases (Draft Law No. 12206, 2024): a) regarding appeals against acts, actions or inaction of the Cabinet of Ministers of Ukraine, a ministry or other central executive body, the National Bank of Ukraine or another subject of government authority whose powers extend to the entire territory of Ukraine, except for the cases established by the part five of the Article 22 of the Code of Administrative Proceedings of Ukraine; b) on appealing decisions of the Antimonopoly Committee of Ukraine on consideration of complaints about violations of legislation in the area of public procurement and decisions in the area of state aid to business entities, administrative cases on the claim of the Antimonopoly Committee of Ukraine in the area of state aid to business entities; c) on appealing decisions of the National Agency for the Prevention of Corruption on refusal to provide state funding for the statutory activities of a political party or on suspension (termination) of state funding for the statutory activities of a political party; d) on annulment of the registration certificate of a political party; e) on appealing decisions of the Competition Commission on organizing and conducting a competition for the position of Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor's Office, First Deputy and Deputy Head of the Specialized Anti-Corruption Prosecutor's Office, the Commission on conducting an external independent assessment (audit) of the effectiveness of the activities of the Specialized Anti-Corruption Prosecutor's Office; f) on

appealing the decisions of the Commission for holding a competition for the position of Director of the National Anti-Corruption Bureau of Ukraine, the Commission for conducting an external independent assessment (audit) of the effectiveness of the activities of the National Anti-Corruption Bureau of Ukraine; g) on appealing the decisions of the Competition Commission for the selection for the position of Head of the National Agency for the Prevention of Corruption; h) on appealing the decisions of the Competition Commission for the selection for the position of Head of the National Agency for the Detection, Search and Management of Assets Obtained from Corruption and Other Crimes; i) on appealing the acts, actions or inaction of the body conducting disciplinary proceedings against prosecutors.

Government draft law No. 12206-1 dated of 2024, November 22 concerned the establishment of the Higher Specialized Administrative Court with qualification requirements for a judge and powers of the relevant court similar to the draft law No. 12206 (Draft Law No. 12206-1, 2024).

The draft law No. 12206-2 dated of 2024, November 28, submitted by the Committee of the Verkhovna Rada of Ukraine on Legal Policy, established the creation of the Supreme Administrative Court (with the qualification requirements prescribed for the legislation of Ukraine for a judge of a specialized court, as well as the opportunity to participate in the competition for persons with at least seven years of experience in civil service positions of category “A”, “B” in state authorities whose powers extend to the entire territory of Ukraine) with the following powers (Draft Law No. 12206-2, 2024): a) regarding appeals against acts, actions or inaction of the Cabinet of Ministers of Ukraine, a ministry or other central executive body, the National Bank of Ukraine or another subject of government authority whose powers extend to the entire territory of Ukraine, except for cases established by parts two, five of the Article 22 and part one of the Article 27 of the Code of Administrative Proceedings of Ukraine; b) on the claim of the Antimonopoly Committee of Ukraine in the area of state aid to business entities; c) on the implementation of state regulation, supervision and control in the media sector; d) on the cancellation of the registration certificate of a political party; e) on the appeal of the decisions of the Competition Commission on the organization and conduct of the competition for the position of Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor’s Office, First Deputy and Deputy Head of the Specialized Anti-Corruption Prosecutor’s Office, the Commission on the external independent assessment (audit) of the effectiveness of the Specialized Anti-Corruption Prosecutor’s Office; f) on the appeal of the decisions of the Commission on the competition for the position of Director of the National Anti-Corruption Bureau of Ukraine, the Commission on the external independent assessment (audit) of the effectiveness of the National Anti-Corruption Bureau of the Election Bureau of Ukraine; g) on appealing the decisions of the Competition Commission for the selection for the position of the Head of the National Agency for the Prevention of Corruption; h) on appealing the decisions of the Competition Commission for the selection for

the position of the Head of the National Agency of Ukraine for the Identification, Search and Management of Assets Obtained from Corruption and Other Crimes; i) on appealing the acts, actions or inaction of the body conducting disciplinary proceedings against prosecutors.

Since all of the aforementioned draft laws were rejected, the Cabinet of Ministers of Ukraine registered the draft law No. 12368 dated of 2024, December 30 (with qualification requirements for a judge similar to the draft law No. 12206-2), which somewhat expanded the competence of the established specialized administrative court (Draft Law No. 12368, 2024): a) regarding appeals against acts, actions or inaction of the Cabinet of Ministers of Ukraine, a ministry or other central executive body, the National Bank of Ukraine or another subject of government authority whose powers extend to the entire territory of Ukraine, except for cases established by parts two, five of the Article 22 and part one of the Article 27 of the Code of Administrative Proceedings of Ukraine; b) upon a claim by the Antimonopoly Committee of Ukraine in the area of state aid to business entities; c) on the implementation of state regulation, supervision and control in the media sector; d) on the cancellation of the registration of a political party; e) on the appeal of the decisions of the Competition Commission on the organization and conduct of the competition for the position of Deputy Prosecutor General – Head of the Specialized Anti-Corruption Prosecutor's Office, First Deputy and Deputy Head of the Specialized Anti-Corruption Prosecutor's Office, the Commission on the external independent assessment (audit) of the effectiveness of the Specialized Anti-Corruption Prosecutor's Office; f) on the appeal of the decisions of the Commission on the conduct of the competition for the position of Director of the National Anti-Corruption Bureau of Ukraine, the Commission on the external independent assessment (audit) of the effectiveness of the National Anti-Corruption Bureau of Ukraine; g) on the appeal of the decisions of the Competition Commission on the selection for the position of Head of the National Agency for the Prevention of Corruption; h) on appealing the decisions of the Competition Commission on the selection for the position of the Head of the National Agency of Ukraine for the Identification, Search and Management of Assets Obtained from Corruption and Other Crimes; i) on appealing the decisions of the Competition Commission on the competition for the position of the Director of the Bureau of Economic Security of Ukraine; g) on appealing the decisions of the Competition Commission on the competition for the position of the head of the central executive body implementing the state customs policy; k) on appealing the acts, actions or inaction of the body conducting disciplinary proceedings against prosecutors.

At the same time, People's Deputy of Ukraine Vlasenko S. V. also registered an alternative draft law No. 12368-1 dated of 2025, January 07, which in its original wording concerned the establishment and functioning of the Kyiv City District Administrative Court and the Kyiv City Appeal Administrative Court precisely as specialized administrative courts (without detailing the qualification requirements for judges of such courts) and even more expanded powers of these courts, compared



to the government draft law No. 12368 (Draft Law No. 12368-1, 2025). The Verkhovna Rada of Ukraine supported this particular draft law, leaving the scope of competence of the newly established specialized administrative courts similar to the government draft law No. 12368, but renaming the courts to the Specialized District Administrative Court and the Specialized Appeal Administrative Court and increasing the qualification requirements for a judge of the Specialized Appeal Administrative Court (Law No. 4264-IX, 2025): a) at least seven years of experience as a judge; b) at least nine years of professional experience in the area of law in civil service positions of categories “A”, “B” in state authorities, the powers of which extend to the entire territory of Ukraine; c) at least nine years of experience as a lawyer, including representation in public law disputes in administrative courts; d) an academic degree in law and at least nine years of experience in research work in the area of law; e) a total length of work (professional activity) in accordance with the specified requirements of at least nine years.

An analysis of all the described legislative initiatives allows us to reach an interim conclusion that the establishment of a specialized administrative court is an urgent need, consistent with the European integration aspirations of Ukraine. It is relevant to emphasize the special status of such a court in its name, such as: “Higher”, “specialized”. A successful step by the legislator was to replace the name “Kyiv City District Administrative Court” (which duplicates the name of the already established Kyiv City District Administrative Court on the basis of the Law of Ukraine No. 2825-IX dated of 2022, December 13) with “Specialized District Administrative Court”. However, the finalized name, which combines the term combinations “Specialized District” / “Specialized Appellate”, is controversial, as it does not fully separate the legal status of such specialized courts from ordinary district and appellate administrative courts. Given the final qualification requirements for judges of specialized administrative courts, it is important to consider the corruption risk of considering cases by judges of these courts who, before passing the competition for the positions of judges of such courts, worked in civil service positions in those subjects of government that are defendants in disputes that have come before the relevant courts.

#### **4. Delimitation of competence between administrative courts**

Part three of the Article 20 of the Code of Administrative Proceedings of Ukraine in its original version established that the Supreme Administrative Court of Ukraine reviewed judicial decisions of local and appellate administrative courts in cassation as a court of cassation, and also reviewed in appellate proceedings judicial decisions of a district administrative court, the territorial jurisdiction of which extends to the Kyiv city (Code, 2005).

Based on the Articles 22–24 of this Code in its current version, after the liquidation of the High Administrative Court of Ukraine and the formation of the Supreme Court, the powers of the Cassation Administrative Court within the Supreme Court included both the review of court decisions of local and appellate administrative

courts in cassation proceedings, and the resolution, as a court of first and appellate instance, of cases regarding the establishment by the Central Election Commission of the results of elections or an all-Ukrainian referendum, cases on a claim for the early termination of the powers of a people's deputy of Ukraine, as well as cases regarding the appeal of acts, actions or inaction of the Verkhovna Rada of Ukraine, the President of Ukraine, the Accounting Chamber, the High Council of Justice, the High Qualification Commission of Judges of Ukraine, decisions, actions or inaction of bodies that elect (appoint) and dismiss members of the High Council of Justice, regarding issues of election (appointment) to positions of members of the High Council of Justice, their dismissal from such positions, and appeals of decisions, actions or inaction of entities appointing judges of the Constitutional Court of Ukraine in the process of competitive selection of candidates for the position of judge of the Constitutional Court of Ukraine, as well as the Advisory Group of Experts on the Evaluation of Such Candidates for the Position of Judge of the Constitutional Court of Ukraine, the inaction of the Cabinet of Ministers of Ukraine in failing to submit to the Verkhovna Rada of Ukraine a draft law on the implementation (implementation) of the decision of the Ukrainian people on supporting the issue of national importance at an all-Ukrainian referendum on a popular initiative (Code, 2005).

It is necessary to emphasize the atypicality of the approach of granting the court of cassation the competence of the court of first instance, which will continue even after the establishment of specialized administrative courts. It is worth noting that the legislator in part five of the Article 22 of this Code also retained the approach on the basis of which the Supreme Anti-Corruption Court decides administrative cases on the application of the sanction specified in the paragraph 1-1 of part one of the Article 4 of the Law of Ukraine "On Sanctions" (Code, 2005), although all other sanction disputes are resolved by the Cassation Administrative Court within the Supreme Court.

More balanced is the valid approach of the legislator regarding the granting, in accordance with part one of the Article 22 of this Code, of the Sixth Administrative Court of Appeal with the authority to consider cases as a court of first instance on appealing decisions, actions or inaction of the Central Election Commission (except for those specified in part four of this Article), actions of candidates for the post of President of Ukraine, their proxies; on the ban of a political party, regulated by the Article 289-3 of this Code; on appealing decisions of the National Agency for the Prevention of Corruption on the refusal to provide state funding for the statutory activities of a political party or on the suspension (termination) of state funding for the statutory activities of a political party (Code, 2005). After the establishment of specialized administrative courts, the relevant norm will be excluded and the resolution of disputes regarding the financing of the statutory activities of political parties will fall under the competence of specialized administrative courts.



After the liquidation of the District Administrative Court of Kyiv City and the establishment of the Kyiv City District Administrative Court, no amendments were made to the Article 27 of the Code of Administrative Proceedings of Ukraine regarding the revision of the scope of powers of the district administrative court, the territorial jurisdiction of which extends to the Kyiv city (Law No. 2825-IX, 2022). For that reason, it could be argued that the exclusive jurisdiction of the Kyiv City District Administrative Court is subject to preservation. At the same time, after the establishment of specialized administrative courts, the Kyiv City District Administrative Court will consider cases on appeals against decisions of the Antimonopoly Committee of Ukraine on complaints about violations of legislation in the area of public procurement, administrative cases in which the defendant is a diplomatic mission or consular institution of Ukraine, their official or employee (as an excluded jurisdiction), as well as disputes in accordance with the general rules for determining jurisdiction.

Hence, one could notice some chaos in granting judicial authorities the competence to resolve public law disputes. Therefore, there is an urgent need to balance the jurisdiction in the legal status of existing administrative courts, simplifying the levelness with respect to instance and jurisdiction of such disputes.

## 5. Conclusions

Consequently, it is necessary to relieve the Supreme Court as a court of cassation from the powers atypical for a court of such a high level of authority to resolve cases as a court of first and appellate instance. The powers of the Supreme Court established by part four of the Article 22 and part three of the Article 23 of the Code of Administrative Proceedings of Ukraine should be transferred to the competence of the Specialized District Administrative Court and the Specialized Appeal Administrative Court. All cases considered by the Appeal Administrative Court in the appeal district, which includes the Kyiv city, sanction disputes, including those resolved by the High Anti-Corruption Court, should be transferred to the competence of specialized administrative courts, which will contribute to ensuring the rule of law and the unity of judicial practice.

This will ensure the guarantees of access to court in the context of guaranteeing the right to appellate and cassation review, as well as support the high status of specialized administrative courts with their typical powers to resolve high-profile public-law disputes. At the same time, it is necessary to ensure the independence of the judges of this court, minimizing possible corruption risks in their activities.

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## ПЕРСПЕКТИВИ ФУНКЦІОНУВАННЯ СПЕЦІАЛІЗОВАНИХ АДМІНІСТРАТИВНИХ СУДІВ В УКРАЇНІ

**Анна Барікова,**

доктор юридичних наук, доцент,

доцент кафедри адміністративно-правових дисциплін

Національної академії внутрішніх справ

[orcid.org/0000-0002-9707-0106](https://orcid.org/0000-0002-9707-0106)

[anna.barikova@gmail.com](mailto:anna.barikova@gmail.com)

**Мета.** Стаття розкриває перспективи функціонування спеціалізованих адміністративних судів в Україні. **Методи.** Для досягнення цілей дослідження автор використовує загальнонаукові та спеціально-юридичні методи пізнання. Аналіз і синтез, індукцію та дедукцію було використано для розкриття особливостей компетенції спеціалізованих адміністративних судів в Україні. Історико-правовий і порівняльно-правовий методи

застосовано для порівняння обсягу повноважень новостворених Спеціалізованого окружного адміністративного суду та Спеціалізованого апеляційного адміністративного суду з Вищим адміністративним судом України. Формально-юридичний і прогностичний методи використано для аналізу подальшої можливості розгляду справ спеціалізованими адміністративними судами в Україні. **Результати.** Продемонстровано, яким чином високий статус спеціалізованих адміністративних судів забезпечуватиме виконання суддями цих судів Банголорських принципів поведінки суддів і підвищуватиме довіру суспільства до суду, оскільки утворення спеціалізованого адміністративного суду є нагальною потребою, узгодженою з євроінтеграційними прагненнями України. Описано, що вдалим кроком законодавця стала заміна назви «Київський міський окружний адміністративний суд» (яка дублює назву вже створеного Київського міського окружного адміністративного суду) на «Спеціалізований окружний адміністративний суд». Однак фіналізована назва, що поєднує в назві і терміносполуки «Спеціалізований окружний» / «Спеціалізований апеляційний», є контрверсійною, оскільки не повною мірою відокремлює правовий статус таких спеціалізованих судів від звичайних окружних та апеляційних адміністративних.

**Висновки.** По-перше, запропоновано розвантажити Верховний Суд як суд касаційної інстанції від нетипових для суду такого високого рівня повноважень щодо вирішення справ як суд першої та апеляційної інстанції. Установлені частиною четвертою статті 22 і частиною третьою статті 23 Кодексу адміністративного судочинства України повноваження Верховного Суду потрібно передати до компетенції Спеціалізованого окружного адміністративного суду та Спеціалізованого апеляційного адміністративного суду. Усі справи, які розглядав апеляційний адміністративний суд в апеляційному окрузі, що включає місто Київ, санкційні спори, зокрема й ті, які вирішує Вищий антикорупційний суд, потрібно передати до компетенції спеціалізованих адміністративних судів, що сприятиме забезпеченню правовладдя та єдності судової практики. По-друге, доведено, що в такий спосіб буде реалізовано гарантії доступу особи до суду в контексті гарантування права на апеляційний і касаційний перегляд, а також підтримано високий статус спеціалізованих адміністративних судів з типовими для них повноваженнями з вирішення резонансних публічно-правових спорів. Водночас потрібно забезпечити незалежність суддів цього суду, мінімізувавши можливі корупційні ризики в їхній діяльності.

**Ключові слова:** правовладдя, адміністративне судочинство, юрисдикція, інстанція, судові процеси.

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