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THE DEFINITION OF PUBLIC ADMINISTRATION: TOWARDS A FRAMEWORK FOR ANALYSIS

The article analyzes the concept of "public administration" as the basic category of the updated doctrine of administrative law. Critical analysis of existing approaches to the definition of this category is carried out. It has been discovered that scientific discussions among the national scholars-administrators concerning the content of the term "public administration" began as a consequence of the direct translation of the English term "public administration", but by a second-time was followed as scientific search for the content load. The emphasis is placed on the fact that the scientific search for the content load of the term «public administration» should correspond to the logic of the system connections of the conceptual terminology apparatus of the administrative-legal science in general and to take into account that the process of adaptation of the category "public administration" into the national legal-administrative doctrine side-by-side happens along the delineation with the category of "state administration". It is emphasized the need to consider the specifics of public administration through the prism of quantitative and qualitative indicators. Taking into account the established peculiarities of public administration, in the conclusions an author's definition of this concept is given. As a conclusion from the study, it is emphasized that public administration should be perceived in the scope of all administrative relations governed by administrative law, not limited to management because the theoretical study of non-governmental areas has led to the adoption of the concept of "public administration". The article states that public administration covers advisory, organizational and administrative activities and the provision of civil services, and its subjects are professionally trained people – public servants who perform specified types of work in government, self-government and civil structures. It is noted that the necessity of improving the conceptual-categorical apparatus of administrative law is systematically connected with the necessity of improving the practice of law enforcement in public-legal relations, taking into account the peculiarities of the sphere of public administration.

Key words: public administration, state management, public management, administrative law, subject of administrative law, governance, conceptual-terminology apparatus.

Білокур Є. І. **ВИЗНАЧЕННЯ ПОНЯТТЯ «ПУБЛІЧНЕ АДМІНІСТРУВАННЯ»: ДО СТВОРЕННЯ ОСНОВИ ДЛЯ АНАЛІЗУ**

У статті здійснено аналіз поняття «публічне адміністрування» як засадничої категорії оновленої доктрини адміністративного права. Здійснено критичний аналіз існуючих підходів до визначення даної категорії. З'ясовано, що наукові дискусії серед вітчизняних науковців-адміністративістів щодо змісту терміна «публічне адміністрування» почалися як наслідок прямого перекладу англомовного поняття «public administration», а вже вторинно послідкував науковий пошук змістовного навантаження. Акцентується увага на тому, що такий науковий пошук повинен відповідати логічності системних зв'язків понятійно-термінологічного апарату адміністративно-правової науки в цілому та враховувати, що процес адаптації категорії «публічне адміністрування» у вітчизняну адміністративно-правову доктрину бік-о-бік відбувається поряд із розмежуванням із категорією «державне управління». Наголошується на необхідності розгляду специфіки публічного адміністрування крізь призму кількісно-якісних показників. З урахуванням установлених особливостей публічного адміністрування у висновках надається авторське визначення даного поняття. Як висновок із дослідження підкреслюється, що публічне адміністрування повинно сприйматися в межах усіх адміністративних відносин, що регулюються адміністративним правом, не обмежуючись державним управлінням, оскільки теоретичне вивчення саме неуправлінських сфер призвело до прийняття концепції «публічне адміністрування». У статті зазначається, що публічне адміністрування охоплює консультативну, організаційну та адміністративну діяльність та надання адміністративних послуг, а його суб'єктами є професійно підготовлені люди – публічні службовці, які виконують певні види роботи в органах державної влади та місцевого самоврядування. Зазначається, що необхідність удосконалення понятійно-категоріального апарату адміністративного права є системно пов'язаною з необхідністю вдосконалення практики правозастосування в публічно-правових відносинах з урахуванням особливостей сфери публічного адміністрування.

Ключові слова: публічне адміністрування, державне управління, публічне управління, адміністративне право, предмет адміністративного права, врядування, понятійно-термінологічний апарат.

Introduction. Intellectual and practical endeavors almost always demand theory to help make sense of the complex legal realities. But the theory (administrative science) will be useful for the practice (public administration activities) if the conceptual and terminological apparatus of administrative and legal science will meet the criterion of consistent logical connections between the categories used. Therefore, the terms used to describe some concepts should be system-related. Recently, a significant number of articles, scientific and scientific-methodical developments have been published, devoted to a study of the meaning of public administration, due to Ukraine's entry into European and world educational and scientific space. However, it should be noted that the theory and practice of using the term "public administration" do not always reflect a qualitative change in the objective realities of public life. The conceptual interpretation of public administration is often reduced either to a mechanical replacement of the term state management or to an artificial "novelty" and destructive interpretation of this phenomenon. Thus, the challenge of understanding public administration is still enduring in the legal sciences.

The aim of this paper is two-fold: first, to outline a conceptual framework on the terminological characteristic of public administration; and secondly, to coordinate the theoretical understanding of public administration with the objective realities of Ukrainian public administration.

Such well-known specialists in the field of administrative law and the science of public administration as V.B. Averyanov, V.M. Bevzenko, V.A. Kolesnikova, K. Kolpakov, T. Kondratyuk, V.V. Korzhenko, A.V. Kuzmenko, R.S. Melnik, et al., were involved in researching the content of public administration. Despite this, the problems associated with a methodologically clear definition of public administration have not been resolved, which makes it possible to present the author's research.

Results. To refer to the activity of coordinating the work of people different terms are used: "ordering", "management", "administration", "governance", etc. "Ordering" – is the most general term. It extends over a wide range of diverse objects, phenomena, and processes, for example, technical systems; economic systems; social systems; government systems, etc. "Management" – used mainly to characterize the ordering of commercial organizations (enterprises). "Administration" – applies to the management of public institutions or to indicate the processes of managing the activities of the enterprise management apparatus.

In the Ukrainian language, "ordering" is the most common term among those that denote various ways of regulating the influence of social actors on society – to coordinate it, ensure stability, and purposeful development. Its varieties reflect in terms such as state management, administration, governance, management, economic regulation, and others. Some of them prevail in the public sector of social life, others – in private, but in recent decades there has been an interweaving of most of these types of governance in both sectors.

The term "public administration" used to be translated as "state management" for a long time. However, the scientific community has long debated about the substantive differences of public administration, and the fallacy of such a translation is beyond doubt. It should be noted that the term "public administration" and scientific discussions among Ukrainian scholars-administrators about its content began as a result of a direct translation of the English concept of "public administration" and already secondarily followed the scientific search for meaning. Thus, since the term public administration has a foreign origin, first of all, the study of this category cannot be carried out procedurally correct without considering its interpretation in Western legal doctrine.

There are two approaches to understanding the content of public administration: "American" and "European" (the title "American" and "European" approach indicate the countries and so-called developed schools of management). Under the "American" approach, public administration is a field that includes the legislative, executive and judicial branches of powers, and under the so-called "European" approach, public administration is a sub-branch of law [1, p. 63–64]. Thus, the first approach involves a combination of political, legal and administrative functions, and the second – their delimitation, i.e. the definition of public administration as all non-legislative and non-judicial activities of the state. As an example of the definition of "public administration" in Western literature through the concept of "executive power" we can cite what is provided by the world-famous Encyclopedia Britannica: "Today public administration is often regarded as including also some responsibility for determining the policies and programs of governments. Specifically, it is the planning, organizing, directing, coordinating, and controlling of government operations" [2].

Broad and narrow approaches to public administration are similar. Broadly defined public administration is the whole system of administrative institutions with a hierarchy of power, through which the responsibility for the implementation of state decisions goes from top to bottom. That is, public administration is a coordinated group action on public affairs, which: related to the three branches of government (legislative, executive and judicial; are substantial in public policy making; are part of the political process; significantly different

from private sector management. In a narrow sense, public administration is related to the executive branch, the professional activities of civil servants [3, p. 7–8]. Each of these approaches is acceptable at a particular theoretical and methodological level of research. Given the specifics of administrative law research and given the constitutional principle of separation of powers, each component of which is embodied in a particular form (public administration is mainly a form of the executive branch) – public administration considered under "narrow interpretation".

While the conceptual interpretation of public administration, it is impossible to avoid the process of adaptation of the term "public administration" to the Ukrainian administrative and legal doctrine, which is side by side along with the distinction with "state management". The concept of "state management" has been widespread in the theory of administrative law since Soviet times and was defined based on a broad or narrow interpretation. In a narrow sense, the category of state management reflects a relatively independent type of state activity, which is carried out by a particular part of state authorities. In a broad sense, state management is defined as all activities of the state, i.e. all forms of state power in general. Characteristics of the state-administrative influence during the Soviet period of national history were the methods of administrative prescriptions and direct administration. The new vectors of power of state influence were caused by the proclamation of Ukraine's independence and the formation of the concept of a "service" state. Undoubtedly, the regulatory influence of the new public institutions could no longer be characterized in the context of the Soviet model of state management.

The approval of the "human-centered" model led to the perception that the state should provide, serve society besides the parallel development of administrative law theory has led to a qualitative revision of the subject and method of the branch and, consequently, a gradual departure from its managerial understanding. Back in 2003, V.B. Averianov noted that such an interpretation of administrative law is erroneous because most of the subject of the branch is not administrative: the use of administrative coercion, complaints' consideration, consideration of individual administrative cases and the adoption of individual acts, administrative services, binding decisions on individuals [4, p. 8–9]. Namely, in this context, the term "public administration" has become widespread, which is intended to denote the whole complex of social relations governed by the relevant branch of law. Thus, V. Kolpakov and T. Matselyk identified two integral categories of its subject: public administration and power relations, aimed at implementing the purpose of public administration [5, p. 113–114].

However, not all modern studies reflect some substantive changes in the nature of power and administrative activities and, accordingly, in the conceptual apparatus of administrative law but, as O.I. Mykolenko noted, some scholars (since the mid-'90s), especially those who were concerned with the problems of the subject of administrative and legal regulation, drew attention to the fact that the category of "state management" has lost its methodological properties [6, p. 103].

The term public administration continues to denote various aspects of legal existence without acquiring the marked qualitative specificity, for example: 1) as a component of management, which is a procedure for implementing decisions implemented in the management system [7, p. 3]; 2) as a bylaw, legal and authoritative activity of state bodies of executive and administrative nature, aimed at implementing laws, practical implementation of tasks and functions of the state, through which the organizing influence on social relations in all spheres of society is conducted [8, p. 130].

In the modern Odessa school of law, it is offered to trace the specificity of public administration through a prism of quantitative and qualitative indicators. Namely, the first distinctive determinant is quantitative. As I.P. Yakovlev noted in the dissertation research, the quantitative plane "is obvious to public law science, is already manifested at the level of etymological comparisons and consists in the common judgment of a relatively larger volume of the public. The subjects of public power are state authorities, authorities of the Autonomous Republic of Crimea, local governments, organizations with delegated powers, and it is possible that other public authorities". The aforementioned indicates that the "state" is one of the components of the "public". The qualitative difference between public administration and state management lies in several aspects. First, it contains an indication of the main value-target component of administrative measures: public interest; secondly, the term "public" additionally states the need for informational interaction of the subjects of power with society. At the same time, the prompt dissemination of reliable data on the goals and methods of managerial influence, citizens' rights, and the procedure for their implementation should take place not only at the initiative of the public, in response to requests from its representatives or organizations (forced information), but also on the initiative of government institutions (voluntary information) [9, p. 23–26].

Such qualitative and quantitative components argue the development of domestic scientific legal awareness. Continuing this vector of research, such characteristics are primarily manifested in the renewal of forms and methods of administration

compared to state management, the introduction of dispositive principles in relations between state and society, holding decentralization of power, etc. The elucidated quantitative and qualitative aspect once again confirms the expediency of understanding administration through management, updated on the principles of the "service state", openness, cooperation with the public.

A similar opinion on the extension of the management approach is reflected in the new version of the Code of Administrative Proceedings (hereinafter – CAP). Therefore, the analysis of the provisions of Art. 4 of the CAP, which contains the definition of the main terms of administrative proceedings, concluded that determining the substantive activity of the subject of power, the legislator draws attention to the fact that it is associated with the implementation of not only public administration functions, including delegated powers, but also with the provision of administrative services [10].

It should be noted that some scholars consider the category of "public administration" only concerning the external actions of public administration. As noted by V.M. Bevzenko and R.S. Melnyk, "... is not a public administration activity related to the internal organization of the functioning (reorganization of units, transfer of civil servants, implementation of disciplinary responsibility, etc.) of public authorities. This activity can be called internal management, which, however, as well as public administration, is governed by the rules of administrative law" [11, p. 41].

However, the study of the term public administration should be conducted through the allocation of the socially-oriented and intra-oriented component of the functional content, similar to the determination of socially-oriented and internally-oriented functions of public administration [12, p. 69–70]. The author considers that the organizational and regulatory activities of the subjects of power have the same content as the externally oriented part of public administration, and, therefore, they should not oppose each other based on the criterion of activity.

In this regard, the internal-oriented part of public administration gains new features considering the improvement of public administration technology. In modern public administration, it is overwhelmingly important to use management tools with the peculiarities of the administrative sphere. Therefore, the conceptual and terminological apparatus use the term "administrative management". Accordingly, the peculiarities of management style in the public sphere, in other words, administrative management, can be considered as related to the doctrine of modern administrative law, because all principles and mechanisms of effective public authority must be reflected in the powers, competencies, methods of public administration [13, p. 55].

Conclusions. The article deduces that public administration is a dynamic force which definition has not fully come to its perfection. However, public administration is a reality without which the public-power mechanism and the modern science of administrative law cannot function. From all the definitions listed above, it is obvious that there is no currently accepted definition of public administration. However, in most cases, public administration has to do with the governing or administration of the people in a particular enclave towards rendering services that will improve the quality of life of the people. As a conclusion from the study, it is emphasized that public administration should be perceived in the scope of all administrative relations governed by administrative law, not limited to management because the theoretical study of non-governmental areas has led to the adoption of the concept of "public administration". Giving conceptual and terminological characteristics to public administration, scientists must take into account the quantitative and qualitative features of this term. The article states that public administration covers advisory, organizational and administrative activities and the provision of civil services, and its subjects are professionally trained people – public servants who perform specified types of work in government, self-government and civil structures. Along with the subsystem of public administration, and in the hierarchical structures – above it, there is a subsystem of governance: the adoption and implementation of socially meaningful decisions in various areas of public policy. But rationally, as the conclusion, public administration may be held to cover the organization, powers, duties, and functions of public authorities of all kinds engaged in administration; their relations with one another and with citizens and non-governmental bodies; legal methods of controlling public administration; and the rights and liabilities of officials. In other words, substantive and procedural provisions relating to central and local governments and review of administrative offenses constitute the public administration matters of administrative law.

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