ADMINISTRATIVE AND LEGAL STATUS OF DISTRICT ADMINISTRATIVE COURTS IN THE ADMINISTRATIVE JUSTICE SYSTEM

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ABSTRACT

The article is devoted to the study of features and structural elements of the administrative and legal status of district administrative courts in the administrative justice system in Ukraine. The historical aspects of creating a system of courts authorized to implement administrative proceedings, in particular, to establish district administrative courts, are highlighted, and the relevant legal framework is identified as a legal basis for the formation of modern administrative justice. The content of the provisions of the current legislation of administrative proceedings, which enshrine the basic principles of the legal status of district administrative courts as part of the modern system of specialized administrative courts in Ukraine, is clarified. As a result of the analysis of the provisions of the current Ukrainian legislation on administrative proceedings, the categories of administrative cases have been determined, the consideration of which by the legislator is attributed to the exclusive competence of district administrative courts. It is proposed to define the administrative and legal status of the district administrative court as a complex legal and theoretical construction, which is represented by a set of elements, including tasks and principles of activity; the place of the district administrative court in the system of administrative courts; quantitative composition of judges; legal bases of activity; competence to consider administrative cases; types of court decisions made by the district administrative court. Perspective directions of increase of efficiency of administration of justice by specialized administrative courts in the context of reforming of the administrative justice system are established.

Keywords: Administrative Justice, Court, Administrative Court, District Administrative Court, Administrative And Legal Status.

INTRODUCTION

In modern democratic countries of the world, guaranteeing the rights of citizens in relations with the authorities requires the creation of an effective mechanism of legal protection, implemented by an authoritative and independent state body-the court. Administrative justice as a judicial mechanism for the protection of human rights is designed to ensure, on the one hand, the protection and defense of subjective rights of citizens in legal relations with the authorities,

and, on the other, the compliance with the fundamental principle of public authorities - the rule of law. One of the strategic goals of Ukraine's European integration is the implementation of judicial reform, the effectiveness and efficiency of which largely depends on the formation of an appropriate legal framework taking into account international standards and features of the national legal system. In public-law relations, guaranteeing the protection of the rights of individuals from illegal actions or inaction of the power entities is ensured by the functioning of a modern system of specialized administrative courts. The latter includes district administrative courts as courts of first instance that decide cases of administrative jurisdiction (administrative cases).

Quite often, the exercise by the citizens of their rights and freedoms leads to the emergence of legal relations with public administration and local government. In the event of a conflict in public-law relations, which may be accompanied by wrongful acts or omissions on the part of the power entities, the state, in compliance with the principle of responsibility of the authorities for its activities, must ensure judicial protection of human rights. Creating an effective and efficient mechanism for judicial protection of the rights and legally protected interests of citizens, in particular, in public law relations, is one of the priorities of state policy on national security (Reznik et al., 2020). Despite the positive changes that have taken place in the domestic legislation on administrative proceedings in the implementation of judicial reform, today there are a number of unresolved issues. This is primarily justified by the fact that in administrative proceedings, in contrast to other types of proceedings, the determination of the jurisdiction of cases is quite difficult. Taking into account the practical component of administrative proceedings, the problem of implementing the legally recognized principles of speed and efficiency, which must be observed when considering administrative cases in district administrative courts, is no less important. Given the above, it is relevant to study the features and structural elements of the administrative and legal status of district administrative courts as part of the modern system of specialized administrative courts in Ukraine.

LITERATURE REVIEW

With the adoption and entry into force of the new version of the Code of Administrative Procedure of Ukraine on December 15, 2017, significant changes have taken place in determining the substantive jurisdiction of administrative cases. Previously, the legislation on administrative proceedings provided that all administrative cases in which one of the parties is a local government official, official of a local government body, except for those under the jurisdiction of district administrative courts, are considered by the local general court as an administrative court. The adoption of a new version of the Code of Administrative Procedure has intensified the trend towards narrow (sectoral) specialization of administrative courts. This is explained by the fact that local general courts are gradually losing the power to consider administrative cases in the general claim procedure, administrative cases remain in their jurisdiction, the consideration of which is carried out mainly in the simplified procedure. This is evidence of the intensification of the trend towards narrow (sectoral) specialization of administrative courts (Myroniuk, 2019).

District administrative courts in Ukraine have been established within the region. This principle of territorial location is explained by the need to ensure prompt, qualified, and impartial resolution of complex cases in the first instance, in particular those in which there is a high

probability of pressure on judges. Such a mechanism is designed to ensure the independence of judges from the influence of local authorities (Skochylias-Pavliv, 2019).

It is important to keep in mind that the subject of administrative jurisdiction is not all public-law conflicts, but only those that are transferred to the decision of the administrative court. Disputes resolved in administrative proceedings, including by district administrative courts, are characterized by low features: (1) the dispute under consideration is closely related to public administration, because it arises, as a rule, in connection with the management activities of the power entities that represent the state; (2) this dispute may arise from relations of different sectoral affiliation, and to distinguish among public law disputes those that should be resolved by the rules of administrative proceedings, the decisive fact is that in the relations, from which they arise, the power entities perform, as a rule, managerial functions; (3) in most cases, the obligatory party to such a dispute is the ruling entity authorized to perform management functions; (4) a dispute referred to administrative jurisdiction usually arises from the relationship between "*unequal*" participants (Balakarieva et al., 2016).

METHODOLOGY

The methodological basis for the study of the features of the administrative and legal status of district administrative courts in the administrative justice system is a set of historical, formal-legal, and system-structural methods. With the historical method, the historical aspects of creating a system of courts authorized to implement administrative justice are highlighted, in particular, the establishment of district administrative courts, and the relevant legal framework as a legal basis for the formation of modern administrative justice is identified. The formal and legal method was used to clarify the content of the current legislation of administrative proceedings, which enshrines the basic principles of the legal status of district administrative courts as part of the modern system of specialized administrative courts in Ukraine. As a result of the analysis of the provisions of the current Ukrainian legislation on administrative proceedings and the application of the system and structural method, the categories of administrative cases have been determined, the consideration of which by the legislator is referred to the exclusive competence of district administrative courts; the main structural elements of the administrative and legal status of the district administrative court are highlighted; perspective directions of increase in efficiency of administration of justice by specialized administrative courts in the context of reforming of system of administrative justice are established.

FINDINGS AND DISCUSSIONS

The need to introduce a system of specialized administrative courts in Ukraine was first defined at the legislative level in the Law of Ukraine "*On Judicature*" dated February 7, 2002 (now repealed). The final and transitional provisions of the Law set a three-year deadline for the formation of a system of administrative courts (Law of Ukraine, 2002). Prior to the creation of the system of specialized administrative courts, the resolution of administrative cases fell within the competence of district (city, city-district) courts, and the procedure of introduction of cases in this category was regulated by the Civil Procedure Code of Ukraine dated July 18, 1963 (now repealed). After the adoption of the Code of Administrative Procedure of Ukraine dated July 6,

2005, the activity of courts of administrative justice began on September 1, 2005. Substatutory legislative acts are also important for the formation of district administrative courts as an integral part of the modern system of administrative courts of Ukraine, in particular, a number of Decrees of the President of Ukraine are issued: *"On the formation of local administrative courts, approval of their network*" dated November 16, 2004; "*On the quantitative composition of judges of administrative courts*" dated May 16, 2007; "*On improving the network of administrative courts of Ukraine*" dated October 16, 2008, etc.

The reform of the judicial system in Ukraine and the creation of specialized administrative courts are also related to the implementation of the Association Agreement between Ukraine and the European Union dated June 27, 2014. In Art. 14 of the Agreement explicitly states that in the framework of cooperation in the field of justice, freedom and security, the Parties attach special importance to adoption of the rule of law and strengthening of institutions at all levels in the field of governance in general and law enforcement and judicial authorities in particular (European Union, 2014).

In order to study the features of the administrative and legal status of district administrative courts in the system of administrative justice of Ukraine, it is necessary to establish which legal documents constitute the legislative basis for the activities of these judicial institutions. First of all, it should be noted that the basic principles of the judicial system in Ukraine are enshrined in the Constitution of Ukraine dated June 28, 1996, namely in Section VIII "*Justice*". Article 125 of the Constitution states that the judiciary in Ukraine is built on the principles of territoriality and specialization and is determined by law. In order to protect the rights, freedoms, and interests of the individual in the field of public relations, there are administrative courts (Law, 1996).

The Law of Ukraine "On Judicature and the Status of Judges" dated June 2, 2016 is a fundamental legal document, the provisions of which define the organization of the judiciary and the administration of justice in Ukraine, which operates on the principles of the rule of law in accordance with European standards and ensures the right of everyone to a fair trial. Based on the content of Art. 21 of the Law, district administrative courts are one of the types of local courts, namely recognized by local administrative courts. The jurisdiction of local administrative courts includes the consideration of cases of administrative jurisdiction (administrative cases) (Law of Ukraine, 2016).

Access to administrative justice and fair trial of administrative cases in Ukraine is ensured by the functioning of a two-level structure of administrative courts of first instance, which consists of district courts (local general courts) and district administrative courts (local administrative courts). In this case, it is important to distinguish between the competence of the district administrative courts and the competence of the district courts. It should be noted that the district courts (local general courts) are not specialized purely for the solution of administrative disputes, because in addition to administrative ones, they also consider civil and criminal cases. On the other hand, the district administrative courts are specialized courts that consider administrative cases, which are more complex in nature than those, the consideration of which is attributed to the competence of local general courts.

The main task of the activities of the district administrative courts is covered by the task of administrative proceedings, as defined in Art. 2 of the Code of Administrative Procedure, that is, it consists of a fair, impartial, and timely court settlement of disputes in the field of public law

relations in order to effectively protect the rights, freedoms, and interests of individuals, the rights and interests of legal entities from violations by power entities (Law, 2005). The activity of the district administrative courts for the consideration of administrative cases is carried out in compliance with the principles of administrative proceedings, including: the rule of law; equality of all participants in the trial before the law and the court; publicity and openness of the trial, adversarial nature of the parties, discretion and official clarification of all the circumstances in the case; binding of a court decision; ensuring the right to an appellate review of the case; ensuring the right to a cassation appeal of a court decision in cases specified by law; the reasonableness of the timing of the case by the court; inadmissibility of abuse of procedural rights; reimbursement of legal costs of individuals and legal entities in favor of which a court decision was made (Law, 2005).

Particular attention should also be paid to the number of judges in district administrative courts. Under Part 6 of Article 19 of the Law of Ukraine "*On Judicature and the Status of Judges*", determination of the number of judges in a court is attributed to the competence of the State Judicial Administration of Ukraine, the decision of which is coordinated with the High Council of Justice, taking into account the judicial burden and within the limits of costs determined in the State Budget of Ukraine for the maintenance of courts and remuneration of labor judges (Law of Ukraine, 2016). The quantitative composition of judges in district administrative courts is determined in the order of the State Judicial Administration of Ukraine "*On Determining the Number of Judges in Administrative Courts of Ukraine*" dated August 8, 2017. In 25 district administrative courts, the quantitative composition of judges is different, but in total it is 588 judges (Law, 2017).

The features of the delimitation of the subject jurisdiction of administrative courts (local general courts as administrative courts and district administrative courts) are determined by the legislator in Art. 20 of the Code of Administrative Procedure of Ukraine. The competence of local general courts as administrative courts includes consideration of five categories of administrative cases, namely: (1) regarding decisions, actions or inactivity of power entities in cases of bringing to administrative responsibility; (2) related to the electoral process or the referendum process, concerning: appeal against decisions, actions or inaction of precinct election commissions, precinct referendum commissions, members of these commissions; clarification of the voter list; appeal against actions or inaction of the media, news agencies, enterprises, institutions, organizations, their officials, creative workers of the media and news agencies that violate the legislation on elections and referendum; appeal against the actions or inaction of a candidate for deputies of a village, settlement council, candidates for the position of a village, settlement mayor, their proxies; (3) administrative cases related to the stay of foreigners and stateless persons on the territory of Ukraine, regarding: forced return to the country of origin or a third country of foreigners and stateless persons; forced expulsion of foreigners and stateless persons from Ukraine; detention of foreigners or stateless persons for the purpose of their identification and (or) ensuring forced expulsion from the territory of Ukraine; extension of the period of detention of foreigners or stateless persons for the purpose of their identification and (or) ensuring forced expulsion from the territory of Ukraine; detention of foreigners or stateless persons to resolve the issue of recognizing them as refugees or persons in need of additional protection in Ukraine; detention of foreigners or stateless persons in order to ensure their transfer in accordance with the international agreements of Ukraine on readmission; (4) administrative

cases regarding decisions, actions or inaction of a state executive or other official of the state executive service regarding the implementation by them of court decisions in cases specified in clauses 1-3; (5) administrative cases on appealing the decisions of the National Rehabilitation Commission in legal relations arising on the basis of the Law of Ukraine "*On the Rehabilitation of Victims of Repressions of the Communist Totalitarian Regime of 1917-1991*" (Law, 2005). In turn, the district administrative courts have jurisdiction over all administrative cases, except for those that are empowered to consider local general courts as administrative courts.

Analysis of the provisions of the Code of Administrative Procedure of Ukraine makes it possible to assert that the legislator in certain norms clearly defines the categories of administrative cases, the consideration of which is attributed to the exclusive competence of the district administrative courts. Among them, in particular, there are administrative cases concerning: (1) appeals against decisions, actions or inaction of executive authorities, local self-government bodies, their officials (part 3 of article 275); (2) appeal against the actions and inaction of the initiative groups of the all-Ukrainian referendum, other subjects of the initiation of the all-Ukrainian referendum, which violate the legislation on elections or referendum (part 3 of article 276); (3) appeal against decisions, actions, or inaction of a district election commission or a member of such a commission (part 9 of article 277); (4) on the prohibition of holding meetings, rallies, processions, demonstrations or on the establishment of any other restriction on the right to freedom of peaceful assembly (part 1 of article 280); (5) appeal against decisions, actions or omissions of the state customer in legal relations arising on the basis of the Law of Ukraine "*On Defense Procurement*", except for disputes related to the conclusion of a state contract (agreement) on procurement with the winner of a simplified auction using the electronic procurement system and simplified selection without the use of the electronic procurement system, as well as the change, termination and execution of state contracts (agreements) on the procurement, can be filed within ten working days from the day when the person should have learned about the violation of its rights, freedoms or interests (part 2 of Art. 282) 6) appeal against decisions of a specially authorized body on the extension of the suspension of the relevant financial transaction (transactions) (expenditure financial transactions) (part 2 of article 289).

Consideration of administrative cases in the Regional Administrative Court has the main purpose of making a relevant decision. If there are procedural issues related to the progress of case, the submission of motions and statements by the persons participating in the case, questions about the postponement of the consideration of the case, the announcement of a break, suspension or termination of the proceedings on the case, leaving the application without consideration, as well as in other cases stipulated by the legislation on administrative proceedings, the District Administrative Court makes a decision by way of rulings. Judicial consideration of an administrative case in the District Administrative Court ends with a court decision (Law, 2005). Thus, there are two types of court decisions of the District Administrative Court: rulings and decisions.

RECOMMENDATION

To date, significant positive changes have taken place in the domestic legislation on administrative proceedings as part of the implementation of the judicial reform. As a result, a modern system of specialized administrative courts has been created, which includes district

administrative courts as courts of first instance for the consideration of administrative cases. However, there are still a number of unresolved problematic issues in the administration of justice by specialized administrative courts, associated, in particular, with the complexity of determining the jurisdiction of cases, the speed and efficiency of resolving disputes in the field of public law relations, organizational support for the activities of courts, and the like. Thus, in the context of reforming the system of administrative court proceedings, it is important to recognize the following as promising directions for increasing the efficiency of justice by specialized administrative courts: the need to ensure compliance of administrative justice with modern requirements by bringing domestic legislation to international legal standards; improving the quality of staffing, which requires the professionalism of both judges and employees of the apparatus of the corresponding administrative court; increasing the efficiency of judicial administration, an integral part of which is judicial self-government, that is, providing the judges of the corresponding administrative court with the opportunity to exercise managerial powers, and the like. The implementation of the indicated directions will contribute to the effective protection of the rights and interests of citizens protected by legislation in the field of public law relations, and, consequently, the strengthening of the rule of law in the country.

CONCLUSION

The study of the features of the administrative-legal status of district administrative courts in the system of administrative justice allows to draw the following conclusions. Significant changes in the reform of the system of courts in Ukraine and, accordingly, the introduction of a new system of administrative courts is historically associated with the adoption and entry into force of the new version of the Code of Administrative Procedure of Ukraine dated December 15, 2017. Access to administrative justice and fair trial of administrative cases in Ukraine are ensured by the functioning of a two-level structure of administrative courts of first instance, consisting of district courts (local general courts) and district administrative courts (local administrative courts). The main task of the activities of the district administrative courts is covered by the task of administrative proceedings, that is, it is a fair, impartial and timely court decision of disputes in the field of public law relations in order to effectively protect the rights, freedoms, and interests of individuals, the rights and interests of legal entities from violations by power entities.

The administrative-legal status of a district administrative court can be defined as a complex legal and theoretical structure, which is represented by a set of elements, to which it is advisable to include: (1) the tasks and principles of the activities of the district administrative courts; (2) the place of the district administrative court in the system of administrative courts; (3) the number of judges of the Regional Administrative Court; (4) the legal basis for the activity; (5) the competence of the district administrative court for the examination of administrative cases; (6) types of court decisions taken by the district administrative court.

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