

# “The Application of Expiration in Sanctioning Procedures of the State Contracting Court in Peru”

## *La aplicación de la caducidad en los procedimientos sancionadores del tribunal de contrataciones del Estado en el Perú*

MIGUEL ÁNGEL VELA HUGO<sup>1</sup> 

### ABSTRACT

This article examines expiration in Peruvian Administrative Sanctioning Proceedings to protect citizens' rights to legal certainty and predictability in State Contracting Court procedures. Using a qualitative-descriptive methodology, it analyzes the regulatory framework evolution, jurisprudential developments, and interpretive scenarios regarding expiration application in public procurement sanctioning proceedings.

**Keywords:** Expiration, Sanctioning Administrative Procedure, LPAG, SPT.

### RESUMEN

Este artículo examina la prescripción en el Procedimiento Administrativo Sancionador peruano para proteger los derechos de los ciudadanos a la seguridad jurídica y predictibilidad en los procedimientos del Tribunal de Contrataciones del Estado. Mediante una metodología cualitativo-descriptiva, analiza la evolución del marco normativo, los desarrollos jurisprudenciales y los escenarios interpretativos respecto a la aplicación de la prescripción en procedimientos sancionadores en materia de contratación pública.

**Palabras clave:** Prescripción, Procedimiento Administrativo Sancionador, LPAG, TCE.

<sup>1</sup> Miguel Ángel Vela Hugo: Universidad Científica del Sur, Lima, Perú. Correo: mvelah@cientifica.edu.pe

## 1. Introduction

Expiration is a special way of filing an administrative sanctioning procedure (hereinafter ASP). According to this institution, ASP is terminated if a certain time has elapsed without the pronouncement and notification of the sanction. (Guzmán, 2020, p. 414).

This concept aims mainly to uphold two principles:

- a. **Predictability:** Article IV, paragraph 1.15 of the Preliminary Title of Law No. 27444 provides citizens the right to foresee the outcomes and deadlines of administrative proceedings. This is linked to expiration because citizens may expect case closure after a period, starting from notification of charges.

The Principle of Predictability serves two purposes. First, it enables the individual to anticipate the likely outcome of a procedure, allowing them to prepare appropriate defenses and reduce procedural costs. Second, it discourages frivolous petitions by providing clarity about their viability, thereby reducing the administrative burden on the agency and lowering organizational costs (Guzman, 2013).

- b. **Due Procedure:** States no sanction may be imposed without observing the appropriate procedure, ensuring the rights of any citizen undergoing a sanctioning process (Espin y Lopez, 2025). Expiration closely relates to this; if a sanction is imposed after the expiration period, due process has not been observed.

At the end of 2016, Peruvian Legislative Decree No. 1272 (hereinafter DL 1272) was published and came into force, which repealed Peruvian Law No. 27444 (hereinafter LPAG). This repeal introduced the expiration period into the text of the LPAG for the ASP, establishing a strict deadline for the public administration to sanction a citizen (Flores, 2017). Expiration can be thought of as a limitation period imposed on an administrative agency. The period puts a time limit on the actions or sanctions imposed by the agency, this time limitation period is, as a rule, 9 months and, as an exception, 12 months. Due process in administrative proceedings is recognized as a fundamental right with complex content (Roman, 2012). It serves as an umbrella right encompassing multiple guarantees, including the rights to an impartial adjudicator, defense, evidence presentation, reasonable timeframes, reasoned decisions, appeal, *res judicata*, and interim relief, among others not limited to this non-exhaustive list (Valdivia, 2021).

With the entry into force of DL 1272, the LPAG ceased to be merely referential for public administrations with special regulations and became mandatory for public administration. This modification established in Peruvian administrative law that “the general rule prevails over the special rule. “It is important to highlight that when the modifications of DL 1272 came into force, Peruvian Law No. 30225 (hereinafter the PL) and its previous regulation, Peruvian Supreme Decree No. 350-2015-EF, were in effect. In the original text of the PL, its first final complementary provision stated the following: “This Law and its regulation prevail over public law norms and those of private law applicable to it [...]” (First final complementary provision of the PL - original text). However, once the modifications of DL 1272 in the LPAG came into force in January 2017, and after the publication of Peruvian Legislative Decree No. 1341, the text was modified as follows: “This Law and its regulation prevail over the norms of the general administrative procedure, public law, and those of private law applicable to it [...]” (Article 1 of Peruvian Legislative Decree No. 1341).

One of the most significant changes introduced by Peruvian Legislative Decree 1272 was transforming the LPAG from a supplementary law into an imperative law of common application. Before this reform, the LPAG applied only when special regulations were silent on a matter; now its provisions are mandatory for all Peruvian administrative procedures, establishing minimum guarantees that must be universally respected (Supo, 2020). While each procedure requires special regulation due to its nature, this does not eliminate the need for common minimum standards that serve as a baseline of protections for all sanctioning procedures.

Not satisfied with that, the same provision was modified again by the publication of Peruvian Legislative Decree No. 1444, whose legal text remains in force:

“This Law and its regulation prevail over the norms of the general administrative procedure, public law, and those of private law applicable to it. This prevalence is also applicable to the regulation of sanctioning administrative procedures under the responsibility of the State Procurement Tribunal [...]” (Article 2 of Peruvian Legislative Decree No. 1444)

After this legislative decree that amended the PL, Peruvian Supreme Decree No. 344-2018-EF was published in December 2018, which regulates the law (hereinafter PR). In subsection No. 264.3 of Article No. 264, it established that the expiration periods indicated in Article No. 257 (Article No. 259 of the Consolidated Text of the Peruvian General Administrative Procedure Law - LPAG) of the LPAG do not apply for the purposes of sanctioning procedures under the jurisdiction of the State Procurement Tribunal (hereinafter SPT).

The issue of the research lies in the legal uncertainty and possible violation of the right to due process that would cause the SPT’s preference for applying the First Final Complementary Provision of the Peruvian Public Procurement Law and subsection No. 264.3 of Article No. 264 of the Peruvian |Procurement Regulations over Article No. 259 of LPAG.

Thus, based on a simple reading of the foregoing, one might conclude that it would not be possible to obtain the dismissal of a sanctioning file by applying the expiration established in Article No. 259 of the LPAG in sanctioning procedures under the jurisdiction of the SPT. Such is the case of Resolution No. 3163-2023-TCE-S4, in which the SPT, in the exercise of its functions, rejected the requests for dismissal due to expiration filed by the administered parties.

Thus, this research will define the administrative procedure (ASP) basic concepts of expiration, the correct application of this concept in the LPAG, its application according to the SPT, the role that the Judiciary should fulfill as a reviewer of legality, a timeline of the changes in the use of this concept, and the analysis to determine in which of the following scenarios we find ourselves will be defined:

- First scenario: Both by the application of the rule in time and the primacy of the special rule over the general one, the preference of the Public Procurement Law and its regulations over the LPAG does not violate the principle of predictability and does not affect the right to due process; it can therefore be affirmed that the current dismissals by the SPT of requests for dismissal due to expiration are lawful.

In this scenario, the refusal to apply the expiration periods is lawful and the SPT’s current conduct is correct.

- Second scenario: Attending to the application of the rule in time, the PL should be preferred; however, since only the PR prohibit the application of expiration, the higher-ranking norm, that is, the LPAG, should be preferred.

In this scenario, even though by application of the law over time it would correspond to apply the PL, by normative hierarchy the LPAG would apply and consequently the expiration periods.

- Third scenario: Due to the application of the rule in time, the PL should be preferred; likewise, applying its regulations over the LPAG is completely valid. However, the absence of expiration period does contradict the principle of predictability and violates the right to due procedure.

In this scenario, even though by the principle of hierarchy and the application of the rule in time of law the PR could be applied over the LPAG, the lack of an alternative expiration period would invalidate the application of said regulations

## 2. Theoretical framework

### 2.1. Principles of the Administrative Sanctioning Procedure:

Although sanctions serve a punitive and preventive function, the administration's *ius puniendi* must be framed within guarantees for those being administered. thus, the LPAG recognizes the principles of:

**a.** Legality:

It prohibits deprivation of liberty in the ASP and states that sanctions and sanctioning powers must be established by law. The LPAG emphasizes the need for laws with the rank of law to exercise sanctioning authority and apply sanctions. Likewise, it reserves deprivation of liberty as a measure not proper to administrative sanctioning powers (Delgado, 2020).

**b.** Due Process:

This limit sanctioning powers by approving only ASP with regular procedures, distinguishing between the investigative and sanctioning stages. This principle obligates the administrative prosecutor to follow proper procedure and not skip procedural steps before sanctioning. It requires procedural separation so that the decision-making body is not influenced by the investigative phase (Danos, 2019).

**c.** Reasonableness:

The decision maker must avoid making sanctions cheaper than compliance with the law, and sanctions must be proportional to the typified noncompliance. This principle calls on decision-makers to impose sanctions that fulfill their repressive-preventive purpose without being disproportionately harmful to the Citizen (Tirado, 2011).

**d.** Typification:

Closely linked to legality, this principle limits the creative action of entities, which must strictly apply laws and treat regulations only as development norms (Huapaya y Alejos, 2019).

## 2.2. Prescription (*stricto sensu*)

In Peru, prescription is the legal concept by which the capacity to claim a right is lost because of neglecting that right; it does not extinguish the right itself. The capacity to demand compliance arises after the right and depends on a specific period, in other words, a deadline for exercising it. This concept is more flexible, as it only operates if the interested party voluntarily asserts it. The established period may be subject to changes such as interruption or suspension. (Varsi, R, 2020, p. 3).

Consequently, prescription is essentially a punishment for the one who, having a subjective right, did not exercise it. In this way, the prescription period limits the exercise of making a right effective.

### a. Prescription in the ASP

The prescription of offenses refers to the maximum period during which the administrative prosecutor has the authority to initiate a sanctioning process against an alleged offender. Otherwise, the offense prescribes and cannot be subject to instruction (Ayvar R., 2019, p. 2).

Thus, Article 252 of the LPAG establishes that the prescription periods is four years, which means that if four years pass from the commission of the infraction, the authority cannot initiate an administrative sanctioning procedure (ASP) against the offender. With this legal mechanism, what disappears is the authority's prosecutorial power, unlike the expiration which extinguishes the capacity to continue with a procedure (while retaining the possibility of initiating a new one if the four-year period from the commission of the infraction has not elapsed).

## 2.3. Expiration (*stricto sensu*)

The Peruvian civil law defines “Expiration” as the legal figure that constitutes a form of extinction of the action and the claim. Unlike prescription, expiration has imperative consequences, as its application does not need to be requested; in other words, it can be invoked by the party involved or acted upon *ex officio*. This deadline is a red line and does not admit suspension or interruption (Varsi, R, 2020, p. 3).

Dr. Jiménez Vargas-Machuca recognizes expiration as a fatal period that extinguishes both the action and the right of a subjective legal situation. Expiration, which protects the general interest and legal certainty, is imperative in nature and therefore people cannot dispose of, negotiate, or waive the expiration period (2019).

Dr. Ariano Deho states that expiration is a legal concept of an extinctive nature, caused by the inaction of the person who should have acted in due time and affects both the right and the action. It is mainly distinguished from prescription by its mode of operation, as expiration operates automatically (2014).

Unlike prescription, what perishes with expiration is not the capacity to exercise or claim a right, but the right itself. For this reason, it operates automatically, and it is not possible to restore the subjective legal situation to its previous state (Diaz y Mendoza, 2019).

### a. Expiration in the ASP

This concept in Peruvian administrative law does not have as its objective the extinction of the public administration's right to pursue the infringing act but rather the extinction of the procedure that initiated such pursuit. It operates automatically and is justified as a guarantee to the administrative party

respecting the principle of efficiency of public administration, which requires the public administration to comply with the forms and deadlines established by law (Sánchez and Valverde, 2019).

It can be said that once the maximum time limit to initiate an Administrative Sanctioning Procedure (ASP) in the first instance has been exceeded, expiration has operated. In summary, expiration applies in ASP when a process is opened against an alleged offender, but the sanctioning authority has not issued a resolution within the maximum period established by law. Consequently, the administration's right to continue the procedure is exhausted and considered expired (Alejos, 2020).

It is important to highlight that expiration and prescription in ASP run separately, meaning that if prescription does not operate, the authority may initiate a new sanctioning procedure (Mosquera et al, 2025).

Article No. 259 of LPAG establishes that expiration operates at nine months computed from when the administrative party is notified of the charges, with these nine months being extendable up to a total of twelve months provided the extension is notified before expiration is configured (Villalobos, 2023).

Now, what would be the valid causes to justify an extension of the expiration period? First, it is important to point out that the twelve-month period should be the exception and not the rule, and the public administration cannot excuse itself due to lack of resources or changes in charges that are causes only attributable to the entity. Valid causes include the complexity of the matter under investigation, requests for the right to be heard by the involved parties, or the need for expert testimony, with the resolution to extend the expiration period always requiring justification (Guzmán, 2020, p. 422).

Following these premises, the possibility that citizens find themselves in prolonged uncertainty due to the opening of an investigation is avoided thanks to the figure of expiration. Therefore, it can be affirmed that the passage of the period benefits only the citizen (Santy, 2019, p. 5).

## **2.4. Evolution of the application of the Expiration**

In December 2016, expiration was included in the ASP through Peruvian Legislative Decree 1272. This norm was innovative as it introduced the figure of expiration or lapse into the Peruvian administrative system, setting time limits to issue a ruling.

Subsequently, through Peruvian Legislative Decree 1341, the first complementary final provision was modified so that the general administrative procedure rules would not apply to public procurement.

This provision was later modified by Peruvian Legislative Decree 1444, which expressly prohibited the application of the sanctioning procedure rules of the General Administrative Procedure Law (LPAG).

Finally, through procurement regulations, it was established without room for interpretation that expiration does not apply in ASP under the LPAG.

From a simplistic view of the norm's application over time, one could conclude that the expiration periods in ASP under the charge of the SPT should have been applied between December 2016 and December 2018 at least.

A clear example that expiration operated in PAS under the SPT during this period is found in file No. 2768/2016.TCE and its resolution 0814-2018-TCE-S4, where the SPT refused to apply the expiration

periods incorporated into the LPAG by Peruvian Legislative Decree 1272. However, later the Constitutional Court, in full sentence 25/2023, stated that said procedure was expired and that the SPT had violated the right to due motivation in its manifestation of the legal deadline.

Today in 2025 we have a new law on government contracting - Law 32069. This regulation recognizes that expiration in sanctioning procedures initiated under this law will only last nine months in accordance with the LPAG. However, the administrative contentious courts still must resolve cases that are governed by the old law, administrative contentious proceedings that will have a first instance ruling in one year and a second instance ruling in approximately 3 years. For this reason, it is still important to study the application of the statute of limitations in the old law, which would serve as a guide to the courts and tribunals when resolving cases.

## **2.5. The administrative contentious procedure to challenge administrative acts**

If a citizen disagrees with the outcome of a Peruvian administrative act resolution, they can challenge it for review. Traditionally, there are two models of administrative litigation. The French model, where the public administration itself rules on the legality of administrative actions, as judicial review is seen as an intrusion into administrative functions. On the other hand, in the Spanish model, it is the judiciary that takes cognizance of administrative litigation (Harrys, 2022, pp. 1-5).

According to Article No. 4 of Peruvian Administrative Litigation Law (hereinafter ALL), approved by Supreme Decree No. 011-2019-JUS, the administrative process is the appropriate avenue for challenging administrative acts that have exhausted administrative remedies.

In Peru, as in most Ibero-American countries, the judicial model of control over administrative activity has been adopted (contrasting the French Conseil d'État model) as a manifestation of the system of checks and balances. Under this model, administrative courts are responsible for reviewing administrative acts (Cassagne, 2007, pp. 262-266).

The administrative litigation (hereinafter AL), when reviewing the legality of administrative actions, serves an objective function. However, it also protects citizens from possible arbitrariness by the public administration, thus having a subjective nature as well (Guzmán, 2012, pp. 109-110).

Based on these premises, administrative actions subject to challenge under Peruvian law are reviewed by the Judiciary through the Administrative Litigation Courts, following the Spanish judicial tradition of administrative contentious law (Jimenez, 2020).

### **a. The Actions Subject to Challenge.**

The ALL lists in its Article No. 4 the challengeable actions, which are administrative acts, administrative silence, non-material actions based on administrative acts, executions of administrative acts that violate principles or norms of the legal system, and administrative actions concerning personnel dependent on the public administration (Huapaya, 2019).

Of the mentioned challengeable actions, only administrative acts are relevant for this investigation. Generally, only administrative contentious lawsuits concerning administrative acts of Administrative Sanctioning Procedures (ASP) that resolve appeals (exhaust the administrative channel) can be admitted for processing. However, within the scope of the SPT, all resolutions in sanctioning matters are susceptible to administrative contentious lawsuits since the SPT is the first and last sanctioning instance in state

procurement matters. Thus, all sanctioning resolutions of the SPT, or failing that, the resolutions that resolve its reconsideration appeals (optional), are challengeable through the administrative contentious process.

**b. The Claims of the Administrative Contentious Process**

The possible claims to be raised in the AL are:

1. The declaration of nullity, total or partial, or ineffectiveness of administrative acts.
2. The recognition or reinstatement of a legally protected right or interest and the adoption of the necessary measures or acts for such purposes.
3. The declaration of illegality and the cessation of a material action that is not based on an administrative act.
4. The public administration is ordered to carry out a specific action to which it is obligated by law or by virtue of a final administrative act.
5. Compensation for damages caused by a challengeable action, in accordance with Article 238 of Law No. 27444, provided that it is raised cumulatively with any of the previous claims.” (Salas, 2012).

Of the mentioned enumerations, the only declaration of nullity was the claim that traditionally existed in administrative contentious processes. With the arrival of the ALL, the AL ceased to be merely a legality control and became one of full jurisdiction, allowing judges to directly correct the decisions of the public administration (Jiménez, 2012, pp. 22-23).

Therefore, if one wishes to have the Judiciary change the decision of a TCE resolution that denies a request for expiration or has not applied it *ex officio*, one must first file an administrative contentious lawsuit against the SPT requesting as the main claim the nullity of the SPT resolution and as an accessory claim, to issue a full jurisdiction ruling declaring the ASP) initiated with the corresponding file as expired.

**c. The decision of Full Jurisdiction**

The claim of full jurisdiction seeks the declaration of a legal situation and the actions to restore it (González, 1990, p. 185). On the other hand, the ruling of full jurisdiction is one that, in favor of the citizen with a subjective right, modifies the meaning of the challenged administrative act, and may also order reparations for damages and losses (Correa, 2020, p. 91).

The cassation ruling of the Supreme Court of Justice of the Republic No. 546-2022 defines full jurisdiction as the ruling in which the judge, in addition to annulling an administrative act, revokes it and rules on the merits. This is done without the need to postpone the interests of the citizens.

Therefore, we can affirm that, if the corresponding claim is raised, the administrative contentious courts can protect the rights of the administered parties by changing the meaning of the administrative act under controversy (Alejos, 2025).

### 3. Results

#### 3.1. Results of the first scenario

From the perspective of the application of the norm over time, the non-application of the expiration periods of the LPAG is correct. This is because the normative provisions that exempt the sanctioning procedure for procurement from applying the figure of expiration came into effect after the enactment of Legislative Decree No. 1272.

Similarly, by applying the principle of specialty, Professor Tardío Pato differentiates between general norms, which could be understood as regulating the genus, and special norms, which regulate the species; and in case of a conflict, the special norm should be preferred because it is more precise and concrete in its scope of application (2003, pp. 189-193).

In this context, considering all the previous premises, we can arrive at the idea that the current rulings of the SPT on requests for expiration would be correct. However, this would only be the case insofar as they are consistent with the temporality of the norm and the principle of specialty.

#### 3.2. Results of the second scenario

Now, understanding the hierarchy of norms, it is understood that a supreme decree (regulatory norm) cannot violate or supersede a law since the law holds a higher normative rank.

At the end of 2016, with the entry into force of Legislative Decree No. 1272, which amends Law No. 27444, the LPAG, it was added that the LPAG ceased to have a supplementary character. Consequently, its application began to govern the entire public administration according to Article 1 of the preliminary title: “Article I. Scope of application of the law: This law shall apply to all entities of the public administration [...]” (Article No. 2 of DL 1272).

Although by the application of the norm over time, the LPAG had a general regime for the entire public administration, including the SPT, this changed with the entry into force of Legislative Decree No. 1341, which states that the PL and its regulations prevail over the rules of General Administrative Law.

Along the same lines, in September 2018, Legislative Decree No. 1444 was published. Regarding its content, it states that the procurement regulations take precedence over the LPAG, with special reference to sanctioning procedures.

In this legal figure, a violation of the general theory of law occurs because a supreme decree must not disregard what is established by a law. Therefore, in principle, a later special law should be able to claim precedence over a previous general law; however, neither of these two can grant a supreme decree (regardless of its publication date) precedence over the law.

The result of the second scenario is manifested in that no norm with the rank of law exempts the sanctioning processes of the SPT from the expiration period or establishes a period different from that of the LPAG; consequently, the nine-month period extendable by an additional three months should be applied.

So, could a public official apply the expiration period with this knowledge? Unfortunately, the answer is no, because to do so, they would have to reference and apply Article 118, paragraph 8 of the Political Constitution, and by doing so, they would be applying diffuse control. Faced with this situation, the

Constitutional Court in its ruling on case No. 4293-2012-AA, ruled prohibiting the public administration from exercising diffuse control.

Thus, it can be concluded because of the second scenario that the current rulings of the SPT regarding requests for expiration are in accordance with its powers.

### 3.3. Results of the third scenario

If we refer to the Consolidated Text of the LPAG, it states:

“This Law is of public order and repeals all legal or administrative provisions of the same or lower rank that oppose or contradict it, regulating general administrative procedures, those whose specialty is not justified by the subject matter they govern, as well as, by absorption, those provisions that have identical content to any provision of this Law.” (First complementary repealing provision of the TUO of the LPAG)

Therefore, we must understand that the General Administrative Procedure Law itself contemplates the exception to its generality. This exception allows special legal provisions to oppose or contradict the content of the LPAG, if the peculiarity of their specialization justifies this deviation. Considering this situation, the question arises: Does the particularity and specialized nature of the Peruvian sanctioning procedure in public procurement justify not applying the LPAG?

## 4. Discussion

### 4.1. Cases in which specialty justifies deviation from the Law

According to what is developed in the second instance ruling contained in resolution twenty-one of case No. 11900-2019, the *ad quem* concludes that due to reasons of specialty (and the very structure of the sanctioning administrative procedure involving the complainant of free competition) the expiration period indicated in the TUO of the LPAG does not apply in the sanctioning procedures of free competition. However, from the text of the ruling, it cannot be concluded that the collegiate grants INDECOPI an unlimited period to resolve, but such periods must be established by the special norm.

On its part, SUSALUD’s full chamber session No. 014-2018, which was declared a precedent of mandatory observance, makes a more accurate distinction between two types of sanctioning procedures: (i) the first can be called a pure ASP (in which a public interest is pursued) where the only parties involved are the entity and the administered party (alleged offender), in which the expiration period of the Consolidated Text of the LPAG applies; and (ii) the trilateral administrative sanctioning procedures (which are motivated by both public and private interests), where, in addition to the alleged offender and the entity, the complainant’s figure (accuser) is present, and where the expiration periods indicated do not apply (Garcia, 2025).

The Specialized Consumer Protection Chamber of INDECOPI, in its Resolution No. 1136-2023/SPC-INDECOPI, recognizes two types of sanctioning procedures: the first is an ASP initiated *ex officio* by the authority, and the second is an ASP initiated by a party. The first of these is the only one in which the expiration date operates because in the second, there is a private claim that may be affected by the delay of the authority.

## 4.2. Particularities of the ASP of SPT

Regarding the specific characteristics of the ASP by the SPT, which is regulated in Article No. 260 of Supreme Decree No. 244-2018-EF, it can be concluded that it differs from the general sanctioning process without any justification in:

- i. Do not guarantee the plurality of instances.
- ii. The administered party has only one opportunity to present their defenses.
- iii. Different prescription periods.
- iv. Objective liability.

Considering these differences that the sanctioning procedure of the SPT has with respect to that of the Consolidated Text of the LPAG, more than one less favorable condition can be pointed out, but together they would not justify a deviation by specialty regarding the expiration period (Rojas, et al, 2020).

## 5. Conclusions

The application of Peruvian Supreme Decree No. 344-2018-EF, which approves the Peruvian Regulation of Law No. 30225 (special norm), imposes less favorable conditions on the administered parties, except for the legal figure of expiration in relation to sanctioning administrative processes of the SPT, thus violating Article 2 of the Preliminary Title of the LPAG (general norm).

The provision of Peruvian Legislative Decree No. 1444, which modifies the first final complementary provision of Peruvian Law No. 30225, the PL, goes against the hierarchy of norms and the theory of law by attributing primacy to a norm of an infra-legal rank over a norm of legal rank.

Except for trilateral sanctioning proceedings, all Peruvian sanctioning procedures must have an expiration period. The special law may establish a different timeframe from the nine months.

After analyzing each scenario, it can be concluded that the situation faced by Peruvian judges corresponds to the third scenario. Consequently, when confronted with a sanctioning resolution that exceeds the nine-month period, they are required to declare the resolution null and void on the grounds that expiration has occurred

The particularity of the specialty of ASP regulated by the PL would not justify the development carried out in its regulation regarding the non-application of the expiration period. Even if this exception were contained in a norm with legal rank, it would violate the right to due process and the principle of predictability.

If it is intended to apply the expiration period in the sanctioning procedures of the SPT, such a claim of full jurisdiction must be requested in the administrative contentious process, since the court can exercise constitutional review.

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