ON THE QUESTION OF ADMINISTRATIVE-DELICIT LAW OF UKRAINE

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Annotation. The article notes that the active development of social relations affected the renewal of the doctrinal foundations of Ukrainian administrative law, as a result of which there are constant discussions in the modern science of administrative law of Ukraine, including those directly related to administrative-legal relations. And therefore, the prospects of administrative and legal science, as well as the fields of administrative law, are connected with modern tasks that science sets before itself in accordance with social requirements, which must be solved, including through the application of measures. It is emphasized that administrative law regulates a significant number of different social relations, among which a special place is occupied by administrative-delict relations, which cover a variety of relations that are subject to the norms of administrative law, which is currently in the stage of systemic reform and is mostly connected with relations to ensure implementation of human and citizen rights and freedoms, consideration of administrative disputes, application of measures of administrative responsibility, bringing to disciplinary responsibility persons of public law. Attention is drawn to the attempts to reform the administrative-tort legislation, since the codified act of the administrative-tort legislation adopted in Soviet times does not meet the realities and requirements of today. Therefore, the issue of updating the administrative-delict legislation occupies a prominent place in the scientific developments of domestic legal scientists. Existing scientific discussions on the separation of administrative-tort law into an independent branch of law exist to this day, but we must state that administrative-tort law, despite its own specificity, a significant number of various functions (regulatory, binding, permitting, protective, educational etc.), is a sub-branch of administrative law, which has a special subject of legal regulation, which is a set of legal norms that regulate relations arising from the doctrine of administrative tort. It is emphasized that the formation of modern administrative-delict law involves interaction with the institutions of administrative responsibility provided for by the sectoral norms of laws, which may include the procedure of bringing a person to administrative responsibility, completely different from that regulated by the Code of Administrative Offenses, which requires new theoretical views on the establishment of a system of administrative penalties.

Key words: administrative law, theory, tort, legal relations, responsibility.

1. Introduction.

In order to implement administrative responsibility in Ukraine, there is an institute of administrative sanctions defined by the current Code of Administrative Offenses and other laws, the effectiveness and quality of the implementation of administrative responsibility depends not only on the effectiveness of authorized bodies and their officials, but also on a clear structured system of administrative sanctions, which requires new views on functions administrative and tort law. Given the debatable nature of issues related to administrative-tortious relations, let's turn to the characteristics of administrative-tort law as a sub-branch of administrative law, determining its place and role in the legal system of Ukraine.

2. Analysis of scientific publications.

Today, the institute of administrative-delict law has found its prominent place in the administrative-legal literature, this is indicated by numerous scientific works, among which it is worth noting legal

scholars, in particular, Y.P. Bytyaka, E.V. Dodina, V.K. Kolpakova, A.T. Komzyuka, D.M. Lukyantsa, O.I. Mykolenko and other scientists, who in their publications drew attention to problematic issues of administrative and tort law. But the existing problematic issues of characterizing the content and features of the implementation of the function of administrative responsibility and the features of modern issues of administrative-tort law in the legal literature require new views.

3. The aim of the work.

The purpose of the article is a legal analysis of current problems of administrative and tort law of Ukraine.

4. Review and discussion.

The active development of social relations could not help but affect the renewal of the doctrinal foundations of Ukrainian administrative law. Taking this into account, in the modern science of administrative law of Ukraine there are constant discussions related to administrative-legal relations. Therefore, the prospects of administrative and legal science, as well as the fields of administrative law, are related to the tasks that science sets before itself, the methods by which it should be solved. In general, in general, the tasks of the science of administrative law, like the science of law, are reduced primarily to the knowledge of the regularities of the development of public-legal phenomena, the determination of the place and role of administrative law and administrative-legal relations in the system of law and legislation of Ukraine, the study of administrative- legal institutions with the aim of determining the boundaries of the interaction of public and private interests in order to develop ways of their reconciliation, clarifying the role and significance of public-legal and, in particular, to administrative-legal relations in the formation and development of civil society, improving the mechanisms of administrative-legal regulation with the aim of effective influence on the development of state and public institutions [1, p. 169].

Taking this into account, in the modern science of administrative law of Ukraine, peculiar directions of scientific research are actively being formed, the main purpose of which is the development of specific directions for the development of the theory of administrative law, including the development and improvement of the scientific doctrine of administrative-tort law. It is worth noting that attempts to reform the administrative-tort legislation were traced throughout the entire period of independence of the Ukrainian state, since the codified act of the administrative-tort legislation was adopted in Soviet times in 1984, despite the fact that many of its legal norms do not correspond to the realities and requirements of today. we are forced to use it, despite the fact that the current Code of Administrative Offenses contains many conceptual flaws.

On this issue, the opinion of V.K. Kolpakov, who notes that «the code of statist values of the old and already obsolete totalitarian system, in which legal relations were formed according to the principle of «everything that is not permitted by law is prohibited», and state intervention in all spheres of social life, human rights and freedoms was the norm» [2, p. 306].

Therefore, the issue of updating the administrative-delict legislation occupies a prominent place in the scientific developments of domestic legal scholars. Scientists analyze the problems of legislative regulation of administrative-tortious relations [3], administrative responsibility in the system of legal responsibility [4], the functions of administrative-tort law [5], problems of the formation of administrative-tort law and the development of its normative sources [6], etc.

The given examples are confirmation that administrative scientists are in constant search of rethinking the role of modern administrative law of Ukraine, its subject and system. V.V. Chernobuk believes that the problems associated with administrative and tort law today can be divided into several groups. To the first group he refers to the issue of determining the place of administrative-tort law in the legal system of Ukraine, to the second group he assigns the lack of clear criteria for the legislator to systematize the norms of law in general and the norms of administrative-tort law, in particular, to the third group – the unjustified use of legal terminology in wording of articles of the Code of Administrative Offenses [7, p. 526].

By the way, V.V. Chernobuk concludes that administrative-delict law forms an independent branch of Ukrainian law [7, p. 524]. Also, in this sense, scientists present the author's justification for the development of an independent sub-branch of administrative law and administrative process in the form of administrative-tort law and administrative-tort process, the subject of which is administrative legal relations related to the consideration and opening of proceedings for administrative offenses (torts) [8, p. 60].

We believe that V.K. In a monographic study, Kolpakov convincingly substantiated the main theoretical approaches to understanding administrative-tort law as a sub-branch of administrative law [2, p. 86–99]. O.V. Panasiuk also advocates the position that administrative-tort law is a sub-branch of administrative law. The scientist understands administrative-delict law as a set of relevant legal norms, and administrative responsibility is its subject [9, p. 22].

Therefore, the question of defining the concept of administrative-tort law, its place not only in the system of administrative law, but also in the legal system in general, subject, structure (system), sources, subjects remains relevant for the science of administrative law. First of all, it should be noted that the administrative-delict law is a set of legal norms that determine the grounds of administrative liability, its content and implementation procedures [6, p. 33].

Therefore, the institution of administrative responsibility, which is one of the types of legal responsibility, is key in the carrier of administrative and tort law. The importance of administrative responsibility, as one of the main types of legal responsibility, is emphasized in Clause 22, Part 1, Art. 92 of the Constitution of Ukraine, which states that only the laws of Ukraine determine: principles of civil liability; actions that are crimes, administrative or disciplinary offenses, and responsibility for them [10].

According to A.T. Komzyuk, such uncertainty serves as the basis for numerous disputes, in particular, is this list of types of legal responsibility exhaustive? Is it possible to recognize the existence of, for example, economic-legal, financial-legal, environmental-legal and other types? As a result, the current legislation contains many different sanctions that are not related to the types of responsibility mentioned in the Constitution of Ukraine – economic, administrative, financial, simply measures of influence», while there are practically no clear and sufficiently complete guarantees of their application. Analysis of the essence of the mentioned measures and the grounds and order of their application allows us to conclude that in all these cases it is precisely administrative responsibility that is meant [6, p. 34].

Indeed, if we analyze the norms of many legislative acts, the norms of which prescribe administrative responsibility, but these norms do not determine the basis of its responsibility, its content and implementation procedures.

The absence of a legislative definition of the concept of «administrative responsibility» prompts scientists to define it by author. In a general definition, administrative scientists define administrative responsibility as a type of legal responsibility, which is a set of administrative legal relations that arise in connection with the application by authorized state bodies and their officials of the established procedure to persons who have committed an administrative offense by applying measures state coercion provided for by law.

At the same time, in the legal literature you can find different opinions on the application of administrative fines. For example, O.P. Svitlichny, conducting a study of administrative responsibility for violations of legislation in the field of providing household services, emphasizes that such responsibility can be provided not only by Art. 155 of the Code of Ukraine on Administrative Offense, but also by other legislative acts. In particular, one of such legislative acts is the Law of Ukraine «On the Protection of Consumer Rights», according to Article 12. 26 of which the central body of executive power, which implements state policy in the field of consumer rights protection, carries out state control over compliance with legislation on consumer rights protection, ensures the implementation of state policy on consumer rights protection, has the right to impose administrative penalties on guilty persons in cases provided for by law recovery [11, p. 191].

The availability of the alternative of bringing a person to administrative responsibility indicates the flexibility of the administrative-delict legislation. That gives authorized persons to apply the legal means of influence provided for by the norms of industry laws, the main purpose of which is to punish the offender.

5. Conclusions.

In connection with the above analysis of scientific opinions, listed existing problems of administrative-tort law, the formation of modern administrative-tort law requires interaction not only with other institutions of administrative law (subjects of public administration), but also the resolution of issues related to administrative liability, which is provided for by the sectoral norms of laws, which includes the procedure of bringing an individual and legal entity to administrative responsibility, completely different from the one that can be regulated by the Code of Administrative Offenses, and this puts forward new requirements for the formation of modern administrative and tort law of Ukraine.

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