

Concerning the essence of public service activity as a type of administrative activity of public administration subjects

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Abstract. The article clarifies the essence of public service activity as a type of administrative activity of public administration subjects, analyzes the connection between the concept of «public service activities» and the notions of «legal service», «public services», «service state». Public service activities are considered as a type of administrative activity in which a service approach is implemented, in which the public administration authority in the interaction with the individual is noticeable as a provider of services, and the person – as a client that receives the relevant service.

Key words: *administrative activity, public administration, acts of will, public service activity, administrative service, subjects of provision of services, state administration, service state.*

The consolidation in the Constitution of Ukraine of human rights and freedoms, its life, health, honor and dignity as the highest social value for the state [1] determined the main priority of its activities – serving the people and national interests. This provision is reflected in the Concept of Administrative Reform of Ukraine, which purpose is to form a system of public administration, which will become close to the needs and requests of people. This system of public administration will be controlled by the people, transparent, effective and based on scientific principles [2].

So, the state, in accordance with the proclaimed idea, becomes influenced by democratic social transformations, oriented on a person, which manifests in serving its interests. At the same time, the activity of government agencies is, on the one hand, in protecting the rights of citizens through the creation of appropriate conditions for the realization of their subjective rights, and on the other hand, in the protection of the rights

of citizens related to the satisfaction of their personal interests by providing various public services from the side of government agencies. It is a social state that is an upholder, a partner in providing quality public services, as well as their performer, may be a service aimed at the realization of the rights and freedoms of every citizen.

In this case, it can also be said about giving the new meaning of the term «administrative activity», which should also be consistent with the concept of a social state.

The analysis of various issues of administrative activity was carried out in the works of V. Averyanov, V. Bakumenko, D. Bakhrach, Y. Bytiak, R. Kalyuzhny, S. Kivalov, I. Koliushka, T. Kolomoets, A. Komzyuk, S. Martynova, G. Pisarenko, S. Sokurenko, V. Tymoshchuk, M. Tishchenko, S. Shatavi and other scientists.

The purpose of the article is to find out the essence of public service activities as a

type of administrative subjects' activity of public administration.

Determining the essence of public service activities should proceed from the fact that it is a kind of administrative activity carried out by the subjects of public administration. So, the study of the issue should begin with an analysis of such components as «public administration» and «administrative activity».

The scientific term «public administration» was borrowed from the countries of the continental system of administrative law and became widespread in the administrative-legal science of most countries of the world. It should be noted that today there is no unified understanding of this term, although it is widely used both in the science of administrative law and in the legislation of Ukraine.

About its interpretation in the law of European countries, it should be noted that, based on the usual separation of powers to the political (president and parliament) and administrative (government and all other public authorities, except for the courts), the term «public administration» denotes the whole authorities that belongs to the administrative state authority. Furthermore, this term also has a functional content and is used to indicate the activities carried out by this administration in the public interest [3].

However, the use of this concept in domestic legal science is not its simple borrowing and translation of the existing term «state administration». Its use was primarily due to a change in the meaning of «state administration» in the formation of a new legal administrative doctrine on the basis of human centered ideology [4, p.106].

In domestic science there are several approaches to the definition of this concept – organizational-structural, functional, as well as their combination.

Thus V.B. Averyanov describes the term «public administration» from the organizational and structural point of view as a set of executive authorities and organs of executive self-government, which ensure the implementation of the law and exercise other public functions [5, p.117].

O. P. Svetlichny defines public administration through the notion of «activity»

as a legislative and organizing activity of public authorities, their officials, carried out with the aim of practical realization of the state's goals and objectives in all spheres of public life [6, p. 193].

In the definition given by T.M. Kravtsova combines two approaches – the term «public administration» should be understood as a system of authorities of state executive power and executive authorities of local self-government, enterprise, institution, organization and other entities with administrative and managerial functions that act to ensure both the interests of the state , as well as the interests of society as a whole, as well as the totality of these administrative and managerial actions and measures established by law.

It is clear that all these views have the right to exist. The only drawback to them, in our opinion, is the lack of definition of public interest as a goal of public administration. Such a criterion is necessary in view of the assessment of the effectiveness of its activities, which is primarily aimed at directing the public administration to the successful resolution of government-designated tasks, as well as to resolving public problems within its competence.

The analysis of scientific sources allows us to determine the principles of public administration organization, which can be divided into two groups: principles relating to the creation of a system and authorities of public administration (centralization and decentralization, concentration and deconcentration, publicity) and the principles of its actions organization (rule of law, legality, openness, transparency, accessibility, accountability, responsibility).

For example, the principles of centralization and decentralization are the basis of constructing vertical relations within the public administration. Thus, the links between the government and the ministries, ministries and their subordinate agencies are characterized by the centralization principle, which is the basis of the hierarchy of public administration bodies. At the same time, the principle of decentralization is characterized by the transfer of powers from central authorities to the local level. In contrast, the principles of concentration and deconcentration characterize the horizontal

relationship between the government administration agencies that belong to one management structure. Thus, the principle of concentration implies the affiliation of powers to one authority and the inability to make decisions by other authorities without his consent [7].

Separately, one should emphasize the principle of the supremacy of law, since its declaration, according to V.B. Averyanov, significantly influences the definition of priorities in the legal regulation of human relations with public authorities and officials of executive authorities and local self-government [8].

Concerning the subjectivity of public administration, it is a system consisting of bodies of state executive power, executive bodies of local self-government, and subjects of delegated authority. All of them carry out administrative activity, that is, executive and control activities, regulated by the norms of administrative law and aimed at the realization of the rights and freedoms of citizens [9].

The system of state bodies of executive power consists of: The Cabinet of Ministers of Ukraine as the supreme authority in the system of bodies of state executive power; ministries, state committees, central bodies with special status – central executive bodies; local state administrations – local bodies of state executive power. In this article, we will not describe them in detail, as this is not part of subject under our consideration.

So, summing up the above, it can be emphasized that public administration is a system of bodies, which includes state executive bodies, executive bodies of local self-government, enterprises, institutions, organizations and other entities with delegated powers that have administrative and managerial functions and direct their activities to the successful resolution of government-defined tasks as well as public problems within their competence.

As S.V. Petkov observes, the term «administrative activity» is not new in the science of administrative law, but the study of this concept and the allocation of signs of such activity causes some difficulties, since this term is not used in the current legislation, and in modern scientific literature it is used in different meanings, but mainly is identified

with the term «public administration» [10]. However, such identification is a consequence of the widespread in Soviet times approach in the administrative law as to administrative and jurisdictional rule, which meant the use of administrative liability and coercion in relations with citizens.

In the case of the public administration, it is defined as the activity of the public administration bodies, in particular the governing bodies, state officials, executive bodies and officials of local self-government bodies, state and communal agencies, as regulated by the norms of administrative law, on the basis of the relevant laws and subordinate normative legal acts of Ukraine in special administrative-legal forms and using special administrative-legal methods of power-public regulation, preservation and protection of social relations[11].

The study of the administrative activities of the public administration bodies makes it possible to distinguish its main features. Firstly, it is subordinate, that is, it is implemented in compliance with the laws of Ukraine. In addition, regulatory acts issued by public administration bodies within their competence are also aimed at the implementation of these laws. Secondly, this activity is carried out by bodies of state executive power, executive bodies of local self-government, and subjects of delegated authority. Thirdly, administrative activity is a powerful activity, during which the power and public credentials of administrative bodies are implemented. Fourthly, it is governed by the norms of administrative law. Any other activity of public administration bodies is not administrative. Fifthly, administrative activity is carried out with the help of special administrative and legal methods of influence on social relations, provided by the norms of administrative law [11].

Administrative activity of public authorities can be carried out in two forms – external, that is the implementation of laws, regulatory acts of management, the application, where necessary, of administrative measures, the issuance, within the limits of the authority delegated acts of management, and internal, related to the organizational activity of the apparatus itself.

A separate type of administrative activity of the public administration bodies is

the public service – activities of the relevant state bodies, bodies of local self-government and subjects of delegated power to ensure, in the course of their interactions with the population, specific physical and legal persons, the conditions under which the latter are capable effectively implement and protect their rights, freedoms and legitimate interests [4].

The peculiarity of public service activity as a type of administrative activity is that it implements a service approach in which the public administration body interaction with the individual is perceived as a provider of services, and the person – as a client receiving the relevant service. In this case, the effectiveness of the body is evaluated from the point of view of the person's satisfaction with the quality of the service provided. In this sense, we can talk about the relationship of public service activities with such concepts as «legal service», «public services», «service state», which is characterized as a special political form of organization of political power, with a special management apparatus directed on the provision of public services to individuals, as well as a system of legal guarantees of decent living standards, human rights and freedoms [12].

It should be noted that public service activities are directly related to the implementation of public administration in the provision of administrative services. In this sense, should be emphasized such criteria for its implementation as performance, while the effectiveness of this activity should be spoken not only in case of obtaining a positive result (for example, refusal to carry out certain activities for objective reasons); timely implementation of public service activities, which is implied by the terms defined in the legislation; accessibility; the convenience of providing administrative services, which includes the possibility of choosing an alternative way of applying for administrative services; openness of information on administrative services, which provides for free access to information on the procedure for the provision of administrative services; politeness and respect for a citizen, which is equal treatment of all services' consumers; professionalism, which implies the availability of relevant knowledge and skills of the

employees of the administrative authorities, which manifests itself in the precise performance of duties [13].

Public service activities should be considered, on the one hand, as a process consisting in the power of the public administration body to create conditions for the implementation of the rights of individuals and legal entities, and as a result of such activity, aimed at the implementation of the subjective rights of individuals and legal entities [14, p.7]

Bases for providing public administration authorities with the conditions for the exercise by a natural or legal person of their rights, freedoms and legitimate interests in the exercise of public service activities is the statement of a physical or legal person, the creation of the necessary conditions for the exercise of their subjective rights, the legal consolidation of the right of the public administration body for the provision of public services.

The analysis of literary sources [15, 16] made it possible to determine the signs of public service activities of public administration bodies, which should include subordination – we have already emphasized that the right of the public administration body to carry out the relevant public service activities should be provided by law; power, since this activity is carried out by administrative authorities through the exercise of power; effectiveness – the result of public service activities, on the one hand, satisfaction of the needs of a physical or legal person in the implementation of their subjective rights, and on the other – an administrative act, which satisfies the appeal of a person; openness and transparency characterized by accessibility for citizens, as well as convenience and clarity for control purposes; accountability which is in the impossibility of dismissal of one public administration authority from performing tasks entrusted to it and reviewing its decisions; utility that is characterized by the correct relationship between the resources used and the results obtained; the effectiveness which is primarily that public administration activity is successful in achieving government-defined goals and solving of public problems within its competence.

The subjects of public service activity, the essence of which is the interaction of the public administration body with the individual are, on the one hand, public administration bodies, to which we include executive authorities of state power, executive authorities of local self-government, as well as subjects of delegated authority. On the other hand, the subject party is represented by a physical person (a citizen, a stateless person, a foreigner) or a legal entity that is the recipient of the service.

Therefore, when defining the essence of public service activities, it should be noted that it is a type of administrative activity; is directly related to such concepts as «legal

service», «public services», «service state»; is governed by the norms of administrative law; is aimed at efficient and effective provision of public services to physical individuals and legal entities.

Based on the above, public service activities are regulated by the norms of administrative law, subordinate, act of will of state executive authorities, executive bodies of local self-government, subjects of delegated authority to create conditions for the provision of administrative services to physical individuals and legal entities for the purpose of effective implementation and protection of their rights, freedoms and legitimate interests.

References:

1. Конституція України : Закон України від 28.06.1996 № 254к/96-ВР // База даних «Законодавство України / ВР України. URL: <http://zakon2.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>
2. Про заходи щодо впровадження Концепції адміністративної реформи в Україні: Указ Президента : від 22.07.1998. № 810/98. URL <http://zakon2.rada.gov.ua/laws/show/810/98/card2#Card>
3. Кунцевич М.П. Понятие публичной администрации в европейском праве. URL <http://gigabaza.ru/doc/143311.html>
4. Вибрані наукові праці : Наукове видання/ Андрійко О.Ф. и др. — К., 2011. — 448 с.
5. Авер'янов В. Б. Реформування українського адміністративного права: ґрунтовний привід для теоретичної дискусії. *Право України*. 2003. № 5. С. 117–122.
6. Світличний О. П. Щодо співвідношення понять «державне управління» і «публічна адміністрація» К., 2011. Вип. 165. ч. 2. С. 189-195.
7. Шмелев И. В. Принципы деятельности публичной администрации как основа (залог) ее эффективности. *Молодой ученый*. 2015. №2. С. 390-393. URL <https://moluch.ru/archive/82/14949/>
8. Аверьянов В. Приоритет публично-сервисных отношений. Принцип верховенства права в реформировании украинского административного права. *Юридическая газета*. 2006. № 18. от 02.05. URL <http://pravo.ua/article.php?id=10005979>
9. Грובהва В.П. Адміністративний аспект державного управління. *Актуальні проблеми права: теорія і практика*. 2010. № 18. С. 298-304.
10. Петков С.В. Особенности административной деятельности органов исполнительной власти. URL <https://www.obozrevatel.com/my/life/63517-osobennosti-administrativnoj-deyatelnosti-organov-ispolnitelnoj-vlasti.htm>
11. Апаров А.М. Адміністративно-публічна діяльність як один із видів владно-публічної діяльності та як категорія адміністративного права. URL <http://applaw.knu.ua/index.php/holovna/item/363-administrativno-publichna-diyalnist-yak-odyn-iz-vydiv-vladno-publichnoyi-diyalnosti-ta-yak-katehoriya-administrativnoho-prava-aparov-a-m>
12. Коженко Я.В, Мамычев А.Ю. Сервисное государство: проблемы теории и практики реализации. *Власть*. 03. 2010. С.44-46.
13. Про схвалення Концепції розвитку системи надання адміністративних послуг органами виконавчої влади : Розпорядження КМУ : від 15 лютого 2006. № 90-р. URL <http://zakon3.rada.gov.ua/laws/show/90-2006-%D1%80>
14. Тимошук В.П., Кірмач А.В. Оцінка якості адміністративних послуг. К., 2005. — 88 с.
15. Волков А.М. Административное право. Учебник. — М., 2005, 294 с.
16. Центри надання адміністративних послуг: створення та організація діяльності: Практичний посібник. / За заг. ред. Тимошука В.П. К., 2011. 432 с.