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THEORETICAL AND METHODOLOGICAL FOUNDATIONS FOR DETERMINING LEGAL PRINCIPLES OF MAKING PUBLIC POLICY ON ENSURING RIGHTS AND FREEDOMS OF PERSONS WITH DISABILITIES

Abstract. Purpose. The purpose of the article is to determine, relying on modern scientific developments and the current regulatory framework, legal principles of making public policy on ensuring the rights and freedoms of persons with disabilities and, if necessary, to systematise them.

Results. The article analyses the legal principles of public policy on ensuring the rights and freedoms of persons with disabilities. The study suggests grouping the principles of public policy on ensuring rights and freedoms of persons with disabilities into universal (general) and sectoral (special). It is determined that universal (general) principles, inherent in public policy as a whole, are applied in all its types (sub-types). These include, inter alia: the rule of law; conformity with international law and international treaties; humanism, expediency and reasonableness; effectiveness; legality; humanistic value; scientific character; planning; priority of national interests; predictability; equality of all actors; systematic character; declaration and ensuring of human rights and freedoms; professionalism and competence of actors and other general principles.

Conclusions. It is noted that sectoral (special) principles are original ones, which, as a rule, are inherent in a particular type (sub-type) of public policy. Therefore, they are classified into: a) ordinary – internal principles of public policy on ensuring the rights and freedoms of persons with disabilities, which are general and significant (basic). These include: the Government's responsibility to establish a system that eliminates conditions leading to disability; accessibility; involvement and inclusion; non-discrimination; respect for the rights and talents of children with disabilities; full participation; equality of opportunities; equality of men and women; freedom of choice; equal conditions; an enabling environment for independent life; b) immanent – internal principles of public policy on ensuring the rights and freedoms of persons with disabilities, which are exclusive and specific, that is, inherent (characteristic) only in this sub-policy. These include: meeting the needs and interests of persons with disabilities; comprehensive support for persons with disabilities; application and implementation of the universal design framework; cross-cutting barrier-free environments; raising awareness of persons with disabilities and regarding them; promotion of sustainable urban mobility.

Key words: persons with disabilities, public policy on ensuring the rights and freedoms of persons with disabilities, principles, administrative and legal framework.

1. Introduction

The making of public policy on ensuring the rights and freedoms of persons with disabilities has always been a complex, multi-vector and targeted process, which necessarily has a goal, tasks and trends. Moreover, each of the components of such public policy should comply with the principles, governing the public authorities' activities in the implementation

of this policy. In such context, the relevant principles should be considered for making such policy in the proper manner.

The study of the principles of making public policy in various sectors of public life has repeatedly been under the focus of scientific research by scientists, such as B. Averianov, O. Bandurka, O. Bezpalova, Yu. Bytiak, O. Valevskiy, V. Halunko, I. Hrytsenko, V. Harashchuk,

O. Dzhafarova, T. Drakokhrust, O. Drozd, H. Zubko, V. Komziuk, V. Nastiuk, D. Prymachenko, S. Stetsenko, and others. Furthermore, it should be noted that the principles of making public policy on ensuring the rights and freedoms of persons with disabilities have just been reviewed in scientific works by V. Kondratenko, K. Mishchenko, V. Petrusyevych, Ye. Sobol and others, which makes the study relevant.

The purpose of the article is to determine, relying on modern scientific developments and the current regulatory framework, legal principles of making public policy on ensuring the rights and freedoms of persons with disabilities and, if necessary, to systematise them.

2. Determination of the principles of public policy on ensuring the rights and freedoms of persons with disabilities

The principle (from Latin *principium* – “the basis,” “the beginning”) is the basic, initial position of any scientific system, theory, ideological trend, political arrangement, etc.; the specificity underlying the creation or implementation of something (Ivchenko, 2002, p. 366); the main, most general, starting position, the tool, the rule that determines the nature and social essence of the phenomenon, its orientation and essential properties (Malynovskyi, 2003, p. 190); the starting idea, the fundamental that determines the content and trend of the regulatory mechanism (Kozziubra, 2015, p. 66).

Logically, with regard to public policy, the principles are a fundamental element, the basis of the corresponding public activity, which determine the basis of its making, reveal its essence.

According to I. Chekhovska, the principle is a central concept, a fundamental idea applicable to any system of knowledge and subordinates it. Within the theoretical knowledge of public policy, the principle determines the requirement to deploy the very knowledge into a system where all theoretical provisions are closely related and affect each other in a certain way (Chekhovska, 2013, p. 111). That is, the author focuses on the system-forming aspect of the principles, their substantiality for something or someone.

Moreover, the principles are the result of people’s generalisation of objectively valid laws and regularities, common features inherent in them, characteristic facts and features that become the common beginning of their activities (Malynovskyi, 2003, p. 190). Therefore, in the context of public policy, the principles set the key rules, guidelines and fundamentals for the proper activities of actors of public authority in its making.

Given the managerial component of the process of making public policy, it is natural that

their respective principles are similar and correlate with the principles of public administration. In this context, researchers note that the principles are the fundamental rules of the activities of bodies, institutions and people in the management of social processes, based on knowledge of the laws of functioning and development of society [6, p. 16]. According to V. Malynovskyi, the principles of public administration define the requirements for the system, structure, organisation and process of management, trends and limits of managerial decision-making. They interact with each other within a holistic system, balancing or reinforcing each other, allow for revelation of their nature, individuality and regulatory capabilities. In addition, the author underlines that the principles of public administration should be based on the laws of development of society, meet the goals of management, take into account the temporal and territorial aspects of the relevant processes, have a legal form (Malynovskyi, 2003, p. 193).

Therefore, the principles of public policy on ensuring the rights and freedoms of persons with disabilities can be defined as guiding ideas, fundamental rules, norms and standards, enshrined in the legal form, that reveal its essence, determine the basis for its making in order to ensure the full exercise by the persons concerned of their rights and freedoms, as well as their declaration and protection.

3. The importance of principles in the implementation of public policy

Principles of public policy, including its implementation and formation, are traditionally grouped into universal (general) and sectoral (special) (Chekhovska, 2013, p. 111; Kovbasiuk, 2014, p. 16; Honiukova, Kozakov, Rebkalo, 2018, p. 276). Universal (general) principles are inherent in the entire public policy and operate in all its types (sub-types). In turn, sectoral (special) principles are original, they are usually inherent in a particular type (sub-type) of public policy.

Scientists argue that the universal (general) principles include: objectivity; specificity; optimality; feedback; compliance with legal provisions, etc. (Kovbasiuk, 2014, p. 16; Honiukova, Kozakov, Rebkalo, 2018, p. 276); rule of law, legality, respect for human rights, publicity, systemic nature, comprehensiveness, scientific nature, planning, efficiency, timeliness, control, flexibility (Koshykov, 2021, pp. 74–81) and others. These principles have previously been enshrined in the Constitution of Ukraine, specified in a number of laws and regulations and used in all political and administrative activities of the State.

In this context, N. Korshunova identifies universal (general) principles of making public

policy as constitutional and, in particular, includes the principles of democracy, the rule of law, legality; peoples' and State sovereignty; declaration and protection of human rights and freedoms; ensuring of human and civil rights and freedoms; conformity of public policy with international law and treaties; political diversity (Korshunova, 2017, pp. 160–166).

Furthermore, a legitimate list of universal (general) principles of public policy is provided by the legislator in Article 2, Part 2 of Law of Ukraine 2411-VI “On the Principles of Domestic and Foreign Policy” of July 1, 2010. Such principles are: 1) the priority of national interest protection; 2) the rule of law, ensuring human and civil rights and freedoms, respect for the dignity of each person, ensuring special care for the child and the realisation of his/her rights; 3) the equality of all actors of property rights before law, protection of competition in economic activities; 4) the exercise of State power on the grounds of its division into legislative, executive and judicial; 5) openness and transparency in the processes of decision-making by State and local authorities; 6) the sustainable development of the market economy and its social dimension; 7) the balance of national, regional and local interests; 8) freedom, social justice and creative self-realisation; the participation of people in the management of State and public affairs; 9) social partnership and civic solidarity (Law of Ukraine On Principles of Domestic and Foreign Policy, 2010).

In addition, the above list of universal (general) principles of making public policy should be supplemented by the principles of humanism, expediency and reasonableness, coherence, comprehensive interaction of actors, human-centrism, multi-subjectivity, predictability, transparency, professionalism and competence of actors.

Furthermore, it should be noted that sectoral (special) principles of making public policy on ensuring the rights and freedoms of persons with disabilities are specific due to implying both adapted general principles of public policy and exceptional, specific principles.

The general principles of sub-policy under study are identical to some universal (general) principles of public policy as a whole but they are essential for ensuring the rights and freedoms of persons with disabilities and are adapted to its content. We propose to understand such principles as ordinary.

The ordinary (general) principles of making of public policy on ensuring the rights and freedoms of persons with disabilities have been elaborated by the international community and, according to Ye. Sobol, are, firstly, the responsibility of the Government responsibility to estab-

lish a system that eliminates conditions leading to disability and to address issues related to the consequences of disability; secondly, the provision by the State of the equal standard of living for persons with disabilities and other citizens, including income, education, employment, health care and participation in social life; thirdly, an enabling environment by the State for the independent life of persons with disabilities (self-reliance, self-sufficiency); fourthly, the recognition of the equality of persons with disabilities with other citizens in the exercise of constitutional rights and the observance of duties; fifthly, equal conditions for persons with disabilities throughout the country, regardless of their place of residence; sixth, consideration of the specific characteristics of persons with disabilities in making public policy on persons with disabilities; seventh, involvement of persons with disabilities in the development and application of legislation and strategies affecting their health, economic and socio-political situation (Sobol, 2015, pp. 94–95).

The Convention on the Rights of Persons with Disabilities provides ordinary principles of the sub-policy under study. These include the principles of the freedom to make one's own choices, independence of persons, non-discrimination, participation and inclusion in society, respect for difference of persons with disabilities, accessibility, equality of opportunity, equality between men and women, respect for the right and capacities of children with disabilities (UN Convention on the Rights of Persons with Disabilities, 2006). Furthermore, the Council of Europe Disability Strategy 2017–2023 provides for an almost similar list of principles. These principles are defined as fundamental and include independence, freedom of choice, full participation, equality, human dignity (The Council of Europe Disability Strategy 2017–2023).

In addition, immanent principles are internal principles of making public policy on ensuring the rights and freedoms of persons with disabilities include, as above-noted, exclusive and specific. These principles should be considered as immanent, because they are internal, that is, inherent (characteristic) only in this sub-policy.

Immanent principles of public policy on ensuring the rights and freedoms of persons with disabilities are principles of meeting the needs and interests of persons with disabilities; comprehensive support for persons with disabilities; application and implementation of the principles of reasonable accommodation; application and implementation of the universal design framework; cross-cutting barrier-free environments; raising awareness of persons with disabilities and regarding them; development of princi-

ples of participation and cohesion in relation to persons with disabilities; promotion of sustainable urban mobility. However, the list of immanent principles is not exhaustive and may be expanded and/or detailed, as appropriate.

4. The classification of principles of making public policy on ensuring the rights and freedoms of persons with disabilities

Therefore, the principles of public policy on ensuring the rights and freedoms of persons with disabilities are grouped into:

1. Universal (general) principles, inherent in public policy as a whole, are applied in all its types (sub-types). These include, inter alia: the rule of law; conformity with international law and international treaties; humanism, expediency and reasonableness; effectiveness; legality; humanistic value; scientific character; planning; priority of national interests; predictability; equality of all actors; systematic character; declaration and ensuring of human rights and freedoms; professionalism and competence of actors.

2. Sectoral (special) principles are original ones, which, as a rule, are inherent in a particular type (sub-type) of public policy. Therefore, they are classified into:

a) Ordinary – internal principles of public policy on ensuring the rights and freedoms of persons with disabilities, which are general and significant (basic). They are identical to some universal (general) principles of public policy as a whole, but adapted to the content of public policy on persons with disabilities. These include: the Government's responsibility to establish a system that eliminates conditions leading to disability and addressing disability issues; accessibility; involvement and inclusion; non-discrimination; respect for the rights and talents of children with disabilities; full participation; equality of opportunities; equality of men and women; freedom of choice; equal conditions; an enabling environment for independent life; consideration of specificities;

b) Immanent – internal principles of public policy on ensuring the rights and freedoms

of persons with disabilities, which are exclusive and specific, that is, are inherent (inherent) only to this sub-policy. These include: meeting the needs and interests of persons with disabilities; comprehensive support for persons with disabilities; application and implementation of the principles of reasonable accommodation; application and implementation of the universal design framework; cross-cutting barrier-free environments; raising awareness of persons with disabilities and regarding them; development of principles of participation and cohesion in relation to persons with disabilities; promotion of sustainable urban mobility.

5. Conclusions

Thus, it can be concluded that the principles of public policy on ensuring the rights and freedoms of persons with disabilities are guiding ideas, fundamental rules, norms and standards, enshrined in the legal form, that reveal its essence, determine the basis for its making in order to ensure the full exercise by the persons concerned of their rights and freedoms, as well as their declaration and protection.

In addition, the principles of public policy on ensuring the rights and freedoms of persons with disabilities are grouped into: 1) Universal (general) principles, inherent in public policy as a whole, are applied in all its types (sub-types); 2) Sectoral (special) principles are original ones, which, as a rule, are inherent in a particular type (sub-type) of public policy. Therefore, sectoral (special) principles are classified into: a) Ordinary – internal principles of public policy on ensuring the rights and freedoms of persons with disabilities, which are general and significant (basic). They are identical to some universal (general) principles of public policy as a whole, but are adapted to the content of public policy on persons with disabilities; b) Immanent – internal principles of public policy on ensuring the rights and freedoms of persons with disabilities, which are exclusive and specific, that is, inherent (characteristic) only in this sub-policy.

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ТЕОРЕТИКО-МЕТОДОЛОГІЧНІ ОСНОВИ ВИЗНАЧЕННЯ ПРАВОВИХ ЗАСАД ФОРМУВАННЯ ТА РЕАЛІЗАЦІЇ ДЕРЖАВНОЇ ПОЛІТИКИ ЩОДО ЗАБЕЗПЕЧЕННЯ ПРАВ І СВОБОД ОСІБ З ІНВАЛІДНІСТЮ

Анотація. Мета. Мета статті полягає у тому, щоб на основі сучасних наукових розробок, чинної нормативно-правової бази визначити правові засади (принципи) формування та реалізації державної політики щодо забезпечення прав і свобод осіб з інвалідністю та у разі необхідності здійснити їх систематизацію.

Результати. Статтю присвячено аналізу правових засад (принципів) державної політики щодо забезпечення прав і свобод осіб з інвалідністю. На основі проведеного дослідження запропоновано принципи державної політики щодо забезпечення прав і свобод осіб з інвалідністю поділяти на універсальні (загальні) та галузеві (спеціальні). Визначено, що універсальні (загальні) – принципи, що притаманні державній політиці загалом, застосовуються у всіх її видах (підвидах). До них, зокрема, належать: верховенства права; відповідності нормам міжнародного права та положенням міжнародних договорів; гуманізму, доцільності та обґрунтованості; ефективності; законності; людиноцентризму; науковості; плановості; пріоритетності захисту національних інтересів; прогнозованості; рівності всіх суб'єктів; системності; утвердження та забезпечення прав і свобод людини; фаховості та компетентності суб'єктів та інші загальні принципи.

Висновки. Зазначено, що галузеві (спеціальні) – оригінальні принципи, що, як правило, притаманні конкретному виду (підвиду) державної політики. Своєю чергою вони диференціюються на: а) ординарні – внутрішні принципи державної політики щодо забезпечення прав і свобод осіб з інвалідністю, які мають загальний характер та суттєве (базове) значення. До них належать: відповідальності уряду за створення системи, спрямованої на усунення умов, що призводять до інвалідності; доступності; залучення та включення до суспільства; недискримінації; поваги до прав і здібностей дітей з інвалідністю; повної участі; рівності можливостей; рівності чоловіків і жінок; свободи вибору; створення рівних умов; створення умов для незалежного життя; б) іманентні – внутрішні принципи державної політики щодо забезпечення прав і свобод осіб з інвалідністю, які є виключними та специфічними, тобто притаманні (властиві) лише цій субполітиці. До них належать: врахування потреб та інтересів осіб з інвалідністю; всебічної підтримки осіб з інвалідністю; застосування та впровадження засад універсального дизайну; наскрізної безбар'єрності; підвищення рівня обізнаності осіб з інвалідністю та щодо них; сприяння розвитку сталої міської мобільності.

Ключові слова: особи з інвалідністю, державна політика щодо забезпечення прав і свобод осіб з інвалідністю, принципи, адміністративно-правові засади.

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