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ADMINISTRATIVE AND LEGAL RELATIONS IN COMBATING CORRUPTION AND THEIR PECULIARITIES

Abstract. ***Purpose.*** The purpose of the article is to determine the essence of administrative and legal relations in combating corruption and to reveal their specific features. ***Results.*** The article establishes that administrative and legal relations in combating corruption constitute a system regulated by the norms of administrative law of public-authority relations, predominantly executive-administrative, supervisory-control, and protective in nature, which arise between public administration entities, specially authorized anti-corruption bodies, and other holders of public powers, on the one hand, and public servants, officials, natural persons, and legal entities, on the other hand, in connection with the prevention, detection, documentation, and legal response to corruption-related and corruption offenses. Such legal relations are conditioned by the occurrence of specially defined legal facts (corruption risks, conflicts of interest, violations of anti-corruption restrictions, submission and verification of declarations, initiation of proceedings, etc.), are characterized by legal inequality of the parties and the possibility of unilateral authoritative initiative, and are aimed at ensuring the integrity of public service, transparency and accountability of administrative activities, protection of human and civil rights and freedoms, as well as restoration of the violated public interest through the application of a set of preventive, restrictive, supervisory, coercive, and liability measures consistent with national and European anti-corruption standards. It is clarified that administrative and legal relations are public-authority, hierarchical, and subordinate in nature, which is manifested in the legal inequality of the parties, unilateral initiation, and the possibility of exercising state coercion as a guarantor of legality. At the same time, they function not only as a form of implementation of state will but also as a legal mechanism for harmonizing the interests of the state and society, ensuring the coordinated functioning of the public administration system and the legal embodiment of the principles of legality, proportionality, accountability, and the rule of law. It is through the prism of administrative and legal relations that the actual content of administrative law as a regulator of public-authority activity is revealed, ensuring the organizational and legal stability of the state and the effectiveness of its administrative institutions. ***Conclusions.*** The article concludes that the main peculiarities of administrative and legal relations in combating corruption include: special anti-corruption normative determinacy; public-authority and multi-level subject composition; preventive and sanction-oriented functional focus; increased procedural formalization and supervisory-control nature; predominance of extrajudicial forms of implementation with guaranteed judicial oversight.

Key words: administrative and legal relations, administrative and legal instruments, interaction, public control, coordination, corruption, international cooperation, legal.

1. Introduction

The issue of administrative and legal support for combating corruption acquires particular relevance in the context of the formation of a rule-of-law state and the development of an effective public administration system. Corruption remains one of the most destructive threats to the functioning of the state apparatus, undermines the authority of public power, and reduces the level of public trust in state authorities and local self-government bodies. In this context, the study of administrative and legal relations arising in the process of combating corruption is a necessary prerequisite for the formation of effective legal regulation mechanisms in the sphere of public service, control, and liability of officials.

The relevance of this topic is also determined by the continuous evolution of Ukraine's administrative legislation, its adaptation to European legal standards, and the need to improve legal instruments for ensuring transparency and accountability of public authorities.

Administrative and legal mechanisms for preventing and combating corruption, the activities of specialized anti-corruption bodies, preventive and supervisory instruments, public oversight, and the formation of anti-corruption

policy have been the subject of research by such scholars as D. Andrieiev, M. Banchuk, O. Bezpalova, Yu. Belinskyi, D. Boichuk, V. Vasylevych, L. Velychenko, R. Voitovych, Ye. Hetman, S. Denysiuk, O. Zadorozhnii, V. Kolesnyk, M. Kulyk, R. Melnyk, M. Melnyk, L. Nalyvaiko, Yu. Nironka, O. Kharytonova, S. Tishchenkova, L. Usachenko, V. Fatkhutdinov, S. Khvostovtsov, N. Khrystynchenko, N. Chershova, V. Shkarupa, R. Shteba, O. Shostko, I. Yatskiv, and others.

The purpose of the article is to determine the essence of administrative and legal relations in combating corruption and to reveal their peculiarities.

2. Principles of the Functioning of State Authorities and Administration

In the context of reforming Ukrainian administrative law, changing its social purpose, and significantly expanding the range of relations regulated by this branch of law, a thorough study of the essence and content of modern administrative and legal relations directly related to the functioning of state authorities and administration becomes a pressing task. Updating the theoretical and methodological framework of administrative law science is today a necessary condition for the successful reform of administrative law as a fundamental branch of Ukrainian law (Averianov, 2003).

According to V. Kopieichykov and A. Kolodii, legal relations are social relations regulated by legal norms, the participants of which act as holders of mutual subjective rights and legal obligations ensured by the state (Kopieichykov, Kolodii, 2006). In turn, O. Skakun understands legal relations as volitional social relations regulated by legal norms and ensured by the state, which are expressed in a specific connection between authorized subjects (holders of subjective rights) and obligated participants (bearers of duties) of these relations (Skakun, 2010). A somewhat different position is taken by the authors of the textbook *General Theory of State and Law*, who state that legal relations are relations between people that represent the legal expression of economic, political, family, procedural, and other social relations, where one party, on the basis of legal norms, demands that the other party perform certain actions or refrain from them, while the other party is obliged to comply with these demands (Tsvik, Tkachenko, Bohachova, 2002).

The essence of administrative legal relations is seen in their interaction with real social relations, which constitute the content of administrative legal relations and exist as actual relations. Thus, administrative and legal relations are formed predominantly in a specific sphere of social life—the sphere of public administration—in connection with the exercise of functions by public administration bodies, that is, in the process of executive and administrative activity (Kolpakov, 1999). V. Averianov proposes to understand administrative and legal relations as social relations regulated by the norms of administrative law, in which their parties (subjects) are interconnected and interact through the exercise of subjective rights and obligations established and guaranteed by relevant administrative and legal norms (Averianov, 2004). According to I. Holosnichenko, administrative and legal relations constitute a system of rights and obligations of executive authorities, officials and civil servants, citizens, and other subjects, as well as the interconnections between them arising from the exercise of state executive power and responsibility in the sphere of public administration (Holosnichenko, Stakhurskyi, Zolotarova, 2005). O. Kharytonova, examining the conceptual foundations and legal nature of administrative and legal relations, defines them as relations regulated by legal norms that arise and exist between subjects of public law and are aimed at regulating social relations, ensuring public order, welfare, and security of citizens and society through the means of state coercion (Kharytonova, 2004).

Thus, administrative and legal relations should be regarded as a systemically organized set of social connections arising in the sphere of public administration on the basis of and within the limits of administrative and legal norms, within which subjects—holders of public authority and subordinate participants—exercise mutual subjective rights and legal obligations aimed at ensuring the proper functioning of the executive power mechanism, as well as the protection and realization of the rights, freedoms, and legitimate interests of natural and legal persons. These legal relations are characterized by a public-authority nature, manifested in the presence of a public administration body as a mandatory subject exercising authoritative and organizational influence on the behavior of the other party, thereby ensuring law and discipline in the sphere of public administration.

By their nature, administrative and legal relations are public-authority, hierarchical, and subordinate, which is expressed in the legal inequality of the parties, unilateral initiation, and the possibility of exercising coercion by the state as a guarantor of legality. At the same time, they function not only as a form of implementation of state will but also as a legal mechanism for harmonizing the interests of the state and society, ensuring the coordinated functioning of the public administration system

and the legal embodiment of the principles of legality, proportionality, accountability, and the rule of law. It is precisely through the prism of administrative and legal relations that the actual content of administrative law as a regulator of public-authority activity is revealed, ensuring the organizational and legal stability of the state and the effectiveness of its administrative institutions.

Scholar V. V. Halunko, in his work *Administrative and Legal Relations: An Algorithm for Studying Social Relations*, notes that legal facts in administrative and legal relations are formalized through the forms of activity of public administration (primarily through individual administrative acts and administrative contracts) and the methods of activity of public administration (primarily through administrative measures of encouragement, persuasion, and coercion). The author formulates the following conclusions regarding the algorithm for studying administrative and legal relations in certain branches (spheres, sectors):

1. the basis for studying any administrative and legal relations is an objective characterization of the relevant branch (sphere, sector of social life), through identifying objective grounds for their regulation by administrative law norms, developing a conceptual framework, and forming principles of public administration activity;

2. norms of administrative law, through their external expression in the sources of administrative law, ensure a balance between the interests of citizens' rights and freedoms and the public interest of the state and society; they consist of formalized domestic sources (laws of Ukraine, subordinate regulatory legal acts) and formalized international sources, certain judicial decisions of constitutional and administrative courts and the European Court of Human Rights, as well as non-formalized sources (legal doctrines);

3. when studying administrative and legal relations, attention should be paid to the general public legal personality of legal entities and the complex administrative legal personality (legal capacity, capacity to act, and delict capacity) of natural persons;

4. an integral element of the study of administrative and legal relations is the object of administrative and legal relations as a material or immaterial public good, as well as actions aimed at the use or protection of which the subjective rights and legal obligations of public administration are directed;

5. the content of administrative and legal relations is the interconnection of subjective public rights and legal obligations of the participants in administrative and legal relations enshrined in administrative law, where each subjective right established in an administrative legal norm corresponds to a specific legal obligation, and vice versa;

6. legal facts in administrative and legal relations are formalized through the forms of activity of public administration (primarily through individual administrative acts and administrative contracts) and the methods of activity of public administration (primarily through administrative measures of encouragement, persuasion, and coercion) (Halunko, 2017).

3. Peculiarities of the Regulatory and Legal Framework for the Prevention of and Counteraction to Corruption

O. O. Onyshchuk, in his work *Administrative and Legal Relations in the Field of Prevention of and Counteraction to Corruption*, noted that, in accordance with the subject matter of modern administrative law, administrative and legal norms—aimed at ensuring the rights and freedoms of the individual and the citizen—regulate, in the sphere of prevention of and counteraction to corruption, relations between:

1. entities that implement measures aimed at preventing and counteracting corruption and entities held liable for corruption-related offenses;

2. superior and subordinate bodies and officials of entities implementing measures aimed at preventing and counteracting corruption. The author argues that a common feature of all types of administrative and legal relations in the sphere of administrative and legal prevention of and counteraction to corruption is that at least one of the parties is an entity vested by the state with authoritative competence to implement preventive and counteractive measures (Onyshchuk, 2010).

O. O. Onyshchuk emphasizes that administrative and legal relations in the sphere of prevention of and counteraction to corruption are characterized by the following features:

1. they are inextricably linked to administrative and legal norms, the external manifestation of which is the system of anti-corruption legislation, and arise and are implemented exclusively on their basis;

2. their primary purpose is to ensure the rights and freedoms of the individual and the citizen, as well as the normal functioning of civil society and the state;

3. they regulate social relations between entities implementing measures aimed at preventing and counteracting corruption and entities held liable for corruption-related offenses;

4. a leading feature of administrative and legal relations is their public nature, as they arise on the initiative of the entity implementing measures aimed at preventing and counter-

acting corruption, without requiring the consent of the other party;

5. administrative and legal relations are predominantly managerial (authoritative-administrative): in a narrow sense, entities implementing measures aimed at preventing and counteracting corruption are endowed with authoritative competence, while entities held liable for corruption-related offenses are obliged to comply with their lawful requirements; at the same time, under a broad approach, the parties to administrative and legal relations always possess subjective rights and bear legal obligations that are interrelated—each subjective right of one party corresponds to a legal obligation of the other, and vice versa;

6. they have a conscious and volitional character, as the state expresses its will through the adoption of relevant administrative and legal norms, while participants in these relations exercise their will, are aware of the significance of their actions, and may bear responsibility for them;

7. administrative and legal relations are protected by the state, which facilitates the exercise of subjective rights and legal obligations and, in the event of a violation, brings the guilty person to administrative or other legal liability (Onyshchuk, 2010).

A. A. Prykhodko, in his work *The Theoretical Essence of Administrative and Legal Relations in the Field of Prevention of and Counteraction to Corruption in Ukraine under Conditions of European Integration*, concludes that administrative and legal relations in the sphere of prevention of and counteraction to corruption in Ukraine under conditions of European integration constitute a type of public-law relations between individuals and public administration, between authorized public authorities horizontally and/or vertically, between public organizations and holders of public authority, as well as between subjects of corrupt practices and authorized representatives of public authorities. The emergence of such relations is conditioned by the existence of sanctioning, protective, safeguarding, guarantee, and/or other administrative norms regulating the procedure for their interaction when circumstances activating such relations arise. According to the author, administrative and legal relations in the sphere of prevention of and counteraction to corruption in Ukraine under conditions of European integration are heterogeneous, multifaceted, and diverse in nature. Their conceptual features vary depending on their object-subject composition and substantive characteristics. The unifying factor of all such relations is their functional orientation in a global sense—namely, the eradication of corruption manifestations in Ukraine in order to enable the state to claim potential membership in the European Union (Prykhodko, 2020).

4. Conclusions

Thus, administrative and legal relations in combating corruption constitute a complex of public-authority relations regulated by the norms of administrative law, predominantly executive-administrative, supervisory-control, and protective in nature, which arise between subjects of public administration, specially authorized anti-corruption bodies, and other holders of public powers, on the one hand, and public servants, officials, natural persons, and legal entities, on the other hand, in connection with the prevention, detection, documentation, and legal response to corruption-related and corruption offenses. Such legal relations are conditioned by the occurrence of specially defined legal facts (corruption risks, conflicts of interest, violations of anti-corruption restrictions, submission and verification of declarations, initiation of proceedings, etc.), are characterized by legal inequality of the parties and the possibility of unilateral authoritative initiative, and are aimed at ensuring the integrity of public service, transparency and accountability of administrative activity, protection of human and civil rights and freedoms, as well as restoration of the violated public interest through the application of a set of preventive, restrictive, supervisory, coercive, and liability measures consistent with national and European anti-corruption standards.

In our view, the main peculiarities of administrative and legal relations in combating corruption are as follows:

1. **Special anti-corruption normative determinacy**, which consists in the fact that these legal relations arise, develop, and terminate on the basis of a specialized body of anti-corruption legislation (restrictions on multiple employment and combination of positions, prevention of conflicts of interest, financial control, ethical standards, etc.), which establishes a specific administrative and legal regime for preventing and responding to corruption and determines not only general but also enhanced requirements for the status, conduct, and liability of participants in public service.

2. **Public-authority and multi-level subject composition**, manifested in the formation of anti-corruption legal relations with the participation of an extensive system of public authority entities, including bodies of general competence, specially authorized anti-corruption bodies, internal units for the prevention and detection of corruption, local self-government bodies, disciplinary and ethics commissions. In all cases, one of the parties is invariably

a holder of public authority exercising managerial influence on behalf of the state or a territorial community.

3. **Preventive and sanction-oriented functional focus**, which distinguishes these relations from "classical" managerial legal relations, as in the field of combating corruption a single legal relation combines preventive elements (assessment of corruption risks, control of declarations, settlement of conflicts of interest), regulatory elements (establishment of rules of conduct, restrictions, and prohibitions), and protective-sanctioning elements (imposition of administrative, disciplinary, and, in certain cases, other forms of legal liability), resulting in an increased level of legal intensity and consequentiality of such relations.

4. **Increased procedural formalization and supervisory-control character**, which lies in the fact that administrative and legal relations in combating corruption unfold within strictly regulated administrative procedures (verification of declarations, lifestyle monitoring, internal investigations, inspections of compliance with anti-corruption restrictions), accompanied by the recording of legal facts, procedural time limits, grounds, and decision-making criteria, thereby necessitating heightened attention to evidentiary standards, transparency of public administration actions, and the availability of mechanisms for challenging administrative decisions.

5. **Predominance of extrajudicial forms of implementation with guaranteed judicial oversight**, since the majority of managerial decisions in the field of combating corruption are adopted by public administration bodies in an administrative (internal organizational) manner—through the issuance of individual administrative acts, response measures, and disciplinary decisions—while remaining subject to mandatory judicial review.

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АДМІНІСТРАТИВНО-ПРАВОВІ ВІДНОСИНИ З ПРОТИДІЇ КОРУПЦІЇ ТА ЇХ ОСОБЛИВОСТІ

Анотація. ***Мета статті*** полягає у тому, щоб визначити сутність адміністративно-правових відносин з протидії корупції та розкрити їх особливості. ***Результати.*** У статті визначено, що адміністративно-правові відносини з протидії корупції - це врегульований нормами адміністративного права комплекс публічно-владних, переважно виконавчо-розпорядчих, контрольно-наглядових та охоронних взаємозв'язків, що виникають між суб'єктами публічної адміністрації, спеціально уповноваженими антикорупційними органами, іншими носіями публічних повноважень, з одного боку, та публічними службовцями, посадовими особами, фізичними і юридичними особами - з іншого, у зв'язку із запобіганням, виявленням, фіксацією та правовим реагуванням на корупційні та пов'язані з корупцією правопорушення. Такі правовідносини обумовлені настанням спеціально визначених юридичних фактів (корупційні ризики, конфлікт інтересів, порушення антикорупційних обмежень, подання та перевірка декларацій, ініціювання проваджень тощо), характеризуються

правовою нерівністю сторін та можливістю односторонньої владної ініціативи, спрямовані на забезпечення доброчесності публічної служби, прозорості й підзвітності управлінської діяльності, захисту прав і свобод людини та громадянина, а також на відновлення порушеного публічного інтересу шляхом застосування комплексу превентивних, обмежувальних, контрольних, примусових і відповідальних заходів, що узгоджуються з національними та європейськими стандартами протидії корупції. З'ясовано, що адміністративно-правові відносини мають публічно-владний, ієрархічний та підпорядкований характер, що виявляється у правовій нерівності сторін, односторонній ініціативі виникнення та можливості реалізації примусу з боку держави як гаранта законності. Водночас вони виступають не лише формою реалізації державної волі, а й правовим механізмом гармонізації інтересів держави та суспільства, забезпечуючи узгоджене функціонування системи публічного управління і правове втілення принципів законності, пропорційності, відповідальності та верховенства права. Саме через призму адміністративно-правових відносин виявляється реальний зміст адміністративного права як регулятора публічно-владної діяльності, що забезпечує організаційно-правову стабільність держави та ефективність її управлінських інститутів. ***Висновки.*** У статті сформовано, що основними особливостями адміністративно-правових відносин з протидії корупції є: 1) спеціально-антикорупційна нормативна детермінованість; 2) публічно-владний та багаторівневий суб'єктний склад; 3) превентивно-санкційна функціональна спрямованість; 4) підвищена процедурна формалізованість і контрольно-наглядовий характер; 5) переважання позасудових форм реалізації при гарантованому судовому контролі.

Ключові слова: адміністративно-правові відносини, адміністративно-правові інструменти, взаємодія, громадський контроль, координація, корупція, міжнародне співробітництво, правова допомога, правове забезпечення, правоохоронні органи, протидія корупції, суб'єкти.