The Normative Application of the Principle of Prohibiting Adverse Change

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Abstract: The principle of prohibiting adverse changes in administrative reconsideration means that when an applicant, dissatisfied with an administrative act, applies for reconsideration, the reconsideration authority shall in principle not make a reconsideration decision that is more adverse to the applicant. This principle was first established in Article 51 of the Regulations on the Implementation of the Administrative Reconsideration Law. Although the new law has elevated its normative level, there remain grey areas in its specific application logic and interpretative approach: first, an inherent conflict with the principle of correcting errors whenever discovered; second, a relatively low normative level and insufficient authority; third, vague scope of application, making accurate application difficult; fourth, overly narrow exceptions. These issues directly lead to many obstacles in judicial application. Article 63(2) of the new Administrative Reconsideration Law responds to the above difficulties to a considerable extent: on the one hand, it elevates the principle to the statutory level, enhancing its normative effect; on the other hand, it moderately expands its scope of application and explicitly provides for exceptions. Nevertheless, the normative structure of this principle still needs further improvement. In the future, progress should be made from two dimensions: first, regarding the scope of application, it should not be limited to the scope of the party's reconsideration request but should extend to modification decisions, revocation decisions, and revocation with remand for a new decision; second, regarding the limits of application, the coordination mechanism with the principles of law-based administration and correcting errors whenever discovered needs to be further clarified, ensuring that the principle fulfills its rights-protection function without unduly restricting the reconsideration authority's power of supervision and correction.

Keywords: Administrative Reconsideration; Prohibition of Adverse Changes; Administrative Disputes

1. Introduction of the Issue

1.1 Institutional Adjustments in the New Administrative Reconsideration Law

The Administrative Reconsideration Law of the People's Republic of China revised in 2023 (hereinafter "new Administrative Reconsideration Law") has made important adjustments in the system of reconsideration decisions. One of the most significant changes is placing the modification decision before the revocation decision in the order of application, highlighting the functional orientation of the administrative reconsideration authority to resolve administrative disputes in one go. Echoing this adjustment, Article 63(2) of the new law explicitly provides: "The administrative reconsideration authority shall not make a modification decision that is more adverse to the applicant, except where a third party raises an opposite request." This provision establishes the "principle of prohibiting adverse changes" in the field of administrative reconsideration at the statutory level, representing a significant elevation of its normative level compared to Article 51 of the Regulations on the Implementation of the Administrative Reconsideration Law [1].From the perspective of legislative intent, the institutional functions of the principle of prohibiting adverse changes are mainly reflected in two dimensions: first, ensuring the effective exercise of the right to relief, eliminating the applicant's concern that "appealing might backfire" and thus deterring them from filing for reconsideration; second, promoting the substantive resolution of administrative disputes and guiding parties to choose administrative reconsideration as the primary means of dispute resolution. In this

sense, the principle is inherently compatible with the institutional positioning of administrative reconsideration as the "main channel [2]."

However, Article 63(2) also embodies the principle of prohibiting adverse changes, requiring the reconsideration authority not to make a modification decision more adverse to the applicant. The institutional mission of modification decisions is to promote the substantive resolution of administrative disputes, yet the principle of prohibiting adverse changes may constrain the reconsideration authority's ability to correct errors and, in some cases, even hinder the true resolution of disputes. How to understand and address this issue constitutes the logical starting point of this study.

1.2 Research Purpose and Core Issues

The deep-rooted cause of the above issues lies in the "unfinished state" of the principle of prohibiting adverse changes at the normative level. Although the new Administrative Reconsideration Law has accomplished the "incorporation into law" of this principle, it has not completed its "finalization." How to define issues such as the systematic positioning, scope of application, and exceptions of this principle between the dual values of "rights relief" and "law-based administration" — the answers to these questions affect not only the realization of the principle's own normative effect but also the overall functioning of the administrative reconsideration system [3].Based on this, this paper, taking Article 63(2) of the new Administrative Reconsideration Law as the normative foundation, employs doctrinal legal analysis, comparative law, and case study methods to explore the following core issues.

2. Basic Connotation of the Principle of Prohibiting Adverse Changes in Administrative Reconsideration

The establishment of the principle of prohibiting adverse changes in the administrative reconsideration system is not an accidental institutional choice but rather a product of the long-term evolution of modern administrative relief law [4]. An in-depth examination of the theoretical foundation of this principle not only helps to accurately grasp its institutional positioning but also provides necessary analytical tools for subsequent discussion of its application boundaries.

2.1 Institutional Evolution and Extraterritorial Experience of the Principle of Prohibiting Adverse Changes

The intellectual origin of the principle of prohibiting adverse changes can be traced back to the theory of "determinative force" in early 18th-century Germany, aiming to ensure the effectiveness of relief by maintaining procedural fairness. After being widely adopted in the form of "no additional punishment on appeal" in criminal second-instance proceedings, the principle gradually permeated civil and administrative review fields, becoming a universal norm in modern procedural law [5].In extraterritorial legal practice, various countries and regions exhibit different regulatory paths. Although German law does not have an explicit provision in the Federal Administrative Procedure Act, the prevailing academic view, based on recognition of the relief function and the stance of comity of power, generally supports limiting the review authority from making more adverse decisions when only the private party initiates relief. In contrast, Japan's Administrative Complaint Review Act Article 40 explicitly establishes a clear red line of "prohibition of adverse disposition change" through express legislation, providing an important reference for subsequent legislation in many places. France's hierarchical relief system links the exercise of supervisory power with the protection of vested rights, requiring that revocation or modification by a higher authority shall not harm the reliance interests of the private party or third parties [6].China's institutional acceptance of this principle has gone through a gradual process. The 1979 Criminal Procedure Law first established the principle of "no additional punishment on appeal," marking the initial establishment of the principle in China's legal system. The 1996 Administrative Penalty Law Article 32 provides that "an administrative authority shall not increase the penalty because the party has made a defense," extending the spirit of prohibiting adverse changes to the administrative penalty process. The 2007 Regulations on the Implementation of the Administrative Reconsideration Law Article 51 introduced this principle for the first time in the administrative reconsideration field, providing that "within the scope of the applicant's administrative reconsideration request, the administrative reconsideration authority shall not make a

reconsideration decision more adverse to the applicant." The newly revised Administrative Reconsideration Law of 2023, in Article 63(2), elevates this principle to the statutory level, explicitly providing that "the administrative reconsideration authority shall not make a modification decision more adverse to the applicant, except where a third party raises an opposite request," achieving a major leap in normative level [7].

2.2 Definition of Core Concepts of the Principle of Prohibiting Adverse Changes

That the principle of prohibiting adverse changes can occupy an important position in modern administrative relief law is attributable to its deep jurisprudential support. Reviewing the academic discussions, the theoretical foundation of this principle can be explained from the following dimensions [8].The legitimacy of the principle of prohibiting adverse changes is rooted in the constitutional protection of citizens' right to petition, and is jointly supported by the concept of controlling power and the theory of state power comity [9].First, protection of the right to petition constitutes the core constitutional logic of this principle. As an extension of the right to complain and accuse under Article 41 of the Constitution, the effectiveness of the right to apply for administrative reconsideration depends on eliminating the party's psychological concern that "appealing might backfire." This principle establishes a psychological safety boundary, preventing constitutional rights from becoming formalistic due to relief risks [10].Second, the concept of controlling power and the theory of power comity provide deep value guidance for this principle. Under the tension between the dual functions of "supervision" and "relief" in the reconsideration system, this principle restricts the reconsideration authority's power of disposition, strictly preventing procedural alienation into a tool of power oppression. The theory of power comity emphasizes that the state should bear responsibility for its own administrative errors, prohibiting the shifting of error-correction costs to the private party, thereby reflecting the due respect of a rule-of-law state for citizens' rights and interests. Moreover, it is necessary to distinguish this principle from the principle of protection of legitimate expectations: unlike protection of legitimate expectations, which aims to maintain the continuity of administrative acts, the principle of prohibiting adverse changes focuses on ensuring the effective exercise of the right to relief. Its core lies in blocking the "procedural chilling effect," ensuring that the party does not fall into a deeper adverse situation because of initiating relief.

3. Analysis of Issues Concerning Prohibition of Adverse Changes in Administrative Reconsideration

The application of the principle of prohibiting adverse changes takes the accurate definition of "adverse change" as a logical premise. Understanding the connotation and extension of "adverse change" directly determines the scope of protection and normative effect of this principle. If defined too broadly, it may unduly restrict the supervision and correction function of the reconsideration authority; if defined too narrowly, it may defeat the institutional purpose of the principle. Therefore, it is necessary to conduct a systematic analysis from the two dimensions of judgment criteria and specific application scenarios [5].

3.1 Definition and Judgment Criteria for Adverse Change

"Adverse change" in the normative sense contains two core elements: first, "change," referring to the alteration of the original administrative act by the reconsideration decision; second, "adverse," referring to the negative impact of such alteration on the applicant's rights and interests. Starting from the institutional function of this principle in ensuring the effective exercise of the applicant's right to relief, the definition of "adverse change" should follow the following judgment criteria.

First, the determination of adversity should adopt a composite standard combining objective and subjective elements. The objective dimension determines based on the actual impact of the reconsideration decision on the applicant's rights and obligations, including increases in fine amounts, reductions in the scope of permits, aggravation of obligations, etc. The subjective dimension considers whether such impairment exceeds the risk that the applicant is willing to bear through the reconsideration process. Only when both objective impairment of rights and subjective excess of risk are satisfied can an "adverse" finding be made.

Second, the understanding of "change" should

break through formalistic limitations and adopt a substantive judgment stance. Formal change refers to the direct alteration of the content of the original administrative act in the operative part of the reconsideration decision. However, in practice there exists a situation: the reconsideration decision upholds the conclusion of the original administrative act but makes an adverse finding against the applicant in the reasoning section. Such "change in reasoning," although not altering the operative part of the decision, may have a profound negative impact on the applicant. Therefore, any change in reasoning that substantially affects the applicant's rights and interests should be included in the scope of "change".

Third, a holistic judgment standard should be adhered to. Whether a reconsideration decision constitutes an "adverse" effect on the applicant should not be judged by isolating a part of it; rather, the reconsideration decision should be considered as a whole. Holistic judgment requires comprehensive consideration of the direct effects and indirect impacts of the reconsideration decision, the operative part and the reasoning, the current state and subsequent developments, to fully assess the actual impact on the applicant's rights and interests.

Fourth, the determination of adversity is premised on a clear "comparison benchmark." In the administrative reconsideration process, the reference benchmark for determining whether an "adverse" change exists is the state of rights and obligations set by the original administrative act for the applicant. If the reconsideration decision results in a state of rights and obligations inferior to that set by the original administrative act, it constitutes adversity; if superior or equal, it does not. Application of this comparison benchmark requires attention: the state set by the original administrative act includes not only its operative part but also the factual findings and legal evaluations on which it is based. If the reconsideration decision maintains the operative part but changes the factual findings or legal evaluation, the determination must still be made by reference to the complete state of the original administrative act [11].

3.2 Application Scenarios of the Prohibition of Adverse Changes

Article 63(2) of the new Administrative Reconsideration Law explicitly limits the object of application of the prohibition against adverse changes to "modification decisions". However, from the perspective of the institutional function of this principle, its scope of application should be based on the substantive criterion of whether it may produce an adverse effect on the applicant, not on the formal criterion of the type of decision. The following analysis examines the application of several typical scenarios in light of the new law's provisions.First, adverse changes in modification decisions. Modification decisions are the most typical application scenario for the prohibition of adverse changes. According to Article 63(1) of the new Administrative Reconsideration Law, the circumstances for modification decisions include: clear facts and solid evidence but incorrect application of law; clear facts and solid evidence but inappropriate content; unclear facts and insufficient evidence, but after investigation by the reconsideration authority the facts become clear and evidence solid. It is further necessary to clarify that adverse changes in modification decisions include not only direct increases in burdens but also indirect impairments of rights and interests. Even if the reconsideration authority does not change the amount of the penalty, but changes the determination in the original decision from "light penalty" to "ordinary penalty," such a change, though not altering the penalty amount, changes the applicant's legal evaluation and should also be included in the scope of "adversity".Second, whether a revocation decision constitutes an adverse change. Strictly interpreting the text of Article 63 of the new law, revocation decisions fall outside the regulatory scope of the prohibition of adverse changes. However, from the perspective of the institutional function of this principle, revocation decisions may produce two types of indirect adverse consequences: (1) for beneficial administrative acts, a revocation decision extinguishes the rights and interests already obtained by the applicant, and such loss of rights itself constitutes adversity; (2) a revocation with remand for a new decision leaves room for the remanded act, which may well impose more adverse treatment on the applicant [12]. Judicial practice has already responded to this. In the case of Chen Mingyang v. Hainan Provincial Public Security Bureau and Hainan Provincial Public Security Department, the court explicitly stated that when an administrative authority re-performs an administrative act after the conclusion of

administrative reconsideration, it should follow the principle of prohibiting adverse changes and shall not aggravate the penalty against the applicant based on the same facts and reasons. This adjudicative stance effectively extends the scope of application of the principle of prohibiting adverse changes to revocation with remand decisions.Third, the relationship between revocation with remand decisions and the prohibition of adverse changes. A revocation with remand decision consists of two parts: "revocation" and "ordering a new act." Revocation itself does not directly cause an adverse change in the applicant's rights and obligations — it restores the legal relationship to the state before the original administrative act. What may truly produce adverse consequences is the subsequent remanded act. Therefore, whether a revocation with remand decision should be subject to the prohibition of adverse changes hinges on whether the scope of effectiveness of this principle extends to the subsequent proceedings triggered by the reconsideration decision. To prevent administrative authorities from circumventing aggravated changes through "revocation + remand," it should be recognized that the prohibition of adverse changes binds revocation with remand decisions. Of course, such binding is not absolute; its application requires specific conditions: the factual basis for the remanded act is the same as that of the original administrative act, and the direction of the remanded act is to increase the applicant's burden. If the factual basis for the remanded act changes — for example, new illegal facts are discovered — then the principle should not apply [13].Fourth, whether a confirmation of illegality decision constitutes an adverse change. A confirmation of illegality decision means that the reconsideration authority confirms the original administrative act is illegal but does not change its effect. From a formal perspective, a confirmation of illegality decision does not alter the content of the original administrative act, and the applicant's rights and obligations appear unaffected. However, from a substantive perspective, a confirmation of illegality decision gives authoritative recognition to the illegality of the original administrative act, which may adversely affect the applicant's reputation, credit record, and subsequent claims. Therefore, whether a confirmation of illegality decision needs to apply the prohibition of adverse changes should be determined by examining the specific circumstances to see if it constitutes a substantive "adverse change." If the confirmation of illegality decision is sufficient to produce legal or de facto detriment to the applicant, it should be included within the scope of consideration of the principle.Fifth, whether a change in reasoning constitutes an adverse change. A reconsideration decision may maintain the conclusion of the original administrative act while making an adverse change to its reasoning. Whether such a "change in reasoning" should be subject to the prohibition of adverse changes depends on the degree of its impact on the applicant's rights and interests. If the change in reasoning is sufficient to produce legal detriment to the applicant — for example, as a basis adverse to the applicant in subsequent proceedings — then it should be included within the regulatory scope of the principle. Individual judicial practice cases in China reflect this approach. In the case of Jiangsu Provincial Department of Housing and Urban-Rural Development v. Cai Shaoping, the court held that although the operative part of the reconsideration decision appeared to support the party's request, the reasoning indicated that the decision actually placed the party in a more adverse position. This adjudicative approach shows that the determination of "adverse change" should break through the limitations of the operative part and form, reaching the level of substantive impact.In summary, the definition of "adverse change" requires comprehensive consideration of multiple factors in specific contexts. Its determination should follow a composite standard combining objective and subjective elements, adopt a holistic analytical perspective, pay attention to both the direct effects of the operative part of the reconsideration decision and indirect impacts such as changes in reasoning; both identify modification decisions as typical application scenarios and cautiously assess whether other types of decisions, such as revocation decisions and confirmation of illegality decisions, should be included in the regulatory scope. Only on the basis of accurately grasping the normative connotation of "adverse change" can a clear theoretical guidance be provided for the correct application of the principle of prohibiting adverse changes.

3.3 Analysis of Exceptions

The core function of the principle of prohibiting

adverse changes is to ensure the effective exercise of the applicant's right to relief, but this does not mean that the application of the principle is absolute. Under specific circumstances, strict adherence to the principle of prohibiting adverse changes may lead to harm to more important legal interests or render the supervisory function of administrative reconsideration ineffective.

3.3.1 Exceptional circumstances where the respondent repeforms an administrative act

The respondent's reperformance of an administrative act refers to the situation where, after the reconsideration authority makes a revocation decision and orders the respondent to re-perform an administrative act, the respondent, based on the requirements of the reconsideration decision and on the basis of reinvestigation or supplementary evidence, makes a new administrative act. Whether such reperformance should be bound by the principle of prohibiting adverse changes is a controversial issue in both theory and practice. From a normative perspective, Article 63(2) of the new Administrative Reconsideration Law limits the object of application of the principle of prohibiting adverse changes to the reconsideration authority's "modification decision," and does not explicitly address the respondent's reperformance. To prevent administrative authorities from circumventing regulation through "revocation + remand," the exceptional application should follow a categorical judgment standard:

First, if the illegal facts, circumstances, and evidence relied upon for the reperformance have not materially changed, the principle of prohibiting adverse changes must be applied. The Supreme People's Court made clear in the "Weng Case" that even if the facts develop in a direction favorable to the party, maintaining the original penalty strength substantively constitutes an adverse change.

Second, when the factual basis for the reperformance is different from that of the original administrative act, the principle of prohibiting adverse changes generally does not apply. "Different factual basis" here means that the illegal facts, determination of circumstances, and evidentiary materials relied upon for the reperformance have materially changed compared to the original administrative act — for example, new illegal facts are discovered, the originally determined facts are proven false, evidence undergoes major changes, etc. When new illegal facts are discovered or the original facts are overturned, the new outcome is based on an independent factual determination rather than a correction of the original act, in principle is not subject to this restriction.

Third, when reperformance involves an error in the application of law, different treatment should be given depending on the nature of the legal error. Broadly defined, errors in the application of law include two types: (1) "incorrect application of basis" corresponding to modification decisions under Article 63 of the Administrative Reconsideration Law; and (2) "illegality of the applied basis" corresponding to revocation decisions under Article 64[10]. The natures of these two types differ, and the application of the prohibition of adverse changes should also be treated differently. "Incorrect application of basis" generally refers to technical flaws in legal application, i.e., correct facts, correct characterization, but failure to cite a legal provision, incomplete citation, failure to apply the law in force at the time of the act, etc. Such flaws do not affect the substantive legality of the administrative act and only involve formal improvements. It is further necessary to clarify that the determination of "illegality of the applied basis" should be strict: only when the error in legal application reaches the degree of affecting the characterization and outcome of the act can it constitute a fundamental error; mere erroneous citation of a provision or technical oversight should still be classified as "incorrect application of basis".

3.3.2 Exceptional circumstances where a third party raises an opposite request

Article 63(2) of the new Administrative Reconsideration Law provides that "a third party raises an opposite request" as a statutory exception to the principle of prohibiting adverse changes.he justification for this exception is that when there is a third party with interests opposing those of the applicant in the administrative reconsideration proceedings, the reconsideration authority needs to consider both the applicant's and the third party's legitimate rights and interests. If the principle of prohibiting adverse changes were strictly adhered to and no adverse change could be made against the applicant, the third party's legitimate rights and interests might not be remedied. Therefore, in the case where a third party raises an opposite request, the reconsideration

authority shall conduct a comprehensive review of the legality and reasonableness of the original administrative act and make an appropriate reconsideration decision based on the review results. However, the specific application of this exception still requires resolving two issues: first, how to define the scope of "third party"; second, whether the reconsideration decision may exceed the scope of the third party's request.First, in applying the exception to the prohibition of adverse changes, the following points should be grasped in identifying a third party. (1) The "interested relationship" between the third party and the administrative act should be understood as a legal interested relationship, not merely factual or reflective interests. (2) The third party should actually participate in the reconsideration proceedings and express their claims or requests to the reconsideration authority. (3) Under specific circumstances, the third party's expression of intent may be implied. The Supreme People's Court adopted this position in the case of Xiao Shuchun v. Liaoyang Municipal People's Government, Liaoning Province, Retrial Review and Adjudication Supervision Case. It should be emphasized that the determination of "implied expression of intent" should be strict, requiring that the third party's conduct clearly indicates their intent to request revocation or modification of the original administrative act; the third party's silence or inaction alone cannot be presumed as raising an opposite request. Second, whether the reconsideration decision may exceed the scope of the third party's request. The essence of this issue is: when a third party raises an opposite request, should the reconsideration authority's adverse change against the applicant be limited by the scope of the third party's request? The more appropriate position is that the reconsideration authority should, in principle, make changes within the scope of the third party's request; if it is indeed necessary to make changes beyond that scope, the conditions should be that the facts or reasons on which the change is based fall within the matters that the reconsideration authority should ex officio review, and that the applicant has been given full opportunity to state and defend. In summary, the exceptional application of the principle of prohibiting adverse changes requires a balance between principle and exception. On the one hand, exceptions should be strictly defined to prevent excessive expansion that would nullify the principle; on the other hand, the criteria for applying exceptions should be clear and specific, providing clear operational guidance for reconsideration authorities. Only on the basis of accurately grasping the conditions for application of exceptions can the principle of prohibiting adverse changes fulfill its rights-protection function without unduly restricting the supervision and correction function of administrative reconsideration.

4. Optimization Paths and Improvement Suggestions for Prohibition of Adverse Changes in Administrative Reconsideration

From the preceding analysis, it can be seen that the new Administrative Reconsideration Law still has several deficiencies in the normative structure of the principle of prohibiting adverse changes. Based on this, it is necessary to propose optimization paths and improvement suggestions for the normative application of this principle at both the interpretative and legislative levels.

4.1 Further Clarifying the Scope of Application

The scope of application of the principle of prohibiting adverse changes involves two core issues: first, to which types of decisions does this principle apply; second, whether the application of this principle is limited by the scope of the party's request. The answers to these two questions directly determine the degree to which the protective function of the principle is realized.

First, extend the scope of application from modification decisions to revocation decisions and revocation with remand decisions. Although a revocation decision does not directly change the content of the original administrative act, it may produce adverse consequences in two scenarios: (1) revocation of a beneficial administrative act extinguishes the rights and interests already obtained by the applicant; (2) revocation with remand leaves room for aggravated burdens on the applicant in the remanded proceedings. If revocation decisions are excluded from the scope of application, the reconsideration authority could easily circumvent the limitation of this principle through "revocation + remand," defeating the protective purpose of the principle. Second, expand the application boundary from the scope of the reconsideration request to the scope of reconsideration review. Article 51 of the

Regulations on the Implementation of the Administrative Reconsideration Law limited the prohibition of adverse changes to "within the scope of the applicant's administrative reconsideration request." The new Administrative Reconsideration Law does not reiterate this limitation, leaving room for interpretative adjustment. From the perspective of institutional function, limiting the prohibition of adverse changes to the scope of the reconsideration request presents two problems. (1) Administrative reconsideration adopts the principle of comprehensive review; the reconsideration authority's scope of review is not limited by the scope of the applicant's request. If the prohibition of adverse changes is strictly limited to the scope of the request, a structural mismatch may arise between the scope of review and the scope of prohibition: the reconsideration authority could impose disadvantages on the applicant outside the request scope (but within the review scope), thereby significantly undermining the protective function of the principle. (2) A party's reconsideration request is often constrained by their level of legal knowledge. If the scope of restriction on adverse changes differs solely because of differences in the party's request, equal protection of rights in a substantive sense becomes difficult to achieve.

Third, shift the judgment standard from formal judgment to substantive judgment. The determination of "adverse change" should break through formalistic limitations and adopt a substantive judgment stance. Specifically: (1) The understanding of "change" should not be limited to direct alterations in the operative part of the reconsideration decision but should encompass indirect impacts such as changes in reasoning. (2) The determination of "adversity" should adopt a holistic perspective, comprehensively considering the direct effects and indirect impacts, the operative part and the reasoning, the current state and subsequent developments, to fully assess the actual impact on the applicant's rights and interests. (3) The grasp of the "comparison benchmark" should be complete: the state set by the original administrative act includes not only its operative part but also the factual findings and legal evaluations on which it is based. If the reconsideration decision maintains the operative part but changes the factual findings or legal evaluation, the determination must still be made by reference to the complete state of the original administrative act.

4.2 Expanding Exceptions

The new Administrative Reconsideration Law Article 63(2) only provides that "a third party raises an opposite request" as a statutory exception to the principle of prohibiting adverse changes. From the preceding analysis, this exception provision is too narrow to respond to the complex situations arising in practice. Based on this, it is suggested that exceptions be appropriately expanded at both the interpretative and legislative levels.

First, expand the interpretation of "opposite request" to include the third party's implied expression of intent. The new law conditions the triggering of the exception on the third party "raising an opposite request." Strictly interpreting the text, this requires the third party to express their request to the reconsideration authority explicitly during the reconsideration proceedings. However, in practice, there are situations where, although the third party has not formally submitted a written request, their conduct sufficiently indicates an intent to request revocation or modification of the original administrative act. Therefore, it is suggested that at the interpretative level, "opposite request" be understood broadly: whenever a third party, during the reconsideration proceedings, through written or oral means, acts in a manner that sufficiently indicates their intent to request revocation or modification of the original administrative act, and such intent is known to the reconsideration authority, it should be considered as "raising an opposite request".

Second, add "major public interest" as a statutory exception. The principle of prohibiting adverse changes essentially seeks a balance between the protection of the applicant's rights and interests and the supervision of the legality of administrative acts. When failing to change the original administrative act would cause significant harm to the public interest, the protection of the applicant's rights and interests should yield to the higher value of safeguarding the public interest.

Summary of Optimization:

The optimization and improvement of the principle of prohibiting adverse changes requires, in terms of scope of application, an expansion from "modification decisions" to "revocation decisions and revocation with remand

decisions," from "scope of reconsideration request" to "scope of reconsideration review," and a deepening from "formal judgment" to "substantive judgment"; in terms of exceptions, an expansion from "single exception" to "multiple exceptions," from "explicit request" to "implied expression of intent," and an evolution from "case-by-case discretion" to "categorical norms". Only on the basis of accurately grasping the scope of application and exceptions can the principle of prohibiting adverse changes fulfill its rights-protection function without unduly restricting the supervision and correction function of administrative reconsideration.

5. Conclusion

The principle of prohibiting adverse changes serves as the "ballast stone" of the administrative reconsideration system, its core value lying in protecting private rights relief and restraining the expansion of public power. Through a normative deconstruction and value examination of this principle, this paper finds that the vitality of its application lies not only in the precise definition of the form of "adversity" but also in the institutional tolerance of the conflict between "relief protection" and "law-based administration". eeking a dynamic balance between the two requires not only refined design at the legislative level but also prudent handling at the interpretative level, and further, typified exploration in judicial practice. In this process, it is necessary to adhere to the basic stance of rights protection while also taking into account the institutional mission of supervision and correction, so that the principle of prohibiting adverse changes truly becomes an important support for the effective operation of the administrative reconsideration system.

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