

On the Specific Application Boundaries of the Proportionality Principle in the Field of Administrative Law

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Abstract

As a core principle of administrative law, the proportionality principle is crucial in regulating the operation of administrative power and balancing public interests and private rights. Its connotation includes three sub - principles: appropriateness, necessity, and proportionality in the narrow sense. These sub - principles, from the aspects of the match between means and goals, the choice of minimizing harm, and the reasonable balance between interests and harm, provide criteria for judging administrative actions. The value foundation of this principle is rooted in the concept of the rule of law, human rights protection, and administrative efficiency. It not only restricts administrative power to maintain the rule of law, but also safeguards human rights by limiting excessive infringement, and is complementary to administrative efficiency. The proportionality principle has specific application scenarios in administrative legislation, administrative law enforcement, and administrative justice. However, in practice, there are problems such as vague application scales and unclear handling of the relationship with specific legal norms. By analyzing its connotation and value foundation, this paper explores its specific applications, and then puts forward suggestions such as improving legislative provisions, strengthening law - enforcement supervision, and intensifying judicial review, aiming to clarify its application boundaries, provide guidance for administrative organs to perform their duties in accordance with the law, protect the legitimate rights and interests of relevant subjects, and promote the construction of a law - based government.

Keywords

Proportionality Principle; Administrative Law; Application Boundaries; Public Interest.

1. Introduction

In the process of modern administrative rule of law, the expansion of administrative power and the protection of civil rights have always been a pair of contradictions that need to be balanced. With its requirements for the moderation, necessity, and proportionality of administrative actions, the proportionality principle has become an important criterion for restricting the abuse of administrative power and achieving a balance between public and private interests. However, in the practice of the administrative law field, the application of the proportionality principle often faces many ambiguous areas, such as how to grasp the application scale in different administrative fields and how to handle the relationship between the principle and specific legal norms. Clarifying the application boundaries of the proportionality principle not only helps to improve the legality and rationality of administrative actions, but also enhances the public's trust in administrative power and promotes the improvement of the level of administrative rule of law. Therefore, in - depth research on the specific application boundaries of the proportionality principle in the field of administrative law has important theoretical and practical significance.

2. The Connotation of the Proportionality Principle

The proportionality principle originated from German administrative law and has gradually been recognized and adopted by most countries in the world. Its core spirit is that when an administrative organ implements an administrative action, it needs to take into account both the realization of administrative goals and the protection of the rights and interests of the counterpart. The proportionality principle consists of three sub - principles, as shown in Table 1. The first is the principle of appropriateness, that is, the means adopted by the administrative action must promote the realization of the administrative goal. If the means are not related to the goal, this action does not meet the requirement of appropriateness. For example, if an administrative organ takes the action of banning all vehicles from passing in order to rectify traffic chaos, it is obviously not in line with the rectification goal and does not conform to the principle of appropriateness. The second is the principle of necessity, which can also be called the principle of minimizing harm. It means that when there are multiple means to achieve an administrative goal, the administrative organ should choose the means that cause the least harm to the rights and interests of the counterpart. When implementing the demolition of illegal buildings, if there is a way to meet the requirements after rectification, demolition should not be carried out immediately. The third is the principle of proportionality in the narrow sense, which requires a reasonable proportional relationship between the public interest generated by the administrative action and the harm caused to the counterpart[1-3]. The counterpart should not be made to bear a large loss for a small public interest. These three sub - principles are interrelated and progressive, jointly constituting the complete connotation of the proportionality principle and providing specific criteria for judging the rationality of administrative actions.

Table 1. Sub - principles of the Proportionality Principle

Principle Name	Core Requirements	Examples
Principle of appropriateness	The means adopted by administrative behavior must contribute to the realization of administrative goals, and the means and goals need to be directly related	If an administrative organ takes measures to prohibit the passage of all vehicles in order to rectify the traffic disorder, it does not match the rectification goal and does not conform to the principle
Principle of necessity	When there are a variety of means to achieve administrative goals, should choose the least damage to the rights and interests of the counterpart	In the demolition of illegal buildings, if there is a rectification can meet the requirements of the way, it should not be directly removed
Principle of equilibrium	The public interests brought by administrative actions should maintain a reasonable proportion to the damage to the relative party, and the relative party should not suffer greater losses due to small public interests	In order to build a small community park, the forced demolition of a large number of residents' legal residences will result in an imbalance between public interests and private damages, which does not conform to this principle

3. The Value Foundation of the Proportionality Principle

3.1. The Concept of the Rule of Law

The core content of the concept of the rule of law is to build a balanced order between power and rights, requiring that the operation of administrative power is always regulated by law, neither absent nor exceeding the limit. The proportionality principle transforms the concept of the rule of law into an operable judgment standard through hierarchical constraints on administrative actions. Firstly, it requires the administrative goal to be legal, eliminating any arbitrary decision - making outside the legal framework. Secondly, it screens the means to ensure that the exercise of administrative power does not deviate from the track preset by law. In the practice of the rule of law, since legal provisions are difficult to cover all administrative scenarios, the proportionality principle defines an "invisible boundary" for discretionary power, enabling administrative organs to always adhere to the spirit of the law when making independent judgments, preventing the expansion of power from undermining the foundation of the rule of law, and ultimately achieving the integration of formal justice and substantive justice[4-5].

3.2. Human Rights Protection

The core point of human rights protection is to define the bottom line that civil rights are not infringed upon by public power. As a legal category that regulates the interaction between public power and private rights, administrative law must transform this bottom line into specific rules. The proportionality principle builds a line of defense for rights protection through triple constraints. It requires that before an administrative organ initiates an action to restrict rights, it must prove that the action is legitimate and reasonable. When choosing means, it should first consider the plan that has the slightest impact on rights. At the moment of making a final decision, the increase in public interest should be sufficient to cover the reduction in rights damage. This progressive review mechanism not only acknowledges the appropriate restriction of rights by public interest, but also prevents the deprivation of rights under the pretext of "public interest", making administrative actions always maintain respect for individual dignity and realizing the harmonious co - existence of public well - being and personal freedom.

3.3. Administrative Efficiency

The fundamental demand of administrative efficiency is to achieve the unity of reducing administrative costs and improving administrative effectiveness, rather than simply pursuing speed and scale. The proportionality principle achieves this goal by optimizing the cost structure of administrative actions: the principle of appropriateness prevents the waste of resources caused by the disconnection between means and goals; the principle of necessity reduces the confrontational expenditure caused by excessive interference; the principle of proportionality in the narrow sense guards against the emergence of error - correction costs caused by an imbalance of interests. In the practice of administrative management, actions that violate the proportionality principle often lead to double consumption - not only failing to achieve administrative goals smoothly, but also consuming more resources due to conflicts. The proportionality principle guides administrative organs to conduct full - cycle cost accounting when making decisions, choosing the route with minimal input, minimal resistance, and stable effects, enabling administrative efficiency to be based on scientific decision - making rather than being forced, and ultimately achieving a two - way improvement of administrative goals and social acceptance.

4. The Specific Application of the Proportionality Principle in the Field of Administrative Law

4.1. Application in Administrative Legislation

Administrative legislation refers to the activities of administrative organs in formulating administrative regulations, rules, and other regulatory documents, and its content directly affects the rights and interests of an unspecified majority. The application of the proportionality principle in administrative legislation is extremely important. During the administrative legislation process, the definition of the legislative purpose must be legal and reasonable, and the public interest sought should be clear and necessary. The measures adopted in legislation should conform to the principle of appropriateness, that is, the measures can effectively achieve the legislative goal[6-7]. For example, when formulating regulations related to environmental protection, the pollution control measures specified should actually be able to improve environmental quality. Among many optional legislative plans, the method that causes the least harm to the rights and interests of citizens, legal persons, and other organizations should be selected, which conforms to the principle of necessity. It also needs to meet the requirements of the principle of proportionality in the narrow sense. The public interest generated by legislation should exceed the harm caused to the counterpart. If an administrative legislation can bring certain public interests but will cause serious harm to the rights and interests of the majority, it does not conform to the proportionality principle and should not be introduced.

4.2. Application in Administrative Law Enforcement

Administrative law enforcement is manifested as the activities of administrative organs directly implementing administrative actions towards counterparts, such as administrative penalties, administrative licenses, administrative compulsions, etc. The application of the proportionality principle is more practical and direct. In the stage of administrative penalty, the administrative organ needs to make a penalty decision appropriate to the illegal act according to the facts, nature, circumstances, and social harm degree of the illegal act, and prevent over - punishment or under - punishment. For minor illegal circumstances, if warnings, orders for correction, etc. can achieve the educational goal, high - amount fines should not be imposed. When implementing administrative licenses, after the administrative organ sets the license conditions and makes a license decision, it must balance the coordination of the applicant's rights and interests and the public interest. For example, in license projects related to public safety, the review standards set should ensure public safety without unduly increasing the burden on the applicant. During the implementation of administrative compulsions, when the administrative organ implements compulsory measures, it must follow the principle of necessity. For example, in the case of seizing and detaining property, only the property related to the illegal act should be selected and should not exceed the necessary limit.

4.3. Application in Administrative Justice

Administrative justice mainly includes administrative reconsideration and administrative litigation, which are important means to resolve administrative disputes and supervise administrative actions. The proportionality principle is mainly manifested as the review of administrative actions here. In the stage of administrative reconsideration, the reconsideration organ needs to review whether the applied - for administrative action conforms to the proportionality principle. If there are problems such as a mismatch between the means and the goal of the administrative action or excessive harm, the administrative action should be revoked or changed in accordance with the law. In the stage of administrative litigation, the people's court will also use the proportionality principle to review the legality and rationality of the administrative action. In the stage of hearing administrative penalty cases, if the court believes that the administrative organ's penalty is obviously beyond a reasonable level and

violates the principle of necessity or proportionality in the narrow sense, it can make a judgment to change the penalty decision[8-9]. Applying the proportionality principle through the administrative justice procedure can effectively correct illegal or inappropriate administrative actions, protect the legitimate rights and interests of the counterpart, and promote administrative organs to manage in accordance with the law.

5. Suggestions for Improving the Application of the Proportionality Principle in the Field of Administrative Law

5.1. Improving Legislative Provisions

The provisions of the proportionality principle in China's administrative law are relatively scattered. There are relevant contents in the Administrative Penalty Law, the Administrative Compulsion Law, etc., but most of them are vague expressions such as "reasonable" and "appropriate", lacking a systematic overall design. This has led to significant differences in the understanding and application of the provisions by different law - enforcement organs, and the phenomenon of different judgments for the same case exists. The legislative process of the Administrative Procedure Law should be accelerated. In the general provisions, the proportionality principle should be established as a basic principle of administrative actions, and special chapters should be set up to define the meanings, application rankings, and judgment standards of appropriateness, necessity, and proportionality in the narrow sense. The direct causal relationship elements between administrative means and goals in the principle of appropriateness should be clarified, the comparison method of minimizing harm in the principle of necessity should be refined, and the quantitative guidance for the increment of public interest exceeding the decrement of private interest under the principle of proportionality in the narrow sense should be formulated. In special legislation in fields such as emergency management and ecological environmental protection, scenario - based clauses should be added, such as the necessary critical value of restricting personal freedom in a public health emergency[10]. Interpretations should be given by the Standing Committee of the National People's Congress or the Supreme People's Court. The application steps of the proportionality principle in discretionary power should be refined, and administrative organs should be required to explain in writing the reasons for excluding more moderate means, reducing the space for application deviation, as shown in Figure 1.

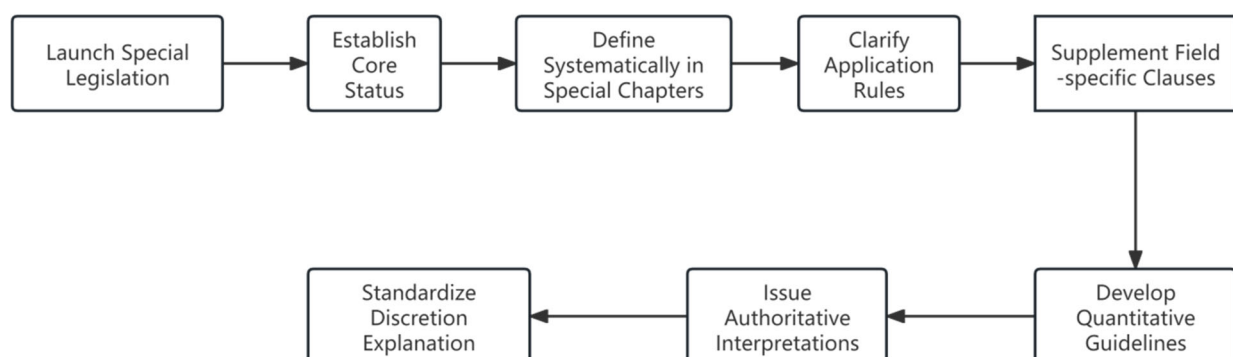


Figure 1. The Process of Improving Legal Provisions

5.2. Strengthening Law - Enforcement Supervision

The standardization of law - enforcement is the key to the implementation of the proportionality principle. An internal - external coordinated and comprehensive supervision system should be established. From the perspective of internal supervision, a pre - evaluation system should be built. Before an administrative organ makes a major decision, experts must be arranged to conduct demonstrations, and then submit a "Means Necessity Analysis Report" containing alternative plans, profit - loss comparisons, reasons for selection, etc. If the evaluation is not completed, the decision should not be implemented. The content of in - process inspections should be improved, and the review of the proportionality principle should be injected into all links of law - enforcement. For example, a "Proportionality Principle Application Explanation" column should be set up on the administrative penalty decision, analyzing the consistency between the penalty and the circumstances. For external supervision, the relief channels should be broadened. Special review channels should be set up in administrative reconsideration and petition matters, allowing counterparts to raise objections only regarding proportionality, and relevant departments should reply within a specified time. A closed - loop of supervision and feedback should be established. Selected application problems should be compiled into a "Typical Error Guide", and compliance should be included in the assessment system of law - enforcement personnel, linked to promotion, rewards, and punishments. Regular hierarchical training should be carried out, with the focus on simulation drills at the grassroots level and the cultivation of decision - making thinking at the middle - level. Interactive methods should be used to enhance capabilities.

6. Conclusion

As the "imperial clause" in the field of administrative law, the proportionality principle plays an irreplaceable role in regulating administrative power and balancing public and private interests. Clarifying its specific application boundaries in the field of administrative law is of great significance for realizing administrative rule of law, protecting civil rights, and improving administrative efficiency. By deeply understanding the connotation and value foundation of the proportionality principle, exploring its specific applications in administrative legislation, administrative law enforcement, and administrative justice, and continuously improving relevant legislative provisions, strengthening law - enforcement supervision, and intensifying judicial review, the proportionality principle can be more effectively applied in the field of administrative law. With the continuous development of administrative rule - of - law practice, the application boundaries of the proportionality principle will become clearer, and its role in promoting the construction of a law - based government and maintaining social fairness and justice will become more prominent.

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