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INDIVIDUAL ADMINISTRATIVE ACTS IN THE ACTIVITIES OF PUBLIC ADMINISTRATION

There is no doubt that individual administrative acts can be considered as one of the most important categories of Administrative Law. The reason for that is the fact that every executive body and local government body pass a massive amount of this specific kind of administrative acts on the daily basis. Moreover, these administrative acts have a direct impact on the rights and obligations of private individuals. However, we can say that even regarding the relevance of the above-mentioned acts their legal regulation in Ukraine remains imperfect and underdeveloped. As a result, the level of public trust for administrative bodies is quite low. In contrast, almost all progressive countries have a significant number of legislation that regulates this legal field.

Nowadays Ukrainian legislation has no established definition of the term “individual administrative act”. Nonetheless, it is the key problem of the current situation of this legal field. The level of protection of rights and freedoms of individuals and entities depends on how precisely the law defines the notion and characteristics of individual administrative acts.

In addition, there are significant differences in the usage of terminology that are made by the legislator. For instance, the same thing is cited as "the acts of local state administrations of non-normative nature" in Art. 41 of the Law of Ukraine "On The Local State Administration" [1]. What is more, in Art. 17 of the Code of Administrative Justice of Ukraine we can see the term "legal acts of individual action" [2]. Thus it is essential to unify the legislative approach of this kind of an administrative act.

On the other hand, some of the draft laws that are still being examined by the Verkhovna Rada of Ukraine employ the notion of “an administrative act”.

According to the draft law № 9456 "On The Administrative Procedure", "administrative act" is an individual decision passed by an administrative body that is aimed to acquire, change or terminate rights and fulfil obligations of individuals and entities [3].

In contrast, in a draft version of the Administrative Procedure Code of Ukraine the term "administrative act" is defined as a decision (a legal act, a document, a mark in the document) of an individual action taken by the administrative body as a result of consideration of an administrative proceeding in accordance with the above-mentioned Code, which is intended to acquire, change or terminate rights and obligations of individuals and entities [4].

Another major concern is that the form of this specific act is not regulated by the law. Therefore, some of the actions taken by administrative bodies cannot be proved.

Aforementioned draft law defines this legal gap in Art. 72:

1. An administrative act must be passed in a written form with a sign and a seal of an authorized official person unless otherwise is provided by the law. An administrative act is accepted electronically, unless otherwise is provided by law. It is passed in accordance with the requirements of the legislation on electronic documents, electronic document circulation and of the field of electronic trust services.

What is more, I would like to mention that draft law № 9456 "On The Administrative Procedure" also solves the problem of the validity of administrative act in Art. 76:

1. An administrative act shall come into force from the moment it is brought to the attention of the person (s), unless otherwise provided by law or by administrative act itself.

1. An administrative act is valid until:

1) the administrative act will not be executed or the action will not be terminated due to the expiration of the term or for other reasons;

2) the lawful administrative act has not been revoked by the administrative body that passed it;

3) the unlawful administrative act was not invalidated by the administrative body that passed it;

4) the unlawful administrative act has not been canceled by an administrative body in order of an appeal or court hearing.

All things considered, I would like to say that it is extremely important to adopt a law in which a procedure of passing, a uniform term and its definition of these administrative acts will be unified for all administrative bodies. Furthermore, this will help to ensure the principle of legal certainty and increase the level of trust to the public authorities.

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THE ROLE OF INTERNATIONAL LAW IN REGULATING INTERNATIONAL RELATIONS

The research urgency is caused by necessity of a clear definition in the sphere of international law in the national legal system and hierarchy of the legal sources, practices in the event of conflict with domestic law.

It is well known that domestic, i.e. national law and international law are two different, independent systems, which have their qualifying features. These systems differ from each other in principles and purpose of existence, the conditions of occurrence of the law, subjects, objects, forms, guarantee of validity of legal norms [3, p. 11].