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THE DEGREE OF SCIENTIFIC DEVELOPMENT OF THE ISSUE OF ADMINISTRATION OF JUSTICE IN ADMINISTRATIVE PROCEEDINGS

Abstract. ***Purpose.*** The purpose of the article is to analyse the state of scientific research on the issue of administration of justice in administrative proceedings. ***Results.*** The author argues that independent and impartial justice is a guarantee of sustainable development of society and the State, a guarantee of observance of rights and freedoms of man and of the citizen, rights and legitimate interests of legal entities, interests of the State, growth of welfare and quality of life, creation of an attractive investment climate, timely, efficient and fair resolution of legal disputes based on the rule of law. However, in the course of exercising their powers, state authorities, local self-government bodies and their officials may in some cases violate the rights, freedoms and legitimate interests of individuals and organisations. Decisions and actions or omissions of state authorities, local governments, public associations and their officials may be appealed in court. These cases are considered in administrative proceedings. Providing such an opportunity is the most important guarantee against abuse of power by public administration bodies, as well as it ensures a balance in the system of division of powers. The effective administrative proceedings affect the activities of all executive authorities. The article analyses scientific developments in the field of administrative proceedings in Ukraine. The article considers scientific works which are close to the subject matter of the mentioned scientific topic. The application of the conceptual provisions of dialectics enables to clarify various issues related to the subject matter of this article, to identify the existing unities and contradictions of the phenomena and facts, judgments and conclusions essential for the study. The historical method enables to find out the state of development of certain theories, concepts and proposals regarding the above-mentioned issues. The systemic-structural method is used in the development and formation of the main provisions. The method of system analysis is used in the study and processing of various sources that formed the basis of the factual material of our research. The formal logic methods enable to substantiate the author's proposals and opinions. ***Conclusions.*** Based on the analysis, it is concluded that despite the large number of scientific works in this field, no comprehensive works consider changes and reforms in the field of justice nowadays. The author emphasises the need to intensify such research.

Key words: scientific elaboration, justice, administrative proceedings, administrative procedure.

1. Introduction

According to Article 6 of the Constitution of Ukraine, the State power in Ukraine shall be exercised with the consideration of its division into legislative, executive and judicial power (Constitution of Ukraine, 1996). In other words, based on this position, it can be argued that the judicial power is on an equal footing with the executive and legislative, but performs functions that are specific to it. In K. Husarov's opinion, the judicial power is realised through the administration of justice in the form of criminal, civil, administrative, constitutional, and economic proceedings (Husarov, 2010, p. 9). Without exaggeration, administrative proceedings can be considered the main means of protecting the rights and interests of individuals and legal entities in the field of public law relations from violations by public authorities (Senkiv, 2016, p. 27). Independent and impartial justice is a guarantee of sustainable development of society and the State, a guarantee of observance of rights and freedoms of man and of the citizen, rights and legitimate interests of legal entities, interests of the State, growth of welfare and quality of life, creation of an attractive investment climate, timely, efficient and fair resolution of legal disputes based on the rule

of law (Decree of the President of Ukraine On Approval of the Strategy for the Development of the Justice System and Constitutional Judiciary for 2021-2023, 2021).

However, in the course of exercising their powers, state authorities, local self-government bodies and their officials may in some cases violate the rights, freedoms and legitimate interests of individuals and organisations. Decisions and actions or omissions of state authorities, local governments, public associations and their officials may be appealed in court. These cases are considered in administrative proceedings. Providing such an opportunity is the most important guarantee against abuse of power by public administration bodies, as well as it ensures a balance in the system of separation of powers. The effective administrative proceedings affect the activities of all executive authorities.

Furthermore, the relevance of the chosen research topic is due to the ongoing administrative reform in the country. The analysis of court practice reveals that the number of administrative cases where citizens increasingly challenge decisions that violate their rights, freedoms and legitimate interests grows every year.

Obviously, a theoretical study of the administration of justice in administrative proceedings is required in order to further develop the main areas for reforming the judicial system and legislation on administrative proceedings.

In order to understand the essence of justice in administrative proceedings and to determine the areas for further research of the issue, it is necessary to review the opinions currently expressed by scholars and practitioners on the issues under study.

Therefore, the analysis of the problem of administration of justice in administrative proceedings at the present stage is relevant and has scientific and practical significance.

The relevance of the issues related to administrative proceedings in Ukraine have been under focus by domestic administrative law scholars such as: V.B. Averianov, O.M. Bandurka, O.I. Bezpalova, M.A. Boiartseva, Yu.P. Bytiak, O.V. Dzhafarova, A.T. Komziuk, O.V. Kapinos, V.V. Malykhina, O.Ye. Mishchenko, V.B. Pchelin, O.M. Nechytailo, N.V. Shevtsova, I.V. Shrub, and others. The works by these authors make a significant contribution to the development of judicial proceedings in general and administrative proceedings in particular. Nevertheless, the continuous development of our country requires further analysis of administrative proceedings as a special form of administration of justice. Today, there is no comprehensive scientific work that would summarise all the theoretical data and offer a unified approach. In this regard, there are sufficient grounds to believe that without a thorough scientific study, further development of justice in administrative proceedings will be deprived of democratic transformations.

The purpose of the article is to analyse the state of scientific research on the issue of administration of justice in administrative proceedings.

Pursuant to the goal and objectives set, as well as allowing for the object and subject matter of the study, the article uses a combination of methods and techniques of scientific cognition. The methodological basis of the work is the general scientific and specific methods of cognition, in particular, the dialectical method of cognition, comparative legal, historical, systemic-structural, and systemic-analytical, sociological, statistical, technical logical, etc. The application of the conceptual provisions of dialectics enables to clarify various issues related to the subject matter of this article, to identify the existing unities and contradictions of the phenomena and facts, judgments and conclusions essential for the study. The historical method enables to find out the state of development of certain theories, concepts and proposals regarding the above-mentioned issues. The systemic-structural method is used in the development and formation of the main provisions. The method of system analysis is used in the study and processing of various sources that formed the basis of the factual material of our research. The formal logic methods enable to substantiate the author's proposals and opinions.

2. General principles of administrative proceedings

Justice is an integral part of every State governed by the rule of law. Administrative proceedings play a key role in protecting the rights, freedoms and interests of individuals, the rights and interests of legal entities in the field of public relations from violations by public authorities and local governments, because judicial control over the observance of the law by public authorities has been introduced in Ukraine at a qualitatively new level (Malykhina, 2021, p. 56).

The imperfection of justice in Ukraine is one of the factors hindering democratic transformation in the country. The decline in the quality of legislative activity and the inconsistency of judicial practice are explained by the lack of an updated conceptual view of administrative proceedings as a form of justice. One of the trends in improving administrative proceedings is its effective theoretical support, which is achieved by the focus of the scientific community.

An important stage of any scientific research is a thorough analysis of the existing scientific works of domestic and foreign scholars.

Given that no separate studies have been focused on the problems of administration of justice in administrative proceedings, the purpose of this article is to summarise scientific views in scientific works which are close to the subject matter of this topic.

In the article "Organisational and legal framework for administrative proceedings in Ukraine," V.V. Malykhina defines administrative proceedings as a State instrument that establishes a judicial and control mechanism aimed at regulating relations arising from the violation of an participant's public and individual right, ensuring proper protection of public rights and freedoms of man and a citizen, as well as legitimate interests of public persons in accordance with the laws of Ukraine. The author notes that administrative proceedings are a form of administration of justice aimed at resolving disputes between citizens and public authorities or between the authorities themselves. In addition, she emphasises that the formation of administrative justice has passed through three periods, one of which covers the ordering carried out by the state by legally enshrining justice, namely the adoption of legislation based on the activities of administrative courts (Malykhina, 2021, p. 71).

In his doctoral dissertation "Conceptual foundations of administrative justice in Ukraine", the author argues that the conceptual foundations of administrative proceedings are the ideas that determine the purpose of this form of justice, have a fundamental impact on the content of the rules establishing the powers of the administrative court and the rights and obligations of the parties to the case, outline the procedure for actions that are consistently performed in the trial and which together form it (Pysarenko, 2019, p. 311). The author argues that full implementation of fair trial guarantees in the national administrative procedure law is possible if the law provides for the following system of principles of administrative proceedings: 1) access to justice in administrative cases; 2) prohibition of discrimination (equality of participants in the proceedings before the court); 3) independence and impartiality of the administrative court; 4) publicity of the trial; 5) legality; 6) equality of the parties to the case before the law; 7) competitiveness of the parties to the case; 8) optionality; 9) official clarification of all circumstances in the case; 10) ensuring the right to appeal the case; 11) ensuring the right to cassation appeal of the court decision; 12) validity of the court decision; 13) reasonableness of the timeframe for resolving administrative cases (Pysarenko, 2019, p. 6).

According to V.S. Dorosh's work "Administrative and legal regulation of the organisation of administrative proceedings in Ukraine," administrative proceedings occupy a special position among the functions of the judiciary. On the one hand, it is one of the types of justice, along with constitutional, criminal, civil and commercial justice. On the other hand, it is one of the forms of judicial control. That is, this institution simultaneously combines two main functions of the judiciary: the function of justice and the function of judicial control (Dorosh, 2012, p. 16).

"The Institute of Administrative Case in the Administrative Proceedings of Ukraine" by I.A. Kachur reveals the essence of the administrative case and its place in the theory and practice of administrative proceedings. The author proposes to consider an administrative case as a set of materials and facts relating to a public law dispute in respect of which administrative proceedings have been initiated. The author establishes the procedure for consideration of administrative cases, the stages of administrative case proceedings, and identifies the conditions for consideration of cases in general and simplified action proceedings and the criteria for determining the specifics of an action proceeding in certain categories of administrative cases. The author identifies and summarises the problematic issues of the administrative case in the national administrative proceedings and the ways of their solution (Kachur, 2018, p. 4).

M.K. Hrymych studies the issue in "Judicial acts as a source of administrative procedural law of Ukraine." The dissertation defines the essence and features of judicial acts as sources of administrative procedural law of Ukraine. The author reviews theoretical and legal approaches to understanding the sources of administrative procedural law and their essential features (Hrymych, 2017).

The study by O.V. Kapynos "Theoretical and legal bases of functioning of administrative justice in Ukraine" examines the theoretical and legal principles of the functioning of administrative proceedings in Ukraine in the context of legal protection of rights and freedoms of man and of the citizen and an effective judicial control at the present stage of development of the legal State using leading European experience, and also develops areas for improving the legal and organisational principles of the functioning of administrative proceedings in Ukraine (Kapynos, 2021, p. 234).

The scientific work by O. Mishchenko "Legal regulation of administrative proceedings in the context of reforms and economic transformations" is quite relevant. In the thesis, the author analyses the evolution of administrative legal proceedings from the beginning to

the present. O. Mishchenko examines the issues of legal regulatory mechanism for administrative proceedings and offers specific proposals for solving these problems. Moreover, the work contains proposals for further areas of improvement of legal regulatory mechanism for administrative proceedings in general (Mishchenko, 2011, p. 65).

3. Specificities of administrative proceedings

In his work "Legal principles of the organisation of administrative justice in Ukraine," O.I. Korchynskyi argues that the main procedural component of administrative justice is the administration of justice in the form of administrative proceedings. The thesis thoroughly reviews scientific views on the study of the content of concepts such as: "administrative proceedings", "administrative procedure" and various scientists' approaches to their understanding at different historical stages of the existence of administrative law science, as well as an analysis of the organisation of administrative proceedings as a component of the administrative procedure. The author identifies areas for improvement of the legal framework for the organisation of administrative proceedings within the framework of European integration processes (Korchynskyi, 2019).

The thesis by S.A. Hebesh "Initiation of proceedings in an administrative case as a stage of administrative proceedings" reveals the main theoretical provisions on the initiation of proceedings in an administrative case as a stage of administrative proceedings and the formulation of proposals for improving the relevant legal regulatory mechanism. The work reveals the concept and features, defines the principles and functions of administrative case proceedings as a stage of administrative proceedings in Ukraine. The author formulates proposals for improving the legal regulatory mechanism for the initiation of proceedings in an administrative case, allowing for foreign experience (based on the codes of administrative procedure or laws of Austria, Lithuania, the Czech Republic, and France) (Hebesh, 2021, p. 185).

The doctoral thesis by V. Pchelin "Organisation of administrative proceedings in Ukraine: Legal principles" analyses the impact of models of administrative justice of foreign countries on the organisation of administrative proceedings in Ukraine. An attempt is made to establish the regularities of formation and development of administrative proceedings in Ukraine, to define the essence, specificities and tasks of the organisation of administrative justice in Ukraine, to characterise the legal regulatory mechanism for the organisation of administrative proceedings in Ukraine, to systematise the principles of administrative proceedings in Ukraine, to clarify the concept and outline the types of administrative courts of Ukraine, and to reveal the essence and specificities of the jurisdiction of administrative courts of Ukraine, to characterise the concept, types and specificities of jurisdiction of administrative courts over public law disputes, to outline the main stages of administrative proceedings for resolving public law disputes, to define the concept and classify participants in the administrative procedure, to establish the specificities of the legal status of persons involved in the case, and to distinguish the types of entities serving the administrative procedure; to characterise the rights of knowledgeable persons in administrative proceedings of Ukraine, to clarify the specificities, significance and legal basis of procedural representation in administrative proceedings, to reveal the essence and specificities of procedural succession in administrative proceedings, to define the concept and outline the types of support for administrative proceedings of Ukraine, to characterise the legal status of law enforcement bodies in the administrative justice system of Ukraine; to outline the activities of law enforcement bodies in ensuring administrative justice in Ukraine; to suggest ways to improve the legislation regulating the organisation and implementation of administrative proceedings in Ukraine (Pchelin, 2017)

According to A.V. Rudenko in his "Administrative proceedings: Formation and implementation", administrative proceedings are a form of actionable administration of justice, which consists in comprehensive, complete, objective consideration and resolution by administrative courts in the staged procedure determined by the Code of Administrative Procedure of Ukraine of administrative and legal disputes arising between individuals and legal entities, on the one hand, and an authorised actor (State authority, local self-government body, their officials and officers, other authorised actors in the exercise of its administrative functions on the basis of legislation, including the exercise of delegated powers), on the other hand, in order to protect the rights and freedoms of individuals, the rights and legitimate interests of legal entities, and to exercise control in the field of public legal relations (Rudenko, 2006, pp. 170–180).

A large number of theses consider the problems of administrative proceedings, where the authors focus on ideas (principles) inherent only in administrative proceedings. This is most clearly seen in the works that address the issues of consolidation and understanding of the principles of administrative justice.

In his thesis "The Principle of justice in the administrative proceedings of Ukraine", in Chapter 2 "The essence and content of the principle of justice in the administrative proceedings of Ukraine", M. Yakovenko considers justice as a principle of administrative proceedings of Ukraine, as well as studies the correlation of this principle with the principle of the rule of law. The author argues that justice should be considered as the basis for the construction of administrative proceedings, which determine the administration of justice based on the rule of law (Yakovenko, 2019, p. 4)

In her research "Principles of administrative proceedings", S.A. Bondarchuk focuses on the definition of the concept, role and content of the principles of administrative proceedings in Ukraine, studies the formation and development of administrative justice in Ukraine, reviews its understanding in science and practice, defines the tasks and essence of administrative proceedings in Ukraine, defines the system of principles of administrative proceedings, and focuses on the characterisation of certain principles of administrative proceedings that regulate a certain range of administrative procedural relations arising in the administration of justice in administrative cases (Bondarchuk, 2010).

V.V. Malykhina emphasises that the principles give the proceedings the qualities of fair justice in administrative cases, and vice versa, non-compliance with the principles of administrative justice in the administration of justice entails illegality and subsequent reversal of court decisions (Malykhina, 2021, p. 40).

In his PhD thesis "Principles of administrative justice", V. Skrypnychenko reveals modern problems and prospects for the development of administrative proceedings; defines the concept and reveals the legal nature of the principles of administrative proceedings; characterises the principles of the rule of law and equality of all participants in the judicial procedure before the law and the court; examines the content of the principles of publicity and openness of the judicial procedure and its full recording by technical means; defines the features of the principles of competitiveness of the parties, optionality and official clarification of all circumstances in the case; reveals the essence of the principle of binding nature of a court decision and ensuring the right to appeal, as well as ensuring the right to cassation appeal of a court decision in cases determined by law; characterises the principle of reasonableness of the timeframe for consideration of a case by the court and the inadmissibility of abuse of procedural rights and reimbursement of court costs of individuals and legal entities in whose favour a court decision has been made (Skrypchenko, 2020, 2020, p. 2).

It should be noted that a number of dissertation studies on the activities of administrative courts of Ukraine, such as: "Activities of administrative court in the conditions of implementation of the European principles of judicial procedure in Ukraine" (Boiaryntseva, 2019), "Administrative court in the system of public authorities of Ukraine" (Pypiak, 2016), "Administrative courts in Ukraine: Formation and prospects of development" (Svyda, 2008), "Realisation of the right to a fair trial in administrative proceedings of Ukraine" (Himon, 2018), "Problems of delimitation of judicial jurisdiction and determination of competence of administrative courts" (Smokevych, 2009); "Functioning of administrative courts in Ukraine: Organisational and legal principles and their implementation" (Shrub, 2009); "Protection of rights, freedoms and interests of citizens in the administrative court of first instance" (Vovk, 2009); "Dispositiveness and formality in resolving tax disputes in administrative proceedings of Ukraine" (Shevtsova, 2011); "Organisational and legal principles of administrative courts" (Vynokurova, 2011); "Optimisation of organisation and functioning of administrative courts in Ukraine" (Chaku, 2012) and others.

Therefore, the functioning and operation of administrative courts in Ukraine has been extensively and comprehensively studied. Undoubtedly, the reviewed works are of significance in further research of this issue.

4. Conclusions

The review of scientific works enables to state that the organisation of administrative proceedings has been and continues to be studied in the scientific works of Ukrainian scholars. However, despite the available scientific works, the problem of administration of justice within the framework of administrative proceedings in Ukraine remains relevant and requires further scientific development. Despite the existing achievements in this field, there is currently no comprehensive scientific work that would summarise all the theoretical data and offer a comprehensive approach. Therefore, a number of unresolved problems in this field enables to understand further promising areas of research and ways to improve legislation.

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СТУПІНЬ НАУКОВОЇ РОЗРОБЛЕНОСТІ ПРОБЛЕМИ ЗДІЙСНЕННЯ ПРАВОСУДДЯ В МЕЖАХ АДМІНІСТРАТИВНОГО СУДОЧИНСТВА

Анотація. ***Мета.*** Метою статті є висвітлення аналізу стану наукової розробленості проблеми здійснення правосуддя в рамках адміністративного судочинства. ***Результати.*** Аргументовано, що незалежне та неупереджене правосуддя є запорукою сталого розвитку суспільства і держави, гарантією додержання прав і свобод людини та громадянина, прав та законних інтересів юридичних осіб, інтересів держави, зростання добробуту та якості життя, створення привабливого інвестиційного клімату, своєчасного, ефективного і справедливого вирішення правових спорів на засадах верховенства права. Однак державні органи, органи місцевого самоврядування та їх посадові особи під час здійснення покладених на них повноважень в окремих випадках допускають порушення прав, свобод та законних інтересів громадян та організацій. Рішення та дії або бездіяльність органів державної влади, органів місцевого самоврядування, громадських об'єднань та їх посадових осіб можуть бути оскаржені у суді. Такі справи розглядаються у порядку адміністративного судочинства. Надання такої можливості є найважливішою гарантією проти зловживання повноваженнями зі сторони органів публічної адміністрації, а також забезпечує баланс у системі поділу влади. Ефективне здійснення адміністративного судочинства впливає на діяльність усіх органів виконавчої влади. Статтю присвячено аналізу наукових доробок у сфері адміністративного судочинства України. Розглянуто наукові роботи, наближені за предметом наукового пошуку до зазначеної теми. Застосування концептуальних положень діалектики дозволило з'ясувати різні питання стосовно предмета цієї статті, визначити наявні єдності та протиріччя суттєвих для дослідження явищ та фактів, суджень та умовиводів. Історичний метод дозволив з'ясувати стан розвитку окремих теорій, концепцій та пропозицій стосовно вказаної проблематики. Системно-структурний метод використовувався під час розробки та формування основних положень. Метод системного аналізу застосовувався у разі вивчення та опрацювання різноманітних джерел, які лягли в основу фактологічного матеріалу нашого дослідження. За допомогою методів формальної логіки аргументували авторські пропозиції та думки. ***Висновки.*** На підставі проведеного аналізу зроблено висновок, що, незважаючи на велику кількість наукових праць у зазначеній сфері, комплексних робіт, які б врахували зміни та реформи у сфері правосуддя, сьогодні бракує. Наголошено на необхідності активізації таких досліджень.

Ключові слова: наукова розробленість, правосуддя, адміністративне судочинство, адміністративний процес.

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