

Formation Logic and Perfection Path of Administrative Litigation Prosecution System

LE REN

ABSTRACT

Administrative litigation endows citizens, legal persons, or other organizations with the right to appeal to the court for protection when their legitimate rights and interests are illegally infringed by public power. The administrative litigation prosecution system is the preface to the operation of the judicial rights relief. China's administrative litigation prosecution system has experienced a transformation from a case-filing review system to a case-filing registration system. Meanwhile, "difficulty in prosecution" has been alleviated. However, the number of administrative litigation prosecution cases has increased sharply. Therefore, the setting and review of the prosecution threshold should be clarified by judicial relief. With the time limit for prosecution in administrative litigation as a vital procedural threshold in prosecution conditions, we should ensure the dynamic balance between the protection of litigation rights and judicial efficiency. It's also necessary to study its functional orientation and special system of time limit for prosecution, such as the time limit for prosecution of invalid litigation. The administrative litigation prosecution system is constantly improved in theory and practice. The reform and development of the registration system should take the legislative purpose value of the prosecution system as the starting point. At the same time, attention should be paid to the protection of personal interests and the maintenance of administrative order.

PROSECUTION CONDITIONS FOR ADMINISTRATIVE LITIGATION

In the administrative relationship with unequal subjects as its essence, how to operate judicial relief is imperative for those whose rights have been damaged. Only by meeting the prosecution conditions can a period of judicial relief be operated. Thus, prosecution conditions can be deemed as a crucial part of the prosecution system. The complexity of prosecution conditions and the difficulty of reviewing prosecution conditions all affect whether the litigants can guarantee their rights to appeal and protect their interests. In judicial practice, the upgrading prosecution conditions lead to the emergence of "difficulty in prosecution", followed by the uneven review of prosecution conditions. With the introduction of the case-filing registration system, prosecution conditions have

Le Ren
School of Humanities and Law, Yanshan University, Qinhuangdao, China

entered a new stage. Meanwhile, its connotation and review standards are worthy of in-depth analysis and exploration.

Analysis of the Prosecution Conditions for Administrative Litigation

The prosecution is regarded as a unilateral legal act of the parties exercising the right of administrative litigation, and its direct purpose is to start the litigation procedure [1]. As the initial stage of the litigation procedure, its concrete content generally refers to the specific matters recorded in the complaint, while the acceptance stage is more inclined to examine the prosecution conditions. The concept of prosecution conditions is intertwined with theoretical support. According to the rank law of litigation evaluation, the three ranks of litigation are establishment, legality, and rationality with prosecution elements, litigation elements, and case elements as their corresponding court review [2]. But the required conditions in litigation stipulated in China's Administrative Litigation Law do not distinguish between prosecution requirements and litigation requirements, and the litigation conditions in China are decentralized, which directly leads to the unclear review scope of prosecution conditions in administrative litigation in China. There are four conditions stipulated in Article 49 of the Administrative Litigation Law on prosecution conditions. (1) The plaintiff is a citizen, legal person, or other organization meeting the requirements of Article 25 of this Law. (2) A clear defendant exists. (3) Claims and factual basis are specific. (4) Scope of accepting cases belong to the people's court with the corresponding jurisdiction, provisions on the scope of accepting cases, jurisdiction, participants in litigation, the time limit for prosecution, complaint are included. According to Article 51 of Administrative Litigation Law, "those who meet the prosecution conditions stipulated in provisions of this Law shall be registered and filed". The "provisions of this Law" here can be understood as limited to the provisions of the prosecution conditions in Administrative Litigation Law.

According to the prosecution conditions stipulated in Administrative Litigation Law, many details are contained. The first is the plaintiff's qualification, which is divided into the plaintiff's personal information, capacity, and related interests. First of all, the plaintiff's personal information, that is, the specific content, mainly including the authenticity and detail of the identity, needs to be indicated in the complaint, which not only ensures the authenticity of the plaintiff, but also facilitates the delivery of documents. In addition, the plaintiff needs to have litigation ability and normal understanding to be responsible for his own litigation. If he does not have this ability, the law also stipulates that the legal representative can exercise the right to appeal on his behalf. Finally, the plaintiff needs to have an interest in the sued administrative act. The existence of violations and injustices brings relief. If there is no interest, there is no need to produce judicial relief. Secondly, a clear defendant exists. As a specific administrative subject, the defendant can produce administrative actions or take on the subject of being sued. The judgment of the specific defendant qualification needs further review and judgment by the court. Thirdly, specific claims and factual basis are in need. Specific claims related to the administrative action should be specific administrative action with a clear and specific object of the action. The parties should clearly express the final legal

effect they want to pursue [3]. Factual evidence can generally prove the existence of administrative actions. Fourthly, the scope of accepting cases belongs to the people's court with the corresponding jurisdiction. In addition to the above four clear provisions, the time limit for prosecution is also within the scope of its prosecution conditions.

The procedure of filing a case in China is primary, which does not originate from the theory of litigation elements in the civil law system but the practical demand of solving the difficulty in prosecution. With the strong functionality [4], prosecution conditions can not only standardize the prosecution behavior of the parties, but also exclude unnecessary lawsuits in the prosecution conditions, thus reducing the judicial pressure of administrative organs. At the beginning of filing a case for review, the importance of prosecution conditions is self-evident. However, the confusion between prosecution elements and litigation elements tends to trigger realistic bottlenecks in the review stage. The nature of litigation elements determines that a proper review procedure is needed, while the setting of the case-filing review procedure in China's administrative litigation shows that it is not a formal review procedure. The time for filing a case for review is short, so it is impossible to properly handle complex matters such as litigation elements. Meanwhile, the way of unilateral review by the court is far from meeting the requirements of complexity and significance of litigation elements. In reality, the filing staff will strictly examine the prosecution conditions, and many cases will be rejected by the court. Once the number of cases is reduced, the judicial staff may further decrease the cases after getting used to this work rhythm. Thus, the difficulty of filing a case will become a new problem over time. Therefore, the confusion about prosecution conditions brings about difficulty in examining prosecution conditions.

Review of the Prosecution Conditions for Administrative Litigation

The premise of a complete litigation is to be filed by the parties, and then the court examines and accepts the review. Prosecution conditions constantly screen administrative disputes into administrative litigation, and the review of prosecution conditions is related to whether the case enters the review. In judicial practice, a case needs to be trialed by the court after filing a case, that is, the filing court needs to review the prosecution conditions and then hand them over to the trial court for trial. Therefore, the review of prosecution conditions can be divided into the filing stage and the review stage. The review by the filing court is key to the whole litigation stage. However, this link is also criticized by scholars. Because the prosecution conditions confuse the prosecution elements with the litigation elements. Due to the increasing prosecution threshold, it is difficult to file a case, which has become the most challenging problem under the review of prosecution conditions. In addition to taking the right of action as the core concept to criticize the filing court's review of litigation elements, the procedural guarantee, and the right of action guarantee, most scholars propose to realize the downgrading prosecution conditions [5]. The case-filing registration system is the first stage of the review of prosecution conditions currently implemented in China. When the people's court receives the complaint, it registers the prosecution that meets the prosecution conditions. The registration of case-filing is not only registration but still

involves the content of the review. When the review results meet the filing standards, they will be filed. After filing a case, the filing court will be moved to the trial court to start the second stage of review of prosecution conditions. In practice, the review scope of the filing court and the trial court overlaps, and the review scope of the filing court can even cover all the prosecution conditions. Even though the implementation of the registration system lowers the threshold for review by the filing court, the influx of abundant administrative cases has led to “insufficient staff in charge of many cases” as a new problem. The judicial practice has to be continually and strictly examined in the first stage. So where is the limit of the review of prosecution conditions in the filing court? How do we review and achieve the dynamic balance between litigation and review?

At present, the review of prosecution conditions takes into account the inequality of litigation ability and legal status between the original and the defendant in administrative litigation. The law sets a lower standard for prosecution conditions and only makes loose formal reviews. In practice, some courts adopt strict substantive review standards for the initial conditions of administrative litigation. Behind the substantive review is the reason and performance of the upgrading prosecution conditions [6]. For example, strictly defining actionable administrative actions leads to the expanding scope of non-actionable ones. Many administrative actions are defined as non-actionable at the filing stage and will not be filed. Whether they can be sued or not should actually be in the review stage, and the judge should make a judgment rejecting the prosecution. The interests and the qualifications of defendants should be strictly identified. Only the right subjects clearly stipulated by law and the administrative counterparts stated in administrative actions are the plaintiffs of administrative litigation. Besides, the authority organs stipulated by law are the defendants of administrative litigation. In fact, this perception narrows the understanding of interests and statutory authority. Strictly reviewing prosecution conditions is actually sticking to the order administration, thus ignoring that judicial relief is to solve administrative disputes and protect citizens’ right to appeal. Blind substantive review deviates us from solving the “difficulty in filing a case”. At the same time, it is easy for the court to fall into the judicial misunderstanding of judging before trial [7]. If a substantive review of prosecution conditions is carried out at the filing stage, it tends to trigger the evasive trial of judges in judicial practice [8].

Specifically, the judge will produce a result-oriented review before the trial and will take the non-compliance with the prosecution conditions as the final result of the judgment, so as to find other viewpoints to convince the review process under the influence of the result, which is even more unfair to the parties. Therefore, in order to avoid the impact of this result, we should pay attention to the formal review of prosecution conditions, that is, the review of procedural elements [9]. In other words, the formal qualification review is implemented in the litigation subject, the plaintiff, and the defendant, including the agent, in order to ensure that they are all the subjects responsible for the litigation. In the aspect of litigation object, the administrative act or legal relationship pointed out by the prosecution is reviewed in form. In addition, the qualification review of litigation claims and cause facts shall be carried out. Elements of prosecution conditions review should be more formalized and downgraded, which is more conducive to the protection of citizens’ basic litigation rights. The modern

administrative procedure law should not only pursue the order, but also the realization of litigation purpose value.

The formal review of prosecution conditions by the filing court is also a practical application of the rank law of litigation right. The formal review first solves the problem of whether the case is established or not. On this basis, the foothold of the trial is on the legality of administrative actions and the effective settlement of administrative disputes, thus ensuring the integrity and continuity from prosecution to trial, which is better beneficial to protect citizens' administrative litigation rights and the effectively handle the judicial relief [10]. Thus, the prosecution conditions are better upgraded and the "difficulty in filing a case" is actually solved. However, a large number of cases flooded into the judicial field where judicial resources were tight and the phenomenon of "insufficient staff in charge of many cases" appeared. Even so, the judicial organs can't be strict in the review stage of prosecution conditions, so as to improve the settlement rate and save judicial resources. Then, prosecution tends to be upgrading.

Therefore, in order to protect citizens' right to sue and safeguard their legitimate rights and interests, the review of prosecution conditions should be more inclined to review procedural elements, that is, formal review. It clarifies the prosecution elements and litigation elements of prosecution conditions, which does not overly operate substantive review at the filing stage, so as to avoid judging filing case before review and the cases that really need to seek relief being rejected.

Reform Practice and Development of Case-filing Registration System

In the judicial practice for a long time before the amendment of Administrative Litigation Law, the review of the filing court covered almost all the prosecution conditions. Meanwhile, strict review and prosecution gradually formed the filing review system in practice. Overly strict review of prosecution conditions makes the threshold gradually increase, which intensifies the difficulty in filing a case. Due to the inequality and injustice of some invalid lawsuits, they encounter bottlenecks in the filing stage and cannot get effective relief, so it is difficult to guarantee the litigants' right to appeal. Thus, the Administrative Litigation Law was revised in 2014 and the registration system was formally established. The people's court received the complaint and registered the prosecution that met the prosecution conditions. The purpose was to improve the current situation of upgrading prosecution conditions and mitigate the difficulty in filing administrative litigation. However, in the application of judicial practice, there are still some drawbacks in the registration system of case filing in China, which still needs to be studied and improved.

The administrative litigation case-filing transformed from a case-filing review system to a case-filing registration system, which guarantees citizens' litigation, practices the duty and mission of justice for the people, and exerts judicial function. The original intention of the administrative litigation registration system is to pursue fairness and justice in the substantive sense and protect the litigants' right to appeal. Compared with the case-filing review system, the case-filing registration system has a broader qualification for reviewing prosecution conditions. The former is a formal review of the

complaint, materials, and litigation contents submitted by the parties, while the latter is a substantive review of the prosecution facts of the parties. In the filing process, before the reform of the case-filing registration system, “those who do not meet prosecution conditions should be ruled without case-filing within 7 days” means that “those who cannot be judged within 7 days should be filed first”. In the aspect of filing supervision, if the court neither files a case nor makes a ruling, the parties can sue or appeal to the higher people’s court under the filing review system, and the higher court should accept the conditions meeting requirements. Under the registration system, the parties file a lawsuit with the higher court, and the higher people’s court should file and trial a case that meets the requirements. At the same time, if they do not accept the complaint and do not inform at one time, the parties can complain to the higher court, which orders them to make corrections and punishes the direct supervisor and the person in charge. The implementation of the registration system makes the administrative litigation filing procedure more standardized and follows steps from the parties submitting the complaint to the people’s court finally deciding whether to file a case. Comparatively speaking, the registration system can better protect the litigants’ right to appeal and greatly alleviate the “difficulty in filing a case”, apart from cleaning the channel of judicial relief. The emergence of the registration system not only highlights the concept of taking trial as the center and avoids selective justice to a certain extent, but also protects human rights, better promotes justice for the people, and improves the social governance ability of justice.

Since the implementation of the registration system, academia has been paying close attention to it continuously, with different voices produced for the registration system. There is still a certain gap between the administrative litigation registration system and the real one. Academia generally believes that the prosecution conditions in the registration system of filing a case in China are equivalent to the litigation elements of the Civil Procedural Law of Germany and Japan, but the pre-review is adopted in the review mode, which excessively raises the threshold of filing a case. Therefore, the academia proposes to separate the prosecution conditions from the trial proceedings of the litigation elements, carry out downgrading transformation, and put them into the substantive trial link for review [11]. In the true sense, the “registration system for filing a case” means that when a party submits a complaint to the court, the court should register and file a case without going through the review. However, the current registration system in China can only be regarded as a “quasi-registration system” [12]. This is because the registration system has not changed the conditions of administrative prosecution under the long-standing filing review system. The prosecution conditions in the administrative litigation registration system are mixed with three elements of theoretical appeal. China has not formed a clear understanding of prosecution elements, litigation elements, and case elements from the perspective of legal norms. The “prosecution conditions” in legislation are combined with litigation elements and some contents of case elements [13], which leads to the lack of clear guidance in the practice and application of administrative litigation prosecution conditions, with the court getting too much discretion in case filing. Because the review system of filing a case has not changed, the registration system can only be regarded as the standardization of the filing

system of administrative litigation. At present, the registration system fails to solve all the problems related to prosecution in administrative litigation. For example, the effective operation of the registration system of administrative litigation needs the cooperation of other systems. If the registration system only adjusts administrative disputes from the perspective of litigation and has not been improved in other channels or aspects, its effect will disappear there [14]. Generally speaking, the emergence of the registration system is a good guide for the standardization and practicality of administrative litigation, but there are still many difficulties in its operation. For example, upgrading prosecution conditions is still inevitable in practice, and the scope and standards of reviewing prosecution conditions still lack clear provisions. Thus, the “difficulty in filing a case” in reality still exists. No matter under the review system or the registration system, there is an appeal to this problem, which is not only caused by the unclear prosecution conditions, but also partly due to the people’s recognition of the oversimplification of filing a case. After the reform of the filing system, the slogan “A case must be established and a lawsuit must be justified” often appears in public. Over time, people generally think that as long as they file a lawsuit, the court will file a case. Professor Zhang Weiping once pointed out, “The social factor of the difficult prosecution is mainly due to people’s general recognition of the necessity of “easy prosecution” [15]. Similarly, people’s psychological feelings about “difficulty in filing a case” are the same. In addition, because the registration system of administrative litigation is given too much expectation when a case has the “difficulty in filing a case and in relief”, people’s trust and recognition of judicial credibility will decrease. The registration system is not perfect, and it also opens the door for abuse and malicious litigation in facilitating the parties to seek relief. It has never wasted precious judicial resources and caused adverse effects. Therefore, based on the administrative litigation registration system, how to give full play to the advantages of the registration system, that is, to protect the litigants’ right to appeal and curb the abuse of the right to appeal, is an urgent problem to be solved at present.

TIME LIMITS FOR PROSECUTION OF ADMINISTRATIVE LITIGATION

The time limit system of administrative litigation is one of the conditions of administrative litigation, which is also a procedural threshold for the parties to enter administrative litigation. Perfecting the time limit system of prosecution can effectively urge the parties to exercise their right to appeal as soon as possible, maintain the legal effect of administrative actions, and ensure the effective implementation of judicial relief. The stipulation of the time limit for prosecution in Administrative Procedure Law and Applicable Interpretation is relatively simple, which cannot completely correspond to the complicated administrative cases in practice. Meanwhile, the system of the time limit for prosecution still needs to be improved. The time limit for the prosecution system is a critical manner to balance the litigants’ right to appeal and the administrative order with self-evident importance. Therefore, it is necessary to study and discuss the

functional orientation of the time limit for prosecution in administrative litigation and the special type of time limit for prosecution.

Functional Orientation of Time Limits for Administrative Litigation

The time limit for prosecution is closely related to the right to appeal. Only when the prosecution is carried out within the statutory time limit can the right to appeal be guaranteed. The study of the time limit for prosecution is beneficial for the court to correctly determine whether the prosecution of the parties is overdue, thus saving judicial resources and improving the awareness of the parties actively exercising the right to appeal. The setting of the prosecution time limit is the symbol and basic condition for the administrative litigation right to move from the ideal to reality. The time limit for the prosecution system is the foundation and key of the whole administrative litigation prosecution system. Therefore, the setting of the time limit for prosecution in administrative litigation should not be too rigid on the date when the administrative act occurs and the effective date of the administrative act. Moreover, the functional orientation should be taken as the starting point, the protection of the legitimate rights and interests of the administrative counterpart as well as the maintenance of social public interests should be considered.

As for the function determination of the time limit for prosecution in administrative litigation, the academia can roughly divide it into “single dimension”, “binary balance”, and “ternary juxtaposition”, among which “binary balance” is the legislative choice for setting up the time limit system in China’s current administrative litigation law. Scholars who hold the view of “single dimension” are based on the consideration of legal stability. It is considered that “stipulating the time limit for prosecution is an inevitable requirement for the certainty of the administrative action form (also known as indisputable power)” [16]. In essence, it represents the formal certainty of administrative actions. On this basis, scholars who hold the view of “binary balance” believe that the setting of the prosecution period reflects a game between justice and efficiency, but they are in a dynamic and stable stage. They believe that the purpose of setting a prosecution period is to “urge the parties to file litigation in time, solve administrative disputes and stabilize social relations as soon as possible” [17]. At the same time, the protection of citizens’ rights and interests is also the main and fundamental purpose of Administrative Litigation Law [18]. In other words, the time limit for prosecution is set not only for the protection of citizens’ right to appeal, but also for the determination of the effectiveness of administrative actions and the improvement of efficiency. Later, it developed and extended the theory of “ternary juxtaposition”, that is, taking the limited judicial resources as the fundamental starting point. The prosecution period should take on the triple tasks of limiting administrative litigation right, maintaining the effectiveness of administrative actions and remarkable jurisdiction. Although the time limit for prosecution is a legislative strategy to confirm and protect the certainty and efficiency of administrative actions, it must be based on the prerequisite function of administrative litigation to supervise the operation of administrative power and safeguard the legal rights of the counterpart [19]. However, in practice, judicial resources are not the only

issue to be considered in the prosecution period, so the theory of “ternary juxtaposition” has not been widely recognized by the judiciary.

The time limit for prosecution is one of the key links to determining the protection of the right to appeal. Whether the time limit for administrative litigation is set reasonably is not only related to whether the legitimate rights and interests of both parties of the defendant can be fully protected, but also related to whether the social public interests and the legitimate rights of related subjects can be guaranteed. Therefore, to return to the most essential purpose of setting the prosecution period, letting citizens exercise their right to appeal in time is to safeguard their legitimate rights and interests. At the same time, it drives the efficiency of judicial organs, handles administrative disputes on time, and promotes the stability of social relations.

Discussion on Confirming Time Limits for Invalid Litigation

From the perspective of litigation function, confirming invalid litigation is not only designed to supervise invalid administrative actions, but also to provide indefinite protection for the rights and interests of the counterpart. The special relief significance of affirming invalid litigation lies in that it belongs to a kind of litigation “exceeding the general time limit for prosecution”, which is quite different from withdrawing the litigation after having been sued [20]. Invalid administrative actions can be sued outside the statutory time limit for prosecution, which is also a procedural symbol to confirm that invalid actions are independent of revoked actions [21].

In China’s current law, there is no clear regulation on the time limit for the prosecution of invalid administrative litigation. According to the Article 75 of the Administrative Procedure Law, if the plaintiff applies for confirmation that the administrative act is invalid, the people’s court shall make a judgment confirming that the administrative act is invalid. According to Article 94 of Judicial Interpretation of Administrative Litigation Law, if a citizen, legal person, or other organization sues for revocation of an administrative act, and the people’s court considers that the administrative act is invalid after review, it shall make a judgment confirming the invalidity. Citizens, legal persons, or other organizations sue to confirm that the administrative act is invalid, while the people’s court considers that the administrative act is not invalid. After interpretation, if the plaintiff requests to revoke the administrative act, it shall continue the trial and make corresponding judgments according to law. If the plaintiff requests to cancel the administrative act but exceeds the statutory time limit for prosecution, it shall rule to reject the prosecution. If the plaintiff refuses to change his claim, the judgment shall reject his claim. From the perspective of legislation and judicial interpretation, the law only regulates what is invalid behavior and the lawsuit of invalid administrative behavior. However, there is no clear legislation on the prosecution period of the lawsuit of invalid confirmation. Correspondingly, there is no clear standard on whether the time limit for prosecution should be applied in judicial practice, and different courts often form different rulings, so there is uncertainty in practice. Therefore, it is necessary to discuss and explain whether the time limit for prosecution is applicable to invalid litigation.

Whether the time limit for prosecution should be applied to invalid litigation has its own opinions in theory and practice. Theoretically speaking, there are theories about “time limits for prosecution” and “no time limit for prosecution”. The theory of “no time limit for prosecution” advocates that the request for confirmation of invalidity is not limited by the statutory time limit for prosecution. It is based on the basic principle of invalid administrative act *ab initio*, *virtute officii*, determines the nullification of legal effect, whose position is in line with the theoretical consensus of the civil law system. From the legislative experience of civil law countries, it is not necessary to stipulate clearly that there is no time limit for the prosecution to confirm invalidity, and the invalid administrative act will certainly not take effect from the beginning. However, from the perspective of strict legalism, there is also a lack of clear provisions for setting general deadlines from the beginning. If it is changed to “pay attention to regulations”, it is suspected of repeating legislation [22]. The theory of “time limit for prosecution” is more based on the stability of the law and pursues the standardization and integrity of the law. In the final analysis, whether the invalid action is bound by the time limit for prosecution depends on the value trade-off behind the two positions, namely, the unbound position oriented to the protection of rights and the bound position oriented to the stability of law. Considering the “significant and obvious illegal” color of invalid administrative acts, the concept of legal stability at this time should give way to that of substantive justice flaunting “right protection” [23]. At this time, more attention should be paid to fairness at the substantive level, so the theory of “no time limit for prosecution” is better. From a practical point of view, because there is no fixed and clear practical measure in the cases guided by the Supreme People’s Court of the People’s Republic of China, the new application of “appropriate period” is derived from judicial practice. It mainly analyzes the way of filling loopholes in the “appropriate period” [24] created by the Supreme Court and then applies it to practice. However, from the perspective of rights protection, the judge’s discretion is expanded at this time, so the power needs to be restricted. Scholars have put forward two considerations. One is to emphasize the necessity of comprehensively considering the stability of law and social order; the other is to stress the necessity of following the judgment criteria of individual cases and the standard that the “appropriate period” is not lower than the statutory time limit for prosecution.

In addition to the binary theory, some scholars have integrated the theory with the practice, thus putting forward the “affirmative theory”, “negative theory”, and “intermediate theory”. “Affirmative theory” holds that invalid litigation should also apply the time limit for prosecution, because invalid litigation is an illegal administrative act, so it should apply the time limit for prosecution. If it is not applicable, it has no basis in the law. Moreover, the system of the prosecution time limit is still needed in practice. Otherwise, it will lead to the flood tide of litigation and the phenomenon of litigation abuse. However, “affirmative theory” to a certain extent also stifles the value of the judicial relief system, which will lead to some real invalid administrative actions escaping from judicial review for exceeding the time limit of prosecution. “Negative theory” recognizes this problem and thinks that the time limit for prosecution should not be applied to invalid litigation, because invalid administrative actions are absolutely invalid from the beginning. The viewpoint and value orientation of this theory are

correct. Since “affirmative theory” and “negative theory” can't convince each other, “intermediate theory” comes into being as a moderation theory. In addition, on the basis of three theories, some scholars consider the value of confirming invalid litigation, advocating the timeliness of plaintiffs' lawsuits, and utilizing the cheapness of the defendant's self-correction, so as to highlight the effectiveness of court supervision and protection before putting forward the “limited affirmative theory” [25]. That is to say, the time limit for prosecution is applicable to confirmation litigation in principle. Only if it is confirmed invalid by the court, the court has the right to exclude the application of the time limit and (the plaintiff's prosecution, court review, and trial) exceeds the time limit for prosecution. This theory advocates the timeliness of the plaintiff's lawsuit and further highlights the effectiveness of court supervision and protection by using the inexpensive self-correction of the defendant. In other words, this view is to resolve administrative disputes to the greatest extent, reduce judicial pressure, and establish an appropriate mechanism to play the role of administrative self-correction and filtering.

To sum up, government violation of the law not only damages personal interests, but also damages citizens' trust in the government represented by public interests. The confirmation of invalid litigation in the Administrative Procedure Law is also a system feature. Although it is not perfect, it is the reconciliation of formal rule of law and substantive rule of law, which is also the result of the game between judicial power and administrative power. In this reconciliation, it is more reasonable to apply the rule of no time limit for the prosecution to invalidate litigation. Besides, the respect of legal stability for substantive justice can better safeguard citizens' demand and protect their personal rights and interests that are legitimate, reasonable, and legitimate from public infringement.

DEVELOPMENT APPROACH OF ADMINISTRATIVE LITIGATION PROSECUTION SYSTEM

Reform and Improvement of the Case-filing Registration System Removing its Upgrading Characteristics

In the field of judicial practice, the case-filing registration system tends to transition to the review system, which is also because the case-filing registration system has no clear legislation to show its substantive purpose and reform direction. If we want to improve the case-filing registration system, we need to take the value and purpose of the case-filing registration system as the basis. At the same time, we should always make it clear that the original intention of the case-filing registration system of administrative litigation is also for fairness and justice in the substantive sense and the protection of the litigant's right to appeal. The purpose is the foundation and the problem is the orientation. Starting from the existing case-filing registration system, first of all, the case-filing registration system in China has not changed the prosecution conditions under the long-standing filing review system. Prosecution conditions are mixed with litigation elements and case elements, so it is necessary to draw away the prosecution conditions

from the mixed elements, so as to make the prosecution conditions more concise and standardized. It should be remembered that the prosecution condition is the threshold of the whole prosecution system. In order to protect citizens' right to appeal, it is necessary to lower the threshold of prosecution conditions. The "prosecution conditions" after the upgrading return should include necessary records in the complaint (or oral prosecution record). In other words, there are clear parties, claims, facts, and reasons [26]. There is no need for further restrictions as long as the parties are identified. In addition, the review of prosecution conditions should not be substantive. Since our judicial practice has always adhered to the principle of legislation and trial separation, it must be implemented. The filing court should formalize the review of prosecution conditions and should not over-interpret the prosecution conditions at the filing stage, so as to avoid the pre-trial. Of course, if a system wants to be feasible in practice, it cannot be separated from the cooperation of other systems. For example, after the complaint is rejected, there are some special judicial relief channels and settlement mechanisms. The innovation of these systems requires judicial personnel to constantly explore in practice and promote the innovation of the registration system.

Judicial Attempts to Confirm Invalid Prosecution Without Time Limits

As for the time limit for invalidity confirmation, requesting invalidity confirmation for administrative actions made by the Supreme People's Court after May 1, 2015, is not limited by the time limit for prosecution. For example, in the case of Wang Shurong v. Green Park Government confirming the invalidity of the requisition and compensation agreement in 2019, the judgment gist of the Supreme People's Court clearly pointed out that a major and obviously illegal administrative act is an invalid administrative act, which is absolutely invalid from the beginning and does not have a legal effect due to the passage of time. This case makes it clear that the parties can file a request for confirmation of invalidity at any time for administrative actions made after May 1, 2015, which is not limited by the time limit for prosecution. At the same time, in order to avoid the abuse of the parties to confirm the invalid litigation request to avoid the prosecution period system, the plaintiff should bear the responsibility of proving the invalid administrative act, and the defendant can also put forward evidence to deny the other party's claim. The People's Court shall review whether the administrative act is invalid. In addition, if it considers that the administrative act is invalid, it is not limited by the time limit for prosecution. Otherwise, the People's Court shall explain it to the plaintiff [27]. The judicial attempt is based on the consideration of legal stability and social order, but the court must keep a prudent attitude in practice and make a comprehensive judgment. Finally, a reasonable result is formed. Of course, such a judgment is entirely at the discretion of the judge without absolute and solidified standards. However, the judge must explain the final measurement results, so as to prevent the abuse of discretion, and then limit the litigant's right to appeal.

CONCLUSION

Every administrative case involves not only the personal interests of the parties, but also the law enforcement standards of administrative organs, then affecting the whole administrative order and social governance. One of the ultimate goals of the rule of law is to confirm and protect the legal rights of citizens. The ways of protection are diverse, but judicial relief is undoubtedly the most basic and important way of protection. Safeguarding the litigant's right to appeal is the highest idea or principle of modern judicature as well as the highest guiding principle for a country to design and operate its litigation system [28]. The basis of protecting the right to sue is to protect citizens' right to sue. Blindly pursuing the rational use and realization of judicial resources to infringe on citizens' right to sue and raise the prosecution threshold actually constitutes a violation of the right to sue. Problems such as the shortage of judicial resources and "insufficient staff in charge of many cases" cannot be altered by changing the prosecution system. To solve such problems in practice, we should start by improving the efficiency of judicial work. The improvement of efficiency can also rely on science and technology and other means. Therefore, the prosecution system still needs to be developed and perfected, but we must not forget the value and significance behind the system.

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