PANEVĖŽIO KOLEGIJA ISSN 2029-1280, eISSN 2669-0071. Taikomieji tyrimai studijose ir praktikoje – Applied Research in Studies and Practice, 2022, 18.

THE PROBLEMS OF REGULATING THE PROCEDURAL DEFINITION OF LEGAL PERSONS AS SUBJECTS OF ADMINISTRATIVE RESPONSIBILITY

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Abstract. Although undifferentiated regulation has been in place in criminal justice for almost a few decades to guarantee procedural rights to legal persons, however, in administrative law, this issue is still left to the discretion of the various agencies, with the risk of not guaranteeing the procedural rights of all legal entities held liable. Consequently, the object of the research of this article is the procedural definition of the status of legal persons in special laws providing for the administrative liability of these persons, and the article seeks to analyse the specificities and issues of this differentiated regulation in comparison with the standards set for natural persons to define their procedural position. The article uses basic research methods such as document analysis, systematic analysis, comparative analysis, and generalization methods. The analysis substantiated inconsistent regulation of the procedural rights of defence of legal persons and related procedural terms in special laws providing for administrative liability of these persons, which significantly exceed the standards set for administrative liability of natural persons without ensuring the implementation of the principle of equality in administrative proceedings

Keywords: legal person, administrative liability, procedural time limits, right of defence

INTRODUCTION

With the new Criminal Code and the new Code on Criminal Procedure in Lithuania a consolidated institute of criminal liability of legal persons was established in both substantive law and procedural law, establishing and ensuring undifferentiated guarantees of procedural rights for these legal entities. Unfortunately, no such step has been taken in administrative justice when it comes to the administrative liability of legal persons and its regulation, which is left differentiated and enshrined in the legislation governing the activities of the various agencies. It should be noted that most of the legal acts regulating economic activities issued by the state are nothing more than administrative laws, which also provide for administrative liability for legal persons. Over time, the legislator has adopted an increasing number of administrative legal acts regulating various types of economic activities, in the context of which the institute of administrative responsibility of legal persons as advanced and equal market participants has been established. There are more than 30 such special laws in Lithuania today and their number is constantly changing. However, the main problem is that in Lithuania the legal acts regulating the administrative liability of legal persons in a differentiated manner do not establish or detail the rules for the implementation of general administrative liability, which should ensure effective protection of the procedural rights of persons to be prosecuted. In this context, it is also necessary to note that Lithuanian legal doctrine and jurisprudence unequivocally agree that the application of legal liability to a person must ensure all procedural rights of the persons to be prosecuted. Based on this, the research of this article is differentiated into several levels. At one level, the aim is to assess the consistency of the enforcement of procedural rights for legal persons in different specific laws providing for the administrative liability of these persons. At the next level of analysis, the aim is to assess the compliance of these regulations on procedural rights provided for in special laws for legal persons with the standards provided by the legislator for the administrative liability of natural persons. In this way, the aim is to assess the possible difficulties in ensuring the principle of equality of persons in the existing regulations defining the procedural status of legal persons. However, given the limited scope of this research, the analysis of the work is limited to three specific laws providing for the administrative liability of these persons, and the procedural status of a legal person as an entity of administrative responsibility is analyzed only in a few aspects related to ensuring the procedural rights of defense of these persons, as well as the regulation of procedural terms.

The object of the research – the procedural definition of administrative liability of legal persons in the sense of special laws providing for the administrative liability of these persons.

The aim of the research – to analyze the peculiarities of the definition of the procedural situation of legal persons as a subject of administrative responsibility and the issue of regulation in special laws providing for the administrative liability of these persons.

The tasks of the research: 1) to reveal the problems of the definition of the status of a legal person in administrative proceedings; 2) to examine the issue of ensuring the procedural rights of defense of legal persons in special laws providing for the administrative liability of these persons and comparing them with the standards established by the Code of Administrative Offenses of the Republic of Lithuania; 3) to analyze the issues of regulation of procedural terms related to the administrative liability of legal entities in special laws and to compare them with the standards established by the Code of Administrative Offenses of the Republic of Lithuania.

Methodology of the research: depending on the topic, goals and objectives of the scientific article, the following research methods are used: document analysis, systematic analysis, comparative analysis, and generalization methods.

Abbreviations used in the article:

the Convention – the European Convention for the Protection of Human Rights and Fundamental Freedoms;

the CAO – the Code of Administrative Offenses of the Republic of Lithuania;

the LB – the Law on Banks of the Republic of Lithuania;

the LA – the Law on Advertising of the Republic of Lithuania;

the LC – the Law on Competition of the Republic of Lithuania;

the SAC – the Supreme Administrative Court of Lithuania.

THE PROBLEM OF DEFINING THE STATUS OF A LEGAL PERSON IN ADMINISTRATIVE LAW

In Lithuania, the main law regulating liability for administrative offenses is the CAO, in accordance with Section 1 of Article 2, only a natural person shall be considered an entity. However, there are over 30 special laws in Lithuania under which administrative liability applies not only to natural persons but also to legal persons, which is also substantiated by the SAC, which has already stated ten years ago in case No. No. A-858-1083-10 that legal persons are special subjects of administrative responsibility in the context of the Law on tobacco control and other laws providing for administrative liability. The administrative subjectivity of legal persons is also justified by the nature of the sanctions imposed on them, i.e. when imposing liability on legal persons for violations of special legal acts, unlike the CAO, public administration entities do not impose administrative penalties, but economic sanctions, which by their nature are identical in several respects. In the first aspect, it should be noted that economic sanctions and administrative penalties belong to the same legal institution, which was confirmed by the Constitutional Court of the Republic of Lithuania by noting in case No. 02/03-03/03-04/03-05/03-39/03-05/04-16/04-02/05-04/05 that there is no such separate type of legal liability and separate institute of law as "economic responsibility" at all, and the so-called economic sanctions belong to the same institute of law as administrative penalties. Similarly, legal doctrine agrees that economic sanctions fall within the sphere of administrative responsibility and should therefore be referred to as administrative sanctions (Gutauskas et al, 2006). In the second aspect, legal doctrine points to the identification of economic sanctions and administrative penalties because of the identity of the objectives pursued by those fines (Šedbaras, 2005). On that basis, it must be held that legal persons are subject to administrative liability within the meaning of the economic sanctions imposed on them. Although it should be noted here that some other legal scholars did not rush to accept such statements, which unanimously stated that only a natural person can be subject to administrative liability due to the above-mentioned subjective characteristics of a natural person established by the CAO (Andruškevičius, 2008; Dambrauskienė et al. 2004). Today, however, the situation has changed, with the legal entity already being treated as an entity with administrative liability.

Analysing in detail the regulation of over 30 special laws, which provide for the application of administrative liability to legal persons, it appears that, in contrast to the CAO, most cases regulate the same procedural issues differently, such as the procedure for imposing time limits, imposing sanctions or the procedure for sending the protocol, etc. However, in the absence of a separate unified legal instrument on the administrative liability of legal persons, each such special law independently regulates the application of economic sanctions to legal persons. As a result, there are natural problems with the fact that in most of these laws the rules on the application of general administrative liability are regulated occasionally or incompletely, therefore, the regulation establishing the administrative liability of legal persons is differentiated and, possibly, not ensuring uniform and consistent application of liability.

The "need" for uniform and consistent application of administrative liability to legal persons is justified by legal doctrine, which analyzes the case law of the Court of Cassation and notes that the application

of administrative liability for violations of management legislation must comply with all the requirements established for the regulation of such liability (Šedbaras, 2005). Such requirements are considered to be the procedural norms established in the general part of the CAO, which are intended to regulate the application of administrative liability to natural persons. This is also confirmed by the SAC, which establishes the rule that when a gap in the legal regulation is found in the legal act regulating the administrative liability of legal persons, the CAO is still applicable, which, as mentioned, is not intended to regulate the administrative liability of legal persons (Bulletin No. 23, 2012). Consequently, all general procedural rules for the application of liability as in the CAO should be laid down in law, however, the real situation is different, as the above-mentioned legal regulation of legal entities still does not contain the same rules as the CAO for regulating identical procedural issues. Moreover, there may be situations in which there may be no regulatory loopholes in a specific special law defining a legal person as an entity with administrative liability, which means that legal persons are subject to different rules governing the issue of identity in the context of individual laws. In this case, legal entities may find themselves in an unequal legal position. Although, the prevailing protective principle, which prohibits the application of the analogy of the law when it complicates or restricts a person's legal position, should not be forgotten here. In other cases, when the protection of the mentioned principle is not provided, the norms of the general part of the CAO shall be applied to fill the gaps in the legal regulation. This leads to a confusing perception of the rules applicable to legal persons. There are cases in the case law like in case No. A63-1647/2008 where, due to the different regulation of identical issues, it is completely unclear to legal persons which legal norms should be applicable to them, as a result of which legal disputes arise. It is considered that the main factor that may influence the above-mentioned differentiated application of administrative liability to legal entities is the dynamism of the laws and their inadequate improvement, i.e. four further examined special laws, which define a legal entity as being subject to administrative liability has been amended more than 145 times, however, the most sensitive regulatory gaps in the application of administrative liability and in particular in the issues analyzed in this paper for legal entities are left out.

THE PROBLEM OF ENSURING THE PROCEDURAL RIGHTS OF DEFENSE OF LEGAL PERSONS IN ADMINISTRATIVE LAW

The legal doctrine and jurisprudence of Lithuania recognize that all procedural rights of persons subject to liability must be ensured when applying legal liability to a person, among other things, the individual's right to a defense, which, according to the Constitutional Court of The Republic of Lithuania in case No. 12/2010-3/2013-4/2013-5/2013, is “absolute, [and] it cannot be denied or constrained on any grounds and under any circumstances”. This right (rights) of a person to a defense is defined and enshrined in Section 3 of Article 6 of the Convention, which lays down minimum and mandatory requirements guaranteeing the specific procedural rights of a person charged with a criminal offense. This importance of ensuring the procedural rights of the defense of a person to be prosecuted enshrined in the Convention is also emphasized by the above-mentioned resolution of the Constitutional Court, noting that the accused's rights of defense ensure that the innocent person is not prosecuted, it also presupposes that the accused must be guaranteed sufficient procedural means to defend himself against the accusation and that it must be available to him. Although the scope of Article 6 of the Convention is criminal liability, the guarantees of this Convention must also be extended to persons prosecuted for the criminal nature of the administrative offense and the nature and severity of the sanction threatened. In this case, it should be noted that the aforementioned rights of the defense of the person to be held administratively liable under Section 3 of Article 6 of the Convention are, in principle, governed by Article 577 of the CAO, which also enshrines other rights ensuring the defense of a person brought to administrative responsibility, i.e., the right to inspect the case file, to give explanations, to give evidence, to make requests, to appeal against the decision in the case and to take part in the proceedings. Thus, the CAO regulates in detail the rights ensuring the defense of a natural person who is brought to administrative responsibility. Unfortunately, this cannot be said of the legislation governing the administrative liability of legal persons, most of which do not enshrine the basic provisions of Section 3 of Article 6 of the Convention and other procedural rights provided for in the CAO, ensuring the defense of the person.

In particular, the analysis begins with an analysis of the LA, Article 24 of which governs administrative sanctions against legal persons, such as warnings and fines, which are also provided for natural persons in Articles 23 and 27 of the CAO. Meanwhile, when analyzing in detail the norms of this law regulating the procedural rights of a legal person subject to administrative liability, it should be noted that most of them enshrine the rights ensuring the defense of the individual enshrined in Section 3 of Article 6 of the Convention and Article 577 of the CAO, but some of these rights are still not regulated. It should be noted that the legal

regulation of the LA establishes the right of a person to be prosecuted to submit reasoned explanations and evidence (Sections 12, 13 of Article 25), to have access to the case file (Section 13, 15 of Article 25), to be represented (Section 11 of Article 25), within 21 calendar days to prepare for the defense (Section 15 of Article 25), to appeal against the ruling (Section 1 of Article 27), to participate in the proceedings of the administrative law violation case (Section 10 of Article 25). However, some of the above provisions raise certain doubts, such as a provision of Section 15 of Article 25 of this law, indirectly establishing the right to prepare a defense within 21 calendar days. This raises a number of interrelated issues, i.e., first, what time is sufficient to prepare the defense as required by Section 3 of Article 6 of the Convention, and second, whether that time-limit complies with that requirement laid down by the Convention. Unfortunately, the answer to these questions remains unclear, as the legislator has not established a sufficient definition of the term either in the CAO or in any other legal act regulating the law of administrative offenses. For this reason, the establishment of a person's right to a defense provided for in Section 15 of Article 25 of the LA is questionable. In addition, there are much more serious regulatory problems in this law, i.e., there is no article in this legal act establishing other rights provided for in the legal regulation of the CAO: to make requests, to speak in the mother tongue or in a language spoken by the person prosecuted (in this case the representative of the legal person), as well as the right to use the services of an interpreter. In addition, it should be noted that the LA also does not contain legal norms regulating these rights to be granted in Section 3 of Article 6 of the Convention and procedural rights ensuring the defense of a person brought to administrative liability – receive free counsel or an interpreter (if required) and the right to question witnesses. Thus, this is a problem of legal regulation of the LA, which causes violations of procedural rights ensuring the protection of legal persons.

Meanwhile, in the analysis of the LB, Article 72 of which, like Article 23 and Article 27 of the CAO, provides for various sanctions, e.g. warning, fine, revocation of the intended license, etc., It should be noted that this law shows a much more flawed tendency to regulate the rights provided for in Section 3 of Article 6 of the Convention and Article 577 of the CAO than in the LA under consideration. This justifies Article 67 of the LB, which regulates only the rights and obligations of public administration entities, but does not provide for the rights of legal persons to be held administratively liable. This is confirmed by the particularly deeper provision of Point 6 of Section 2 of Article 67 of this law, which provides for the right of the supervisory authority to give written instructions to the CAO under administrative responsibility "for the banks managers to come to the supervisory authority and give explanations". Although at first sight it would seem that this legal norm establishes the right to provide explanations ensuring the defense of a legal person (banks), this is not the case, whereas this statutory provision imposes a prohibited obligation and not the right to give explanations to the person prosecuted. Even more problems are seen when this provision is read in conjunction with the provision of Section 2 of Article 73 of the LB, which provides for the real right of the accused person to be heard, i.e., it remains unclear how the dispute should be resolved if the legal entity legally refuses to exercise the right of Section 2 of Article 73 of the LB and at the same time unlawfully fails to comply with the obligation to provide explanations provided for in Point 6 of Section 2 of Article 67 of the LB. There is only one thing that is clear, the regulation of these legal norms is incompatible with each other and must be considered flawed. Continuing the establishment of other procedural rights of a person guaranteeing the protection of a person to be granted in Article 3 of the Convention and Article 577 of the CAO in the legal regulation of the LB, it should be noted that the provisions of Sections 2 and 8 of Article 73 of this Law duly regulate a number of such rights of the person being prosecuted, however, a number of rights ensuring the protection of a legal person subject to administrative liability, as provided for in Article 577 of the CAO, are not provided for, i.e., the procedural rights to make requests, to give evidence, to speak the mother tongue or the language of the person charged (in this case a bank representative), to be represented by a lawyer, to have the services of an interpreter free of charge and to question witnesses. Undoubtedly, this is considered to be a problem in the regulation of this law. In addition, another sensitive issue is Section 2 of Article 73 of the LB, which provides for the possibility for the supervisory authority to decide on the application of sanctions in certain urgent cases, notwithstanding the requirements set out in this Article, i.e., without the participation of a legal person, acquaintance with the case file, etc. It is clear that in the exceptional cases provided for in this provision, the application of sanctions does not ensure the protection of the procedural rights guaranteeing the defense of the person brought to administrative liability. Thus, the regulation of the LB is considered problematic and does not ensure the implementation of procedural rights guaranteeing the protection of legal entities subject to administrative liability.

The last legal act to be analyzed is the LC. Although, at first sight, it would appear that this law should provide for the strongest possible protection of the procedural rights of legal persons subject to administrative liability, considering that, in accordance with Article 36 of this Law, enormous administrative

sanctions imposed on legal persons, the amount of which, often, measured in terms of MGL, far exceeds the amounts established by criminal law, but this is not the case. In the legal norms of the LC, as well as in the special laws examined above, only partial regulation of the procedural rights guaranteeing the defense of a legal person to be held administratively liable, provided for in Article 577 of the CAO and to be granted in Section 3 of Article 6 of the Convention, is noticeable. This is evident from the fact that the legal regulation of the LC in principle correctly establishes only three rights of a legal person subject to administrative liability – access to the case-file (Section 2 of Article 29), to appeal against a decision made in respect of that person to a court (Section 1 of Article 33) and the indirectly established right of a person to participate in the proceedings decided by the Competition Council (Section 3 and 4 of Article 29). Meanwhile, the right of a legal person to provide explanations in this law, as in the LB, is regulated ambiguously. This is confirmed by the provisions of Point 5 of Section 1 of Article 25 and Sections 1 and 3 of Article 29 of the LC regarding the rights and obligations of legal persons to be held administratively liable to provide explanations to the Competition Council, which are regulated in a manner analogous to the LB. At this point, there is a conflict of legal norms, which hinders the guarantee of the right to provide explanations, which guarantees the defense of the legal person being prosecuted administratively. In addition, the right to submit requests ensuring the defense of a person enshrined in separate norms of the LC, such as Section 4 of Article 29 or Section 2 of Article 22, is noteworthy. This regulation is considered to be flawed, as it provides for only a few possible variants of applications and thus restricts the right of a legal person to be administratively held to choose and submit the most effective applications for its defense. Concluding the analysis of the legal regulation of the LC, it should be noted that most of the other rights guaranteeing the defense of a legal person to be held administratively liable under Section 3 of Article 6 of the Convention and Article 577 of the CAO – to give evidence, to speak the mother tongue or the language he speaks, to use the services of an interpreter, a lawyer, at the same time guarantee a free lawyer or interpreter (if necessary) and the right to question witnesses, are not regulated by this law. Thus, these rights become vague in the context of the regulation of the LC and this is a problem to be considered. In summary, it must be stated that all these regulatory problems of the LC illustrate the flawed establishment of the procedural rights of legal persons to be held administratively liable, which causes restrictions and violations of the rights ensuring the defense of these persons.

PROBLEMS OF REGULATION OF PROCEDURAL TERMS RELATED TO THE ADMINISTRATIVE LIABILITY OF LEGAL ENTITIES

Further examining the problems of the legal regulation establishing the administrative liability of legal persons in Lithuania, it is expedient to analyze in detail the procedural and limitation periods established in the above-mentioned special laws, which establish the norms of fundamental rights, and to assess their problems. As a result, the above-mentioned legal norms regulating the main procedural and limitation periods of the LA, the LB and the LC applicable to legal entities will be examined in comparison with the CAO applicable to natural persons, which regulates these terms uniformly. The SAC, forming a uniform case law in administrative cases, has already stated in 2012 that legal persons should be subject to the same rules as those established by the SAC (currently valid CAO) when applying administrative liability (Bulletin No. 23, 2012). Thus, according to the SAC, it can be concluded that the laws regulating the administrative liability of legal entities should theoretically establish the same procedural and limitation terms as the terms provided by the CAO, however, the real situation in legal regulation is different.

Before examining in detail, the procedural and limitation periods laid down in the laws governing the administrative liability of legal persons, it is appropriate to first review those that are enshrined in the norms of the CAO. As the CAO has a number of procedural time limits for the examination of a case, therefore, the procedural term for the examination of administrative offense cases regulated by Section 4 of Article 616 of the CAO was selected, which provides for the requirement to investigate cases of administrative offenses out of court, usually within 20 working days from the date of service of the report on the administrative offense or the expiry of the term for execution of the administrative order. Meanwhile, the second procedural term that was assessed during the analysis, – the term for imposing an administrative penalty provided for in Article 39 of the CAO, which provides that an administrative penalty may be imposed no later than 2 years from the date of the administrative offense. After reviewing these legal norms, we can notice that the legal norms established by the CAO regulate in detail the general rules of terms applicable to natural persons. Unfortunately, this cannot be said of the special laws governing the administrative liability of legal persons.

Assessing the regulation of the LA in the first aspect previously identified, i.e. analyzing the procedural time limit for a legal person, it appears that such a time-limit is laid down in Section 19 of Article

25) of that law, which lays down a time-limit of 6 months, which may be extended to a further 6 months, which means that the maximum time allowed for an administrative case before an institution can be 12 months. Consequently, Section 19 of Article 25 of the said LA sets a time limit that is more than 12 times longer than the time limit set by the CAO for proceedings before an institution. It is considered that this term is considered inappropriate, as it violates the principle of expediency guaranteed by the terms of administrative law and is inadequate for the term of administrative proceedings established by the CAO. The same, but opposite, issue is observed in the analysis of the second procedural term - the limitation period for the imposition of sanctions. Section 9 of Article 24 of the LA provides that a fine may be imposed no later than within 1 year from the last day of the dissemination of advertising or from the moment of occurrence of other legal facts of this Law. Again, the time-limit for imposing penalties is half that of the time-limit laid down in Article 39 of the CAO, which justifies stricter requirements for the administrative liability of legal persons on this basis than for the natural liability of natural persons. Such a fundamentally different treatment of the status of legal and natural persons is not based on any rational arguments and must therefore be regarded as a breach of the principle of equality. Moreover, such a rule forces the responsible authorities to rush to impose fines on legal persons, which can lead to errors by the authorities and the imposition of insufficiently justified penalties. Thus, the current regulation of the examined legal norms of the LA is flawed, on the one hand, due to the establishment of procedural terms that do not ensure the principle of expediency, on the other hand, the irrational and strict introduction of a limitation period for administrative liability in comparison with the regulation of the CAO.

Meanwhile, when analyzing the regulation of the LB, it has been noticed that it does not contain any article that directly determines the term for the examination of an administrative case, as defined in Section 4 of Article 616 of the CAO for natural persons. So, the problem is obvious – unregulated time limit for administrative proceedings. It is considered that this problem is possibly affected by the fact that this law confers a number of rights on the infringement body, and the discretion to set certain procedural time limits independently, but does not, in principle, impose obligations. As an example, Section 11 of Article 72 of the LB can be cited, the analysis of which shows that the time limits for the application of provisional sanctions are set by the institution itself. It is believed that the regulation of the LB, granting a considerable amount of such discretion, may presuppose the abuse of the rights of legal entities by institutions and violations of the principles of equality and expediency of proceedings. Continuing the analysis of the legal norms of the LB, it should be noted that the limitation period for imposing sanctions is nevertheless regulated in Section 3 of Article 73 of this Law, where a time limit of up to 5 years, from the date of the infringement, is provided for the supervisory authorities to decide on the sanction. Looking more closely at this legal norm, it should be noted that such a term established in it is also 2.5 times different from the term established in Article 39 of the CAO for imposing an administrative penalty on natural persons. Thus, it is considered to be a problem of legal regulation, possibly leading to violations of the principles of efficiency of administrative procedure and equality of persons before the law.

Finally, when analyzing the legal norms establishing the procedural and limitation terms of the LC, it should be noted that none of them directly regulates the procedural time limit for an administrative hearing before an institution. At the same time, it should be noted that these legal norms do not regulate and name the process of administrative proceedings before the institution as such. After a conceptual examination of the norms of the LC, it should be noted that this is due to the fact that the examination of an administrative case in the context of this law is to be treated simply as an investigation. The term of such an investigation is regulated by Section 5 of Article 23 of the LC, which provides for the obligation of the Competition Council to complete the investigation no later than within 5 months from the date of the decision to initiate an investigation, with the possibility to extend it for another 3 months. Linguistically analyzing this legal norm, it is not difficult to notice that such procedural time limit for hearing a case (in this case investigation) is significantly more than 5 times longer than the time limit set out in Section 4 of Article 616 of the CAO for natural persons subject to administrative liability. As in the previous case of regulation of the LA, such term of investigation is inadequate to the term established by CAO, does not ensure observance of the principles of equality of persons and efficiency of proceedings. Further analysis of the regulation of the LC in the aspect of the limitation period for the imposition of procedural sanctions, it is noted that it is enshrined in Section 3 of Article 35 of this Law, where it is possible to impose sanctions for violations of this Law no later than within 5 years from the date of the violation or from the date of the last action or termination. From the content of the mentioned legal norm, again, the same problem of legal regulation can be seen – an unequal and more than twice as long limitation period for the imposition of an administrative penalty as compared to Article 39 of the CAO. In summary, the analysis of the main statute of limitations and procedural terms regulated by the LC

states that this regulation is problematic and presupposes violations of the principles of equality of legal persons and the efficiency of administrative proceedings.

Having examined the legal provisions governing the administrative liability of legal persons under the said special laws and providing for the main procedural and limitation periods and after identifying their problems, it should be noted that in practice these problems are not usually solved. The main reason for this is the fact that the legislator is prohibited from applying the analogy of the law in the above-mentioned laws, albeit inappropriately, if the legal regulation of terms is substantially established – in this case, the legal norms regulating the terms of the CAO, which could solve the problems of regulation of terms established by the said special laws. Among other things, according to the SAC in case No A-520-2136-12, the application of the analogy of the law is not possible also in the cases when the existing flawed legal regulation of legal terms may violate the principle of expediency of the proceedings. In addition, it should be noted that without solving the problems of regulation of terms provided for in the above-mentioned special laws, another possible violation of the principle of equality of legal persons in relation to natural persons is left aside.

CONCLUSIONS

1. The analysis substantiated the complex definition of the status of a legal person as an entity of administrative responsibility, the problem of which mainly consists of differentiated legal regulation, often leading to a somewhat different definition of such entity in administrative procedural terms in different areas of administrative law regulation. And the requirement to apply different legal norms to legal persons in the context of separate laws regulating the same issue leads to a confusing perception of the norms applicable to legal persons.
2. Examination of the procedural rights of the individual provided for in Section 3 of Article 6 of the Convention and of the CAO, and the analysis of their different establishment for legal entities as an entity of administrative responsibility in the context of the LA, the LB and the LC has established that only a small part of the above procedural rights are properly regulated in these special laws. As this existing differentiated special regulation is not able to ensure the protection of all the rights ensuring the defense of a legal person, a systematic and constructive harmonization of the administrative liability of legal persons with the rights of the defense of the individual guaranteed by the Convention and the CAO would change the situation.
3. After analyzing the regulation of all three of the above-mentioned special laws establishing the administrative liability of legal persons, which defines the limitation periods for the examination of an administrative case in the institutions and the imposition of an administrative penalty, several times more significant discrepancies have been identified from the analogous standards established by the CAO for the administrative liability of natural persons, which does not objectively ensure the observance of the principles of equality of persons and expediency of the process. Of all the special laws examined, the regulation of the LB is even more flawed, given that it gives the institution investigating infringements the discretion to set certain procedural deadlines independently.

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