ON SOME ASPECTS OF DIVISION OF ADMINISTRATIVE PROCEEDINGS IN UKRAINE INTO CONFLICTING AND NON-CONFLICTING FROM THE POINT OF VIEW OF THE SUBJECTS OF ADMINISTRATIVE PROCEEDINGS

In the administrative process, according to certain Ukrainian lawyers, there are two groups of proceedings: conflict and non-conflict [1]. Thus, in the presence or absence of conflict in the basis of an administrative case, administrative-procedural legal relations are divided into conflict and non-conflict. Non-conflict administrative proceedings arise in the implementation of administrative proceedings such as law-making, permitting, licensing, supervisory, certification and others. Conflicting administrative proceedings are formed in the course of jurisdictional proceedings such as administrative-tort, executive, disciplinary and others. The state of study and analysis of non-conflict and conflict proceedings regarding the resolution of administrative cases of individuals and legal entities is characterized by disorder and fragmentation. Thus, the same participants in such administrative proceedings can be called differently.

In the Ukrainian legal literature, many scholars have paid attention to the characteristics of participants in administrative proceedings, including: V.B.Averyanov, O.M.Bandurko, O.V.Kuzmenko, V.O.Timashov. M.M.Tyshchenko and others. The author of this report aims to classify the participants in administrative proceedings in the administrative process on the basis of distinguishing two groups of proceedings, namely conflict and non-conflict.
Subjects of administrative proceedings or "participants in administrative proceedings" in the professional jurisprudence literature are persons who participate in administrative proceedings.

For example, according to MM Tyshchenko, the term "subjects of administrative proceedings" should be a concept that includes "participants in administrative proceedings" and authorities that carry out administrative proceedings and make decisions in the case. MM Tyshchenko came to this conclusion by comparing these two concepts, arguing that the subjects of the administrative process are participants in the administrative process, who realize in the course of administrative proceedings their procedural status in order to protect their rights and legitimate interests or rights and legitimate interests of persons they represent, or groups of citizens and organizations [2]. Namely, for the terminological designation of participants in non-conflict proceedings, special attention should be paid to the procedural position they perform in administrative proceedings.

In Ukraine, the laws establishing the procedure for conducting administrative proceedings do not contain standard procedural terms for designating individuals and legal entities as participants in administrative proceedings. So, the Law of Ukraine "On Citizens' Appeals" mainly uses the term "citizen", but the three provisions of this law also use the term "applicant" [3]. In addition, these rules apply not only to "statements", but to all appeals, i.e. complaints and suggestions. In the Law of Ukraine "On the permit system in the sphere of economic activity" we meet the term "subject of economic activity" [4]. At the same time, the Law of Ukraine "On Administrative Services" uses the term "subject of appeal" [5]. The author of this report proposes to mark the term "applicant" to denote individuals and legal entities who initiate motion of an administrative case in order to exercise their own rights and legitimate interests.

Participants in non-conflict proceedings may be persons who represent and protect the interests of others. The Law of Ukraine "On Citizens' Appeals" establishes the right of a citizen to "use the services of a lawyer or a representative of the labor collective, or an organization that performs a human rights function" when considering
an application or complaint. Then, according to the author, it is advisable to define in law the status of "representative" in administrative proceedings.

The term "third parties" is also used to refer to ancillary subjects of administrative proceedings. For example, the law of Ukraine "On the basic principles of state supervision (control) in the sphere of economic activity", in accordance with Art 1 of this Law, the "third parties" are legal entities and individuals (lawyers, auditors, members of public organizations, etc.), which are involved by business entities or bodies of state supervision (control) in the course of state supervision (control) [6].

The classification of the subjects of conflicting administrative proceedings requires special concentration. We propose to analyze the subjects of conflict proceedings depending on the type of proceedings in which they participate, i.e. focusing on such types of administrative proceedings as: administrative-tort proceedings, disciplinary proceedings, proceedings on complaints of citizens, administrative proceedings by way of administrative judiciary. The main problem that needs to be addressed urgently is not only the large number of different bodies of state and local self-government, which are empowered to deal with legal conflicts, but also the lack of comprehensive study of authorized entities in conflict administrative proceedings.

There is no single approach to the systematization of the subjects of conflict proceedings in jurisprudence. Difficulties in classifying the subjects of conflict proceedings mainly arise due to the exceeding number of different bodies empowered to proceed in administrative conflicts as per Ukrainian legislation.

The legal status of the subjects of administrative-tort proceedings in Ukraine is provided by the Code of Administrative Offenses. The subjects of administrative tort proceedings are local general courts in cases of administrative offenses. The legal status of the local general court is assured in Art 221 the Code of Administrative Offenses. The specificity of the legal status of the court is seen, first of all, in its powers. The jurisdiction of the court is extended to all types of administrative offenses, regardless of the field [7].
The right to bring a person to disciplinary responsibility has a person (body) endowed with the right to hire an employee, i.e. the subject of disciplinary proceedings is an official for whom regulations assured the right to dismiss subordinate employees. The scope of disciplinary subjects depends on the legal status of the employee who committed the administrative offense.

The legal status of subjects of proceedings on complaints of citizens is regulated, first of all, by the Law of Ukraine "About the address of citizens" and the Code of Administrative Procedure of Ukraine [8]. The complaint is considered directly by the official (body), taking into account the principle of subordination. The main task of such subjects is to consider the case objectively and in a timely manner, to analyze the facts of the case, to make a decision in accordance with the current legislation and to ensure its implementation.

**Conclusion.** Today’s system of conflicting and non-conflicting administrative proceedings in Ukraine is complex and extensive. This affects the flexibility of the mechanism for protecting the rights and legitimate interests of citizens. It is advisable to reform the system of conflicting administrative proceedings and foresee a minimum of authorized bodies with broad administrative juridical competence. Also, there is an urgent need for a unified approach to the terminological definition of participants and subjects in non-conflict administrative proceedings in Ukraine.

**References:**

