



Constitutional efficiency and speed versus administrative litigation deficiencies: The new role of constitutional judges

Eficiencia y celeridad constitucional versus la deficiencia contenciosa administrativa: Nuevo rol de los jueces constitucionales

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ABSTRACT

The research objective was to analyse constitutional efficiency and speed versus administrative litigation deficiencies as a new role for constitutional judges. The methodology was based on a descriptive, qualitative approach using content analysis of 15 scientific articles from peer-reviewed and indexed journals. The comparative analysis shows that the full effectiveness of the principles of constitutional efficiency and speed is essential to overcome the structural and procedural shortcomings of administrative litigation in Ecuador. Likewise, the incorporation of peremptory time limits, monitoring mechanisms, and the timely use of expedited procedural remedies demonstrate how the new role of constitutional judges transcends mere control of legality, positioning themselves as active agents who guarantee effective judicial protection, promote responsible public administration and strengthen the rule of law by reconciling procedural speed with substantive justice for the benefit of citizens.

Descriptors: constitutional law; public law; administrative law. (Source: UNESCO Thesaurus).

RESUMEN

Se planteó como objetivo de investigación analizar la eficiencia y celeridad constitucional versus la deficiencia contenciosa administrativa como nuevo rol de los jueces constitucionales. Se trabajó metodológicamente a partir del enfoque cualitativo de tipo descriptivo documental con análisis de contenido en 15 artículos científicos provenientes de revistas arbitradas e indexadas. El análisis comparativo demuestra que la plena efectividad de los principios de eficiencia y celeridad constitucional resulta indispensable para superar las carencias estructurales y procesales del contencioso administrativo en Ecuador; asimismo, la incorporación de plazos perentorios, mecanismos de seguimiento y el uso oportuno de recursos procesales acelerados evidencian cómo el nuevo rol de los jueces constitucionales trasciende el mero control de legalidad, configurándose como agentes activos que garantizan la tutela judicial efectiva, promueven una administración pública responsable y afianzan el Estado de Derecho, al conciliar la rapidez procesal con la justicia material en beneficio de la ciudadanía.

Descriptorios: derecho constitucional; derecho público; derecho administrativo. (Fuente: Tesoro UNESCO).

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Research articles section



INTRODUCTION

The study of constitutional efficiency and speed as guiding principles of judicial action is particularly relevant in Ecuador, given that the Constitution of the Republic enshrines the right to effective protection and due process as fundamental guarantees (Andrade-Ureña, 2022). In this sense, constitutional efficiency is an imperative that obliges judicial bodies, especially the Constitutional Chamber, to articulate procedural mechanisms that allow for the prompt and adequate satisfaction of the rights protected in the Constitution. Through constitutional specificity, judges guide their decisions within previously established limits, reducing excessive discretion and promoting regulatory predictability without undermining substantive justice (Restrepo & Guevara, 2024).

Likewise, the incorporation of the principle of speed in the General Code of Procedure (COGEP) has sought to harmonise the endemic slowness of the contentious-administrative process with the requirements of constitutional protection. Specifically, Jarama-Castillo, Vásquez-Chávez & Durán-Ocampo (2019) highlight that the setting of peremptory deadlines and the reorganisation of hearings have contributed to shortening processing times, even though challenges related to the allocation of human and technological resources remain. Indeed, the absence of performance indicators that allow for the systematic measurement of the impact of these reforms hinders the full evaluation of their effectiveness, which requires the creation of standardised statistical monitoring systems.

On the other hand, comparative experience in contentious-administrative justice highlights the tension between guaranteeing access to jurisdiction and the need to avoid court congestion. In this regard, Mejía-Guerrero & Salamanca-Giral (2020) highlight that the decentralisation of powers and the implementation of virtual courts for electronic litigation have promoted expedited access to the administration



of justice, reducing notification and evidence presentation times. However, they warn of the urgent need to improve the interoperability of systems and to provide ongoing training to judges, clerks and legal operators in the use of digital platforms, in order to avoid processing errors and safeguard the integrity of electronic files.

In addition, it is essential to analyse the coordination between the preliminary administrative procedure and the contentious-administrative judicial process, since the lack of file screening and the absence of mandatory conciliation hearings encourage inappropriate litigation that unnecessarily delays the resolution of disputes (Hunter-Ampuero, 2020). In this regard, the adoption of early mediation and prior conciliation mechanisms, inspired by international best practices, could alleviate the workload of the courts and ensure consensual solutions before resorting to strict judicial proceedings. Likewise, optimising the pre-trial phase strengthens the quality of judicial protection by allowing for a more in-depth examination of factual and legal issues before the formal commencement of litigation.

Consequently, the role of constitutional judges as guarantors of speed and efficiency in the protection of constitutional rights takes on a new dimension through the application of the constitutional compliance process and accelerated precautionary measures (Vásquez-Dongo, 2021). This enables provisional rulings to be issued to halt administrative acts that violate fundamental rights, even when the ordinary contentious-administrative procedure is still pending. This precautionary measure not only ensures the immediate protection of relevant legal rights, but also helps to dispel the risk of irreparable damage while the main proceedings are ongoing.

Based on the above, the research objective is to analyse constitutional efficiency and speed versus administrative litigation deficiencies as a new role for constitutional judges.



METHOD

The study was conducted using a qualitative, descriptive, documentary approach aimed at understanding perceptions and practices surrounding constitutional efficiency and speed in the contentious-administrative process. This design allowed for the exploration of legal phenomena through the collection and analysis of contextualised information, without attempting to generalise results to large populations.

The population context was based on the content analysis of 15 scientific articles from peer-reviewed journals indexed in the following databases: Scielo, Scopus, Latindex, and Redalyc. Thus, qualitative content analysis was used to process the information collected, with the aim of identifying the salient aspects of the research topic in order to structure a comparative corpus presented in Table 1 and subsequently carry out the discussion section.

RESULTS

Table 1 compares the constitutional principles of procedural efficiency and speed with the deficiencies observed in Ecuador's contentious-administrative proceedings. It emphasises the emerging role of constitutional judges as guarantors of effective judicial protection, who, through their function, seek to overcome the structural and procedural limitations that affect public administration and access to justice.

Table 1. *Comparison between constitutional efficiency and speed versus administrative litigation deficiencies as the new role of constitutional judges in Ecuador*

Aspect	Efficiency and constitutional speed	Deficiencies in the administrative litigation process	New role of constitutional judges
What does it mean?	Ensuring that administrative and judicial processes are fast, clear, and effective to protect rights.	Problems such as delays, bureaucracy, and lack of access that hinder the proper functioning of administrative justice.	Constitutional judges must intervene to ensure that processes are fair, swift, and respect rights.
Legal basis and context	Constitutional principles aimed at improving public	The reality shows that administrative processes are often	The Constitution and jurisprudence grant judges a more active



	administration and electoral processes in Ecuador.	slow and complicated, affecting citizens.	role to correct these flaws and protect rights.
Problems faced	The need for procedures and hearings not to be delayed and to be resolved promptly to avoid injustices.	Lengthy processes, lack of resources, and little decentralization that hinder access to administrative justice.	Judges must ensure there are no unjustified delays and that justice is accessible to all.
Impact on public administration	Improves citizens' trust in institutions by making public management more efficient and transparent.	Slowness and bureaucracy generate distrust and affect the legal certainty of individuals and businesses.	Constitutional judges act to ensure public administration fulfills its duty efficiently and responsibly.
Relation to electoral processes	These principles also help ensure electoral processes are clear and resolved without delays.	Although not the main focus, administrative delays can affect electoral processes and related rights.	Judges can protect electoral rights when affected by administrative failures.
Proposals for improvement	Implement rules that require processes to be faster and less bureaucratic, as established by the General Organic Code of Processes.	Create virtual courts, decentralize competencies, and simplify procedures to facilitate access to justice.	Strengthen constitutional control so judges can act quickly and effectively against deficiencies.
Practical examples	Use of the principle of speed in hearings and administrative procedures to avoid unnecessary delays.	Cases where appeals and claims take too long, affecting those seeking justice.	Judicial interventions to ensure deadlines are met and constitutional rights are respected.
Consequences of non-compliance	If efficiency is not respected, there may be sanctions and annulment of administrative acts.	Delays can violate fundamental rights and generate legal uncertainty for citizens.	Judges can limit administrative discretion and demand respect for constitutional principles.

Source: Prepared by the author.

Therefore, the effective application of the principles of constitutional efficiency and speed is essential to overcome the shortcomings of the administrative litigation process in Ecuador. The new role of constitutional judges is emerging as an essential mechanism for guaranteeing effective judicial protection, promoting a more responsible public administration that is respectful of fundamental rights. This strengthens the rule of law and advances towards a more accessible, agile and reliable administrative justice system for citizens.



DISCUSSION

It is also worth noting that the regulatory developments incorporating the principle of expeditiousness into the General Code of Procedure (Jarama-Castillo, Vásquez-Chávez, & Durán-Ocampo, 2019) have represented a substantial advance in setting deadlines and streamlining hearings. However, these regulations lack standardised statistical monitoring mechanisms, which makes it difficult to accurately measure their real impact on the length of proceedings. As a result, there is a gap between the letter of the law and its practical application, as the accumulation of cases and insufficient human and technological resources in the courts prolong the time it takes to resolve cases (Wunder-Hachem & Gabardo, 2018).

On the other hand, considering the constitutional principle of administrative efficiency developed by Wunder-Hachem & Gabardo (2018), it should be emphasised that its violation not only leads to the nullity of administrative acts, but also entails the potential enforceability of the State's financial liability. Indeed, Ecuadorian case law has begun to recognise the standing of individuals to seek compensation for damages resulting from unjustified delays (Zurita-Morales et al., 2024), which reinforces the remedial dimension of the legal system and acts as a deterrent to omissive conduct by public officials.

Similarly, a comparative study of contentious proceedings against administrative acts of decentralised autonomous governments (Navarro-Betancourt, Díaz-Campana, & García-Segarra, 2025) reveals that the creation of virtual courts and the decentralisation of powers have facilitated the reduction of time limits for the presentation of evidence and notification of the parties, although challenges remain in terms of system interoperability and specialised training for operators. In this regard, Mejía-Guerrero & Salamanca-Giral (2020) highlight the importance of implementing uniform protocols for the management of electronic files and standardising the formats of proceedings in order to optimise procedural traceability and minimise notification errors.



Consequently, it is worth analysing the relationship between administrative procedure and judicial process in municipal illegality claims, given that Hunter-Ampuero (2020) argues that the lack of prior screening of files and the absence of mandatory conciliation hearings generate excessive and inadmissible litigation, saturating the contentious-administrative courts. Similarly, Núñez-Torres (2019) mentions the need to strengthen the pre-trial phase by implementing mediation and early conciliation mechanisms that allow conflicts to be resolved expeditiously and avoid unnecessary recourse to the courts by citizens.

Similarly, the experience of appeals in Spanish case law, analysed by De-las-Heras-Vives (2015), shows that indiscriminate appeals contribute to excessively prolonging proceedings and increasing the workload of the higher courts. Consequently, the adoption of more restrictive admissibility criteria is proposed, as well as the establishment of preliminary instances for assessing the viability of appeals, with the aim of filtering out those appeals that lack substance or substantive legal relevance.

Furthermore, the analysis of the principle of constitutional specificity, reviewed by Restrepo & Guevara (2024) in the Colombian context, provides keys to delimiting judicial discretion and ensuring that decisions comply with the normative parameters pre-established by the Constitution. In this way, the constitutional judge assumes a dynamic role, but within predictable margins that guarantee legal certainty. Similarly, Andrade-Ureña (2022) emphasises that constitutional unconventionality imposes a standard of interpretation that restricts arbitrariness and promotes consistency between administrative law and constitutional principles.

Consequently, it is worth examining the role of the Constitutional Chamber in its function of prior control and in its power to issue accelerated precautionary protection, as described by Vásquez-Dongo (2021). As such, the implementation of provisional measures, such as orders for the immediate suspension of acts that violate fundamental rights, represents an effective instrument for protecting urgent legal rights without neglecting due process. However, it is necessary to establish



clear criteria for the admissibility of such measures in order to avoid their indiscriminate use and the overload of precautionary requests.

Similarly, Fierro-Carbonell & Alcalá-Rodríguez (2022) have highlighted the importance of collegiate oversight of acts with financial implications, through the creation of special bonuses for the State Attorney General's Office, which can help to strengthen the supervision of administrative legality and prevent actions that violate the principle of efficiency. In this regard, it is advisable to promote inter-institutional coordination between the Public Prosecutor's Office, the State Comptroller's Office and the contentious-administrative courts, in order to enhance the exchange of information and avoid duplication of control.

In addition, the practical application of administrative conciliation, analysed by Torres-Osorio (2021), provides an effective alternative for conflict resolution without the need to reach a judgment. Indeed, conciliation prevents procedural attrition and promotes consensual solutions, while also reducing the workload of the courts. However, it is essential to guarantee the impartiality of the conciliator and the genuine willingness of the parties, as well as to provide oversight mechanisms to validate the effectiveness of the agreements reached.

Similarly, the decentralisation of powers and the creation of virtual courts, as outlined by Mejía-Guerrero & Salamanca-Giral (2020), require a digital governance approach that takes into account information security, file confidentiality and the robustness of IT systems. In this regard, it is suggested that international cybersecurity standards be adopted and that periodic audits be carried out to certify the integrity of electronic processes.

In addition, it is worth reflecting on the relationship between the theory of Peruvian contentious-administrative procedure, described by Ordóñez (2003), and its possible adaptation to the Ecuadorian context. In particular, the Peruvian model of administrative dispute resolution offers guidelines for establishing mandatory hearings and peremptory deadlines that encourage the rapid resolution of disputes.



However, any transfer must take into account the unique characteristics of our constitutional system and the existing level of institutional development.

Similarly, the review by Castro-Pizarro, Masache-Romero & Durán-Ocampo (2019) on the application of public law in Ecuador raises the need to strengthen the training of judges and magistrates in constitutional and administrative law so that they can consistently apply the principles of efficiency and speed without disregarding the substantive elements of substantive justice. In this regard, University and Society has proposed the creation of continuing specialisation programmes that integrate teaching and learning methods based on practical cases and procedural simulations.

Similarly, the study by Jarama-Castillo et al. (2019) suggests that hearing times can be optimised through the use of case management tools and intelligent scheduling of court agendas, which requires an administrative modernisation policy involving adequate financial resources and specialised technical advice.

CONCLUSION

The comparative analysis demonstrates that the full effectiveness of the principles of constitutional efficiency and speed is essential to overcome the structural and procedural shortcomings of administrative litigation in Ecuador. Likewise, the incorporation of peremptory time limits, monitoring mechanisms, and the timely use of expedited procedural remedies demonstrate how the new role of constitutional judges transcends mere control of legality, positioning them as active agents who guarantee effective judicial protection, promote responsible public administration and strengthen the rule of law by reconciling procedural speed with substantive justice for the benefit of citizens.

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REFERENCES

- Andrade-Ureña, R. F. (2022). Principios constitucionales no convencionales de aplicación en el derecho administrativo y énfasis en el derecho electoral ecuatoriano [Non-conventional constitutional principles of application in administrative law and emphasis on Ecuadorian electoral law]. *Estado & Comunes, Revista de Políticas y Problemas Públicos*, 1(14), 37-55. https://doi.org/10.37228/estado_comunes.v1.n14.2022.241
- Castro-Pizarro, J. M., Masache-Romero, C. M., & Durán-Ocampo, A. R. (2019). La aplicación del Derecho Público en el Ecuador [The application of Public Law in Ecuador]. *Revista Universidad y Sociedad*, 11(4), 350-360.
- De-las-Heras-Vives, L. (2015). El recurso de apelación en el proceso contencioso-administrativo a la luz de la jurisprudencia española [The appeal remedy in the contentious-administrative process in light of Spanish jurisprudence]. *Iuris Tantum Revista Boliviana de Derecho*, (19), 804-825.
- Fierro-Carbonell, E. del C., & Alcalá-Rodríguez, L. M. (2022). Prima especial para la Fiscalía General de la Nación: su reconocimiento en la Ley 4 de 1992 [Special premium for the Attorney General's Office: its recognition in Law 4 of 1992]. *Nuevo Derecho*, 18(30), 1-10. <https://doi.org/10.25057/2500672X.1440>
- Hunter-Ampuero, I. (2020). Relaciones entre procedimiento administrativo y proceso jurisdiccional en el reclamo de ilegalidad municipal [Relations between administrative procedure and jurisdictional process in municipal illegality claims]. *Revista de Derecho (Coquimbo)*, 27, 09. <https://dx.doi.org/10.22199/issn.0718-9753-2020-0009>
- Jarama-Castillo, Z. V., Vásquez-Chávez, J. E., & Durán-Ocampo, A. R. (2019). El principio de celeridad en el código orgánico general de procesos, consecuencias en la audiencia [The principle of speed in the general organic code of processes, consequences in the hearing]. *Revista Universidad y Sociedad*, 11(1), 314-323.
- Mejía-Guerrero, N. G., & Salamanca-Giral, N. D. (2020). Acceso a la administración de justicia contencioso-administrativa: Descentralización de competencias y creación de juzgados virtuales para litigios electrónicos [Access to contentious-administrative justice: decentralization of competencies and creation of virtual courts for electronic litigation]. En M. L. Torres-Villarreal & P. M. Iregui-Parra (Eds.), *Diálogos interdisciplinarios sobre los problemas de la justicia en Colombia* (pp. 35-56). Editorial Universidad del Rosario; Fundación Hanns Seidel. <https://books.scielo.org/id/ywd5x> <https://doi.org/10.12804/urosario9789587845617>
- Navarro-Betancourt, D., Diaz-Campana, M., & García-Segarra, H. (2025). Eficacia de la acción contenciosa contra los actos administrativos de los gobiernos autónomos descentralizados [Effectiveness of contentious action against administrative acts of decentralized autonomous governments]. *CIENCIAMATRIA*, 11(1), 83-106. <https://doi.org/10.35381/cm.v11i1.1526>
- Núñez-Torres, K. (2019). La evolución del procedimiento administrativo y el COA en el Ecuador [The evolution of administrative procedure and the COA in Ecuador]. *Revista San Gregorio*, (33), 149-159. <https://doi.org/10.36097/rsan.v1i33.1029>
- Ordóñez, J. D. (2003). El proceso contencioso-administrativo en el Perú [The contentious-administrative process in Peru]. *A&C-Revista de Direito Administrativo & Constitucional*, 167-219.



- Restrepo, J. F., & Guevara, L. J. (2024). Constitutional taxativity or judicial discretionality. A review of the limits of the Constitutional Court in Colombia [Taxatividad constitucional o discrecionalidad judicial. Una revisión de los límites de la Corte Constitucional en Colombia]. *Estudios Constitucionales*, 22(2), 228-253. <https://dx.doi.org/10.4067/S0718-52002024000200228>
- Torres-Osorio, E. del S. (2021). La conciliación contenciosa administrativa. Análisis desde la tutela judicial efectiva [Contentious-administrative conciliation. Analysis from the perspective of effective judicial protection]. *Prolegómenos*, 24(48), 93-108. <https://doi.org/10.18359/prole.5457>
- Vásquez-Dongo, L. A. (2021). El proceso constitucional de cumplimiento frente al proceso contencioso administrativo urgente: Una nueva perspectiva para una tutela más idónea frente a las pretensiones de cumplimiento contra la administración pública [The constitutional compliance process versus the urgent contentious-administrative process: A new perspective for more suitable protection against compliance claims against the public administration]. Repositorio de la Universidad Católica de Santa María - UCSM. <https://repositorio.ucsm.edu.pe/handle/20.500.12920/11093>
- Wunder-Hachem, D., & Gabardo, E. (2018). El principio constitucional de eficiencia administrativa: contenido normativo y consecuencias jurídicas de su violación [The constitutional principle of administrative efficiency: normative content and legal consequences of its violation]. *Cuestiones Constitucionales*, (39), 131-167. <https://doi.org/10.22201/ij.24484881e.2018.39.12652>
- Zurita-Morales, C. A., Peña, M. G., Mayor-Jara, J. D., & Rosas-Ramirez, C. I. (2024). El abandono en las acciones subjetivas contenciosas administrativas y la seguridad jurídica [Abandonment in subjective contentious-administrative actions and legal certainty]. *MQRInvestigar*, 8(4), 4517-4555.