

СЕКЦІЯ 6. ТЕНДЕНЦІЇ РОЗВИТКУ ДЕРЖАВИ І ПРАВА ІНОЗЕМНИМИ МОВАМИ

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THE PRINCIPLES OF ADMINISTRATIVE LAW OF UKRAINE

One of the important issues in the theory of administrative law is the definition of characteristics and nature of the principles of administrative law. These principles represent a specific combination of rules, ideas and theories that are relied in the system of this branch of law. Moreover, they can show us all social changes that took place in the process of development of the society.

The problem of defining the principles of administrative law is at its first stage of solution now, in the past it was not actually fully explored. It is all because in the Soviet period these principles were replaced by the principles of government, because the legal science had in its aim the regulation of administrative activity of public authorities. Nowadays there is no sole approach to the definition of the concept of «principles of administrative law». Furthermore, it is really needful for our state to develop the mechanisms of their realization. That is why this topic is actual.

The aim of this article is to determine the definition, characteristics and classification of the principles of administrative law on the basis of scientific literature and legal acts, to find out the main problems, which have arisen in this area, and their solutions.

Firstly, principles of administrative law are the fundamental ideas, positions and requirements, that characterize the content of administrative law, represent the normality of its development, determine the directions and mechanisms of the administrative regulation of public relations [1].

Secondly, there is really a great number of criteria of classification of principles of administrative law, that is why it is important to make generalized separation of them, that let us characterize their elements and define the prospects of their development. The classification on general and specific principles is really important.

General principles are considerable for all branch of administrative law and established in the Constitution of Ukraine, concretized in the subordinate legal acts. These principles are: the principle of priority of rights and freedoms of person and citizen; the rule of law; the principle of legality; the principle of democracy; the principle of mutual responsibility of public administration and public facilities of administration; the principle of humanism and justice in relations between subjects of public administration and public facilities of administration [2].

Special principles are formed by general principles and with the help of the aim of this branch of law, which include the regulation of activity of public administration in the light of integrity and inviolability of subjective public rights and freedoms of individuals. These principles include: connectivity of public administration with the law, proportionality; non-discrimination; use of powers with the specific aim; openness and transparency; responsibility of public administration for accepted administrative acts; efficiency and effectiveness [3].

The feature of defining the principles of public service is that despite their detailed list in the new Law of Ukraine on Public Service, there is the explanation of the content of each principle. It is a big step ahead, because the establishment of nature of each principle lightens its understanding and perception. Moreover, it eliminates the possibility of manifestation of subjectivity in the interpretation of the content of such principles. The list of such principles is: rule of law, legality, professionalism, patriotism, integrity, efficiency, equal access to public service, political impartiality, transparency and stability.

The principles of the executive have to be established in such laws: The Law on The Cabinet of Ministers of Ukraine, the Law on Central Executive Bodies, The Law on Local State Administrations. The subordinate legal acts have to contain the norms of realization of these principles. The list of principles of executive bodies and their officials should include such principles: the rule of law, legality, openness and transparency, providing of the rights, freedoms and interests of individuals and legal bodies, continuity, accountability and so on.

Thirdly, the prospects of development of principles of administrative law are: consideration of such principles as the corresponding institution because the totality of norms governing principles of administrative law is very large and has developed into a separate institution. In addition, it is important to consolidate the definition of principles of administrative law in codified acts. There is also a necessity to define the concept and list of principles. Improving the principles of administrative law, it is significant to take into account the positive international experience in securing such principles.

Summing up the above mentioned, the principles of administrative law perform the system role, causing the formation of new institutes within the branch of administrative law. Moreover, they are taken into account while legislative and lawmaking activity, and are peculiar guides for the development of the norms of administrative law. Principles fill certain gaps in administrative and legal regulation.

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