

UDC 342.9

DOI <https://doi.org/10.32849/2663-5313/2024.4.04>

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THE CONCEPT AND ESSENCE OF ADMINISTRATIVE AND LEGAL INSTRUMENTS FOR ENSURING ENVIRONMENTAL SAFETY

Abstract. Purpose. The purpose of this article is to define and reveal the essence of administrative and legal instruments for ensuring environmental safety. **Results.** Based on an analysis of scholarly views, the article discloses general theoretical approaches to defining the notions of "instrument," "legal instrument," and "administrative and legal instrument." It outlines the key features inherent to administrative and legal instruments in general, as well as within the sphere of environmental safety.

Conclusions. It is concluded that the essential characteristics of administrative and legal instruments include: the practical expression of the activities of public administration entities—namely, bodies of state power and local self-government. These include the forms, measures, means, and methods employed by authorized officials to implement their assigned tasks and functions, and to ensure regulation and coordination of particular spheres of public activity. Such instruments are marked by a high degree of formalization, since the types and procedures for their application are defined by legislation for each specific area of public life. Consequently, they may have a unique but relatively stable set, as any transformations in their content or scope occur exclusively through amendments to normative acts. These instruments also presuppose the imperative establishment of the powers (subjective rights and duties) of the actors applying them, who may not act at their own discretion, as this would constitute a violation of Ukrainian law. It is noteworthy that most instruments provide extensive opportunities to affect human rights and freedoms; however, excessive discretion creates risks of bureaucratic arbitrariness, corruption, and other abuses. The instruments within each specific sphere of public legal relations are applied directly by the public administration entities legally empowered to do so, in accordance with their competence and authority established by Ukrainian legislation. The use of administrative and legal instruments is always aimed at achieving a concrete, predetermined result expressed in the attainment of objectives related to influencing public legal relations in a particular sphere. Therefore, administrative and legal instruments for ensuring environmental safety should be understood as a set of legislatively defined and regulated forms, measures, means, and methods of a public-authoritative nature that are applied by specially authorized entities to minimize—and, if possible, completely eliminate—risks that cause or may cause harm to the natural environment or pose an actual danger to human life and health.

Key words: instruments, legal instruments, administrative and legal instruments, instruments for ensuring environmental safety, environmental safety.

1. Introduction

An important aspect of the real, practical operation of any sectoral mechanism of legal regulation is its instrumental component. It is through this component that authorized actors influence public legal relations and the behavior of participants within a particular sphere of public life. In administrative law, this function is performed by a set of special administrative and legal instruments. This is a broad category that encompasses a wide range of regulatory levers of a public-administrative nature. It is through a specific group of administrative and legal instruments that environmental safety is ensured in our state.

The content of administrative and legal instruments and their impact on different

spheres of social relations have been examined in the works of such scholars as V.V. Halunko, L.V. Zinych, I.V. Kovbasa, S.V. Mazurenko, R.S. Melnyk, I.V. Paterylo, V.L. Fedorenko, among others. Despite extensive coverage in theoretical legal sources, the issue of administrative and legal instruments has a high degree of individualization, and its content depends on the sphere of practical application. Consequently, an analysis of this category specifically in the context of ensuring environmental safety has not yet been sufficiently carried out.

Therefore, the aim of this article is to define and reveal the essence of administrative and legal instruments for ensuring environmental safety.

2. Principles and Specific Features of Interpreting the Concept of “Instrument”

Etymologically, the term *instrument* is most often understood as a particular tool or a set of tools used to perform a certain type of work, process, activity, or operation (Ivchenko, 2002). In the context of management, as T.O. Karabin notes, instruments are the means employed by a management entity to implement the goals, tasks, and functions of managerial activity. They constitute one of the essential components of the substantive content of the managerial activities of enterprises, institutions, organizations, including public authorities (Karabin, 2007).

In law, according to I.V. Paterylo, an instrument represents an arsenal—the entire spectrum—of legal phenomena of various levels that are applied to regulate public legal relations and influence the behavior of their participants (Paterylo, 2006). A broader position is expressed by O.V. Onufriienko and P.M. Humeiniuk, who argue that instruments in law are, first, the means of legal regulation of public legal relations through which such relations and the behavior of their participants are ordered and structured; and second, substantial and institutional legal phenomena aimed at achieving socially useful objectives (Humeiniuk, 2000; Onufriienko, 2002). K.O. Kocherhina maintains that instruments are static elements—legal means that are reflected in various legal norms and provisions and ensure the accomplishment of the objectives assigned to legal regulation (Kocherhina, 2005).

While in the general theory of law there is a certain unity of scholarly thought regarding the content of legal instruments as expressions of legal regulation, within administrative science their content is predominantly associated with the activity-oriented dimension of public institutions. Thus, according to the approach proposed by O.V. Felyk, administrative and legal instruments constitute the external expression of the administrative activity of public administration bodies, having a direct impact on social processes and being used to achieve public interests, implement state policy, and ensure public order within the territory of the state. In addition, the author emphasizes the dynamic nature of these instruments, as their set may change depending on the needs of society and the state during a particular period. This enables administrative bodies to respond effectively and appropriately to contemporary challenges such as crises, wars, or other emergencies (Felyk, 2024).

V.V. Halunko, A.O. Levchuk, and P.V. Dikhtiievskyi underscore that instruments represent the external expression of groups of administrative actions by public

administration entities that are homogeneous in their nature and legal characteristics, and are implemented strictly within the scope of competence defined by law in order to achieve the desired result for public administration (Halunko, Dikhtiievskyi, Kuzmenko, 2020). According to V.V. Khasanova, administrative and legal instruments consist of the means and measures by which public bodies organize and regulate the functioning of certain social structures, including: registration of property rights and licensing; the judicial system for resolving commercial disputes; differentiated regimes for the use of resources; administrative liability norms; and so forth (Khasanova, 2009).

3. Administrative and Legal Instruments of Regulation in Various Sectors

The definition of administrative and legal instruments is often formulated inseparably from the objects they are intended to regulate. For example, I.V. Ishchenko proposes understanding administrative and legal instruments of the activities of the National Police, as an entity responsible for implementing the preventive function, as a set of forms and methods of police activity regulated by the norms of administrative law and aimed at ensuring and implementing the preventive function of the state in accordance with the main directions of police activity in the sphere of maintaining public safety and order, as well as protecting human rights and freedoms (Ishchenko, 2022).

O.V. Barylo defines administrative instruments for combating domestic violence as specialized mechanisms, norms, and procedures developed for preventing, detecting, and responding to cases of domestic violence, which are used by state authorities, social services, and other institutions to protect victims, ensure public order, and establish an effective system of response to this problem (Barylo, 2020). According to D.V. Krylov, administrative and legal instruments of state regulation of the economy constitute a system of measures and means responsible for the regulation of economic actors, guaranteeing the freedom to make economic decisions, protecting property rights, and ensuring competitive relations, which is achieved through the establishment of an appropriate regulatory framework and its continuous improvement, revision, and implementation (Krylov, 2023).

Within the sphere of interaction among security and defence sector actors, administrative and legal instruments were analysed by A.H. Vakhrov. The scholar defines this category as a set of measures and methods used by authorised state entities, including: rulemaking (the establishment of rules, procedures, obligations, etc.); organisational instruments (infor-

mation collection, preparation of documents, etc.); supporting instruments (methodological assistance, technical and material provision, financing, etc.); and managerial instruments (incentives, persuasion, supervisory and control activities, etc.) (Vakhrov, 2023).

M.M. Sirant devoted her research to the analysis of the administrative and legal toolkit for ensuring environmental safety and established that its system consists of methods and forms. Broadly understood, these methods are perceived as techniques or approaches by which the influence on objects is exercised for the practical implementation of specific tasks. As for administrative and legal forms, these are, in her view, externally expressed actions of authoritative entities carried out within their competence and producing certain consequences. Methods of administrative and legal regulation manifest in practice through administrative and legal forms, which are conditioned by the content of the respective methods. A method structures activity and is manifested within it, yet conceptually exists beyond it, preceding the process of activity that it enables (Sirant, 2020).

4. Conclusions

Thus, the analysis conducted makes it possible to distinguish the following key characteristics of the concept of administrative and legal instruments:

First, they constitute the practical expression of the activities of public administration entities, namely state authorities and local self-government bodies. This refers, in particular, to the forms, measures, means, and methods employed by authorised officials through which they fulfil their assigned tasks and functions and ensure the regulation and coordination of specific spheres of social activity.

Second, this toolkit is characterized by a high degree of formalisation, since the types and procedures for the use of relevant instruments are defined by legal norms for each particular sphere of social life. Consequently, their set may be unique to a specific sector, while maintaining a stable nature, as any transformation of their content or scope occurs solely through amendments to normative acts.

Third, their use presupposes the imperative establishment of the powers (subjective rights and obligations) of the entities applying such instruments. These entities cannot act at their own discretion, as such conduct would constitute a violation of Ukrainian legislation. It is important to note that most instruments provide broad possibilities for influencing human rights and freedoms; however, excessive discretion in this context creates negative risks of official arbitrariness, corruption, and similar abuses.

Fourth, instruments in each specific sphere of public legal relations are implemented directly by the public administration entities expressly authorised to do so, in accordance with the competence and powers established for them by the legislation of Ukraine.

Fifth, the application of administrative and legal instruments is always aimed at achieving a clearly defined and concrete result, expressed in the attainment of specific regulatory objectives within a particular sphere of public legal relations.

Based on the above, administrative and legal instruments for ensuring environmental safety may be defined as a set of forms, measures, means, and methods of a public-authoritative nature, specified and regulated by the legislation of Ukraine, and applied by specially authorised entities for the purpose of minimising and, where possible, fully eliminating risks that cause or may cause harm to the natural environment, or present an actual danger to human life and health.

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ПОНЯТТЯ ТА СУТНІСТЬ АДМІНІСТРАТИВНО-ПРАВОВИХ ІНСТРУМЕНТІВ ЗАБЕЗПЕЧЕННЯ ЕКОЛОГІЧНОЇ БЕЗПЕКИ

Анотація. *Metam stammi* полягає у визначенні поняття та розкритті сутності адміністративно-правових інструментів забезпечення екологічної безпеки. **Результатами.** У статті, спираючись на аналіз наукових поглядів вчених, розкрито загальнотеоретичні підходи щодо визначення понять «інструмент», «правовий інструмент» та «адміністративно-правовий інструмент». Наведено ключові особливості притаманні адміністративно-правовим інструментам взагалі, а також в контексті сфери забезпечення екологічної безпеки. **Висновки.** Зроблено висновок, що ключовими характеристиками поняття адміністративно-правових інструментів є: практичне вираження діяльності суб'єктів публічного управління, а саме органів державної влади та місцевого самоврядування. Зокрема, йдеться про форми, заходи, засоби та способи уповноваження осіб, за допомогою яких вони реалізують покладені на них завдання, функції та забезпечують регулювання і координацію певних сфер суспільної діяльності; такий інструментарій відрізняється високим ступенем формалізму, оскільки різновиди та порядок використання відповідних інструментів визначені нормами законодавства для кожної окремої сфери суспільного життя. Саме через це, вони цілком можуть мати унікальний перелік, але при цьому стабільний характер, адже будь-яка трансформація їх змісту та кількості відбувається виключно через внесення змін у нормативні акти; передбачають імперативне встановлення повноважень (суб'єктивних прав та обов'язків) суб'єктів, що відповідні інструменти використовують. При цьому останні не можуть діяти на власний розсуд, так як це вважатиметься порушенням законодавства України. Доцільно зауважити, що більшість інструментів надають широкі можливості впливу на права та свободи людини, однак надмірна свобода в цьому питанні несе негативну перспективу виникнення свавілля посадових осіб, корупційних ризиків і таке інше; інструменти в кожній окремій сфері суспільно-правових відносин реалізуються прямо уповноваженими на це суб'єктами публічного управління, що відповідає їх встановленій законодавством України компетенції та повноваженням; застосування адміністративно-правових інструментів завжди переслідує цілком конкретний, визначений результат, виражений в досягненні цілей впливу на суспільно-правові відносини тієї чи іншої сфери. Отже, адміністративно-правові інструменти забезпечення екологічної безпеки – це сукупність визначених та врегульованих законодавством України форм, заходів, засобів та способів публічно-владного характеру, що застосовуються спеціально уповноваженими на це суб'єктами з метою мінімізації та, у разі можливості, повної ліквідації ризиків, які завдають та/або можуть завдати шкоди навколошньому природному середовищу, або ж нести фактичну небезпеку життю та здоров'ю людей.

Ключові слова: інструменти, правові інструменти, адміністративно-правові інструменти, інструменти забезпечення екологічної безпеки, екологічна безпека.