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## SYSTEM ANALYSIS OF THE CONCEPT OF “POWER” WITHIN THE FRAMEWORK OF PUBLIC LAW FIELD

**Abstract. Purpose.** The purpose of the article is to formally define the concept of “power”, which may be relevant for solving a specific research problem. **Results.** The article formally defines the concept of “power”, which may be relevant for solving a specific research problem, because despite the frequent use of this concept by the scientific community, it has a multifaceted interpretation. It is emphasised that the specificities of the concept of power are the topic sufficiently widely studied by both domestic and foreign scientists of modern times. However, the absence of a formal definition of “power” enables an additional study of this phenomenon, including within the framework of the public and legal field. It is revealed that power as a phenomenon of social reality can be considered from many discourses, the specificities of the definition thereof depend on a specific research request. It is a multidisciplinary category that combines the characteristics of the relationship between people, actors and objects and is manifested both through multiple forms of compulsion and without intentional compulsion by others. It underlines that the system of public authorities is a set of people’s authorities, which have different forms of exercising this power, in particular representative authorities formed by elections, such as the Parliament, President, local self-government bodies. Each body of public authority is created for the implementation of the goals and programmes set, ensuring the protection of the rights, freedoms and legitimate interests of the people, the security of the State and society, and addressing issues of socio-economic and cultural significance. **Conclusions.** It is defined that, first, power is an ontological concept, quality of various states of being, essence of possibilities and reflection of reality; second, it is an active or passive manifestation of strength, applicable from an actor to an object. A formal definition of the concept of “power” is offered in this wording: the legal possibility of the actor to establish the framework of required behaviour, which shall be respected by others. Within the framework of public and legal field, this definition can be interpreted as follows: this is the right granted by legal regulations to a specific authorised actor to organise and exercise managerial influence on a certain range of objects of influence.

**Key words:** administrative policy, power, State, State power, public power, society.

### 1. Introduction.

The concept of power is part of a social theory that dates to the time of ancient Greek philosophers. However, even today a significant number of legal theorists’ studies focus on the phenomenon of power and related phenomena. This can be either one simple statement, such as power is not necessarily a negative, prohibitive or repressive thing, which forces to do things against the aspirations of society, but can also be a necessary, productive and positive strength in it (Gaventa, 2003) and, indeed, expanded arguments supporting the need for a transparent system of national governance based on the leading ideals of legal doctrine.

The specificities of the concept of power are the topic sufficiently widely studied by both domestic and foreign scientists of modern times: M. Vladymyrov, A. Danylenko, N. Kapus-

tina, S. Kovalchuk, L. Krymets, I. Maliutin, I. Minaieva, as well as: Y. Emirbekova, M. Foucault, J. Gaventa, N. Narykov, A. Rachipa, P. Samygin, S. Samygin, and others. However, the absence of a formal definition of “power” allows an additional study of this phenomenon, including within the framework of the public and legal field.

The purpose of the article is to formally define the concept of “power”, which may be relevant for solving a specific research problem.

### 2. Prerequisites for the existence of power and society

Frequent use of the term “power” cannot help deepening in its content. Power can be called as the highest degree of emotionally charged phenomenon, which is admired by some and frightens others. Some are charmed like a magnet; others see it as a receptacle of all

sinful things. However, it has always been one of the central categories of humanitarian knowledge, without which it is difficult to determine the interaction between individuals, society and the State (Kapustina, 2005, p. 10). Therefore, the etymology of the concept of “power” is polysemantic and has a wide range of interpretations (Maliutin, 2012, p. 27).

For example, according to the *Etymological dictionary of the Ukrainian language* the word *vlada* “power” and derivatives of it *volodar* “ruler”, *vladnyi* “authoritative” etc. came from the Polish language – *wladza* or Czech *vlada* – power, leadership, government (Melnychuk, 1982, p. 409). The essence is the ability to direct, govern someone or something. In other languages, power tends to be equated with strength, opportunity, influence, possession, command, suppression, etc. and has a tradition of speaking terms related to the phenomenon of power. For example, from Greek *power* – *kratos*, German – *macht*, French – *pouvoir*, Italian – *domino*. In Latin, words such as *potestas*, *auctoritas*, *imperium* were used to define “power”. The words *potestas*, *auctoritas* had a narrower meaning and meant a person’s special ability to lead, manage other people. Moreover, English *authority* is translated as “power”, “impact”, “importance”. That is why we equate the word *avtorytet* “authoritativeness” with such a position of a person in a society. Another English word *power* also means “strength” and “supremacy”, which, in fact, reflects the nature of authority, which in the absence of strength passes to the one who has it. The struggle for power is usually won by the most determined, the strongest, therefore, authority without strength is impossible (Maliutin, 2012, p. 27).

There is no doubt that power is not a natural phenomenon, but a human phenomenon. Accordingly, the existence of power presupposes the existence of a society in which acceptable behaviours, existing ways to encourage appropriate behaviour and punish for inappropriate behaviour (taboos, laws) are recognised at a certain level (Emirbekova, Narykov, Samygin, Samygin, Rachipa, 2016).

It is important to note that the beginnings of the Christian concept of power, as well as its philosophical origins, include its metaphysical realisation as an absolute sanction, predetermining social relations and requiring further subordination. Power is, therefore, traditionally seen only in the social, moreover in political aspect, when unconditional obedience is required. Absolutisation of power is its obligatory attribute (Krymets, 2013, p. 77).

On the other hand, beyond politics, power can be seen as a common, socialised, and embod-

ied phenomenon. Therefore, State-centric power struggles, including revolutions, do not always lead to changes in public order. That is, there are ways beyond perception, forcing citizens to discipline without any deliberate coercion from others (Michel Foucault: power is everywhere, 2003). That is, the psychological justification of power is based on the deep foundations of human nature, where the animal’s desire for priority was transformed as a result of ennoblement by consciousness (Krymets, 2013, 80).

Accordingly, within the framework of the structural and functional approach, power is regarded as a mediator in the system of social relations and, moreover, it belongs not to some individuals, but is the property of the collective. Here, power is an integrating and regulating factor, the function of which is to mobilise social forces to achieve a socially relevant goal. According to D. Iston, power can make decisions that matter to society, bringing and supporting certain values (Iston, 2001). But from the formal and administrative approach, power is a mechanism of management and organisation, gets its legitimacy and legality in legal discourse. In this case, power acts as State power, which is meaningfully disclosed in the dominant influence of the controlling actor on the controlled object. From these standpoints, power is the legal organisation of society, and the mechanism of power is the State and legal management of various activities. The latter has a complex hierarchical structure applicable to every social field, getting its resources in “unity of the people”, where the formal actor of power is citizens, transfer their powers to the official agent – the State (Vladymyrov, 2010, p. 314).

### 3. Relations between people and the State

In essence, citizens and the State conclude a kind of “service contract”, which can be terminated if one of the parties does not fulfil its obligations (Lavrov, 2013). Therefore, there is a partnership, because everyone has their own needs, the realisation of which depends directly on their interaction with each other, appropriate interaction (Danilenko, 2020, p. 71). However, by transferring power to the State, citizens actually lose the status of full partner, becoming the object of power.

The inequality between the actors and objects of power is based on certain principles and is supported by a whole system of resources (Afonin, Berezhnyi, Valevskiy, 2010, p. 30).

That is why there has been a tendency to view power no longer simply as an “ability and capacity to exercise one’s will, influence the activities and behaviour of others”, but above all as a right, given by the authority, to

the managerial influence. And this approach is quite justified, because in a State governed by the rule of law, no one has the right to exercise, and even more so to impose their will, and public relations are regulated through legal regulations, adopted by actors entrusted by society (Afonin, Berezhnyi, Valevskiy, 2010, pp. 30-31).

However, lawmakers cannot simply legislate. They need to convince people to accept them and follow the rules. To make this possible, the State power transforms itself into public one, that is, gives citizens broad access to participation in governance.

Interestingly, in the 19th century, the notion of political and State power was identified because the State was the centre of all power in society. Soviet approaches to the domination of State power, which was the only one at the time, are totally unsuitable in the new political and economic environment, and these concepts now need to be interpreted differently. Experts in public administration assert that State power is a political and legal phenomenon, the essence of which is that, expressing at least formally the will of all citizens of the State, it (power) provides the guiding, organising, regulating influence on society (Yarmysh, Serohin, 2002, p. 329; Minaieva, 2008). In turn, the public authorities carry out the duties of the State in the interests of society. That is, the system of public authorities is a set of people's authorities, which have different forms of exercising this power, in particular representative authorities formed by elections, such as the Parliament, President, local self-government bodies. Each body of public authority is created for the implementation of the goals and programmes set, ensuring the protection

of the rights, freedoms and legitimate interests of the people, the security of the State and society, and addressing issues of socio-economic and cultural significance. In this understanding, State power is a kind of public power through which the powers of the people, the nation (popular sovereignty) are exercised (art. 5 of the Constitution of Ukraine) and formally reflected in the legislation, in particular in articles 85, 106, 140 of the Constitution of Ukraine (Kovalchuk, 2017, p. 49).

#### 4. Conclusions

Therefore, power as a phenomenon of social reality can be considered from many discourses, the specificities of the definition thereof depend on a specific research request. It is a multidisciplinary category that combines the characteristics of the relationship between people, actors and objects and is manifested both through multiple forms of compulsion and without intentional compulsion by others.

The conducted research enables to assert that first, power is an ontological concept, quality of various states of being, essence of possibilities and reflection of reality; second, it is an active or passive manifestation of strength, applicable from an actor to an object.

Thus, a formal definition of the concept of "power" is offered in this wording: the legal possibility of the actor to establish the framework of required behaviour, which shall be respected by others.

Within the framework of public and legal field, this definition can be interpreted as follows: this is the right granted by legal regulations to a specific authorised actor to organise and exercise managerial influence on a certain range of objects of influence.

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## СИСТЕМНИЙ АНАЛІЗ ПОНЯТТЯ «ВЛАДА» В РАМКАХ ПУБЛІЧНО-ПРАВОВОГО ПОЛЯ

**Анотація. Мета.** Метою статті є формування формального визначення поняття «влада», що може бути актуальним для вирішення конкретної дослідницької проблеми. **Результати.** Стаття присвячена формуванню формального визначення поняття «влада», що може бути актуальним для вирішення конкретної дослідницької проблеми, адже, попри часто вживаність цього поняття у рамках наукових кіл, воно має різнобічне трактування. Акцентовано, що особливості концепції влади є достатньо широко досліджуваною проблематикою як вітчизняних, так і зарубіжних вчених сучасності. Однак відсутність формального визначення поняття «влада» дає можливість для додаткового вивчення цього феномену, у тому числі у рамках публічно-правового поля. Виявлено, що влада, як явище соціальної дійсності, може розглядатись з багатьох дискурсів, особливості визначення яких залежать від конкретного дослідницького запиту. Це мультидисциплінарна категорія, що поєднує своїм змістом особливості взаємовідносин між людьми, суб'єктами та об'єктами, а також проявляється як завдяки множинним формам примусу, так і без будь-якого навмисного примусу з боку інших. Наголошено, що система органів публічної влади є сукупністю органів влади народу, які мають різні форми здійснення цієї влади, зокрема це представницькі органи влади, що формуються виборами, а саме парламент, Президент, органи місцевого самоврядування. Кожен орган публічної влади створено для реалізації заданих цілей і програм, які забезпечують захист прав, свобод і законних інтересів народу, безпеку держави і суспільства, вирішення питань соціально-економічного та культурного значення. **Висновки.** Визначено, що влада, по-перше, є онтологічною концепцією, якістю різних станів буття, сутністю можливостей та віддзеркаленням реальності; по-друге, це активний чи пасивний прояв сили, застосовний від суб'єкта до об'єкта. Формальне визначення поняття «влада» запропоновано в такому вигляді: легальна можливість суб'єкта встановлювати рамки необхідної поведінки, яких мають дотримуватись інші. У рамках публічно-правового поля це визначення можна інтерпретувати так: це надане нормативно-законодавчими актами право конкретному суб'єкту владних повноважень на організацію та реалізацію управлінського впливу щодо визначеного кола об'єктів впливу.

**Ключові слова:** адміністративна політика, влада, держава, державна влада, публічна влада, суспільство.

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