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PECULIARITIES OF THE INFLUENCE OF ECONOMIC SCIENCES ON THE FORMATION OF ADMINISTRATIVE AND LEGAL NOMENCLATURE

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Abstract. The article is devoted to determining the peculiarities of the influence of economic sciences on the formation of the nomenclature of administrative law. It is found out that the nomenclature of modern administrative law develops under the influence of the results of other sciences and researches, among which the economic sciences take the first place. It has been established that the specialist literature does not consider the general tendencies of development of the nomenclature of administrative law under the influence of economic sciences. At the same time, administrative legislation always uses economic concepts in the texts of normative legal acts, otherwise it is impossible, firstly, to determine the scope of competence of the relevant authority and, secondly, to clarify the peculiarities of its functioning in the specific sphere of economic relations. It has been shown that in the last thirty years, in the nomenclature of administrative law: 1) some categories have remained unchanged; 2) some concepts have lost the status of categories and ceased to be used in scientific circulation; 3) new categories have appeared; 4) economic categories have become widely used. Thus, at the present stage of development of administrative law, economic sciences have a significant influence on the formation of its nomenclature. This process is characterised by the following positive results: 1) administrative law regulation and public administration in the economy take into account the achievements of economic sciences in order to increase the efficiency in the relevant field of both administrative law norms and the activities of public administration bodies; 2) the maximum satisfaction of economic interests and the exercise of economic rights of human beings in administrative law relations; 3) a real implementation of the human-centred concept in the relations between public administration bodies and private persons when it comes to the provision of public services in the field of economic activity; 4) a harmony between the achievements of economic sciences and administrative law sciences, which complement each other in a certain way.

Keywords: administrative law science, nomenclature, economic sciences, public administration, management, good governance.

JEL Classification: H11, H30, H61, I38, R50, D72

Introduction

The nomenclature of modern administrative law develops under the influence of the achievements of other sciences and fields of research, among which economic sciences occupy a prominent place. For example, in the Soviet period of the development of administrative law, management sciences had the dominant influence on the formation of its nomenclature, among which the theory of public administration prevailed. It has had several positive and numerous negative consequences for the development of administrative law scholarship and administrative law. In particular, the positive results include the following: 1) administrative law regulation focused on the efficiency of public administration and serving the needs of executive bodies, which made

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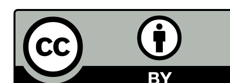

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it possible to maximise the implementation of state interests in society; 2) there was a close connection between the achievements of management sciences and administrative law sciences, which complemented each other in a certain way.

The negative consequences of the predominant influence of management sciences on the formation of the nomenclature of Soviet administrative law include the following: 1) administrative law was dominated by the state-centred concept and ignored the human-centred concept in relations between public authorities and individuals, which resulted in the preference in administrative and legal regulation of public relations for the consolidation of the status of a public authority and mechanisms for its implementation, while the status of a private person and procedures for its implementation were either partially regulated or absent in national legislation; 2) the principles of Soviet administrative law were built around the category of "public administration", and the concepts of "public services", "administrative procedure", "public service activity" and others were absent from its terminology; 3) consideration of legal phenomena through the prism of the achievements of management sciences has led to a significant gap between theory and practice in administrative law, since the study of administrative and legal phenomena using the categories of management sciences (e.g., "public administration", "functions, methods and forms of public administration", etc.) reveals not the legal features of the subject matter of the study, but its managerial properties and features; 4) the subject matter of administrative law regulation was artificially narrowed, which was characterised as social relations arising in the process of public administration, which limited the potential of administrative law as a branch of law in Ukraine, etc.

Today, such tendencies are observed in administrative law, when the concept of "public administration" is being filled with managerial content and used as a managerial category in explaining administrative and legal phenomena.

As can be seen, the dominance of managerial categories in the terminology of Soviet administrative law had more disadvantages than advantages. That is why there are concerns about the use of economic concepts in the terminology of administrative law. Will the use of economic categories to explain the properties of administrative law phenomena lead to the same negative consequences?

In this regard, it is relevant to determine the peculiarities of the influence of economic sciences on the formation of administrative and legal nomenclature.

1. Methodology of Research

1.1. Scientific, Theoretical and Legislative Support for the Study of the Peculiarities of the Influence of Economic Sciences on the Formation of Administrative and Legal Nomenclature

It should be emphasised that most representatives of administrative law in Ukraine believe that neither the subject nor the object of administrative law science covers the methodology and nomenclature of administrative law. As a result, there are few articles in the specialised literature that deal with the methodological problems of the relevant science and terminology of administrative law. However, these specialists are exclusively representatives of administrative law, because representatives of state and legal theory, firstly, do not understand the peculiarities of the characteristics of administrative law phenomena and processes, and, secondly, do not always understand which set of methods and categories leads to the most effective result for practice. Accordingly, only specialists in administrative law can explain the trends in the development of administrative law terminology, taking into account the peculiarities of the influence of other sciences (sociology, political science, management, administrative theory, and so forth).

The works of the following scholars have contributed to the development of the terminology of modern administrative law: V. Bevzenko, I. Boiko, N. Darahanova, O. Zyma, T. Karabin, V. Kolpakov, T. Kolomoiets, D. Lukianets, R. Melnyk, O. Mykolenko, S. Mosondz, A. Poklonskyi, V. Reshota, O. Sydielnikov and others. Most of the proposed works focused on demonstrating the feasibility of introducing a new concept (e.g., the concept of "administrative discretion") into the nomenclature or the need for an "updated" interpretation of the content of an "outdated" concept (e.g., "source of administrative law"). The national scientific papers did not take into account the general trends of development of the terminology of administrative law and, even more, the positive or negative influence of other sciences (for example, economics) on the relevant process.

As for the current legislation, since the declaration of Ukraine's independence, society has been undergoing a rapid transformation that has affected the economy and economic relations. Today, it is possible to list a number of legal acts that regulate the relevant area of social relations in the field of business. Striking examples are legal sources that provide for the provision of public services, the exercise of control, security or other powers of executive authorities in the field of economic relations.

Thus, the Law of Ukraine "On the Antimonopoly Committee of Ukraine" (The Verkhovna Rada of Ukraine, 1993), defining the functioning of the Antimonopoly Committee of Ukraine, uses many economic concepts that allow us to clarify the relationship between "administrative law – public administration – economic relations as an object of public authority". It concerns such concepts as "economic competition", "consumers", "fair competition", etc. The Law of Ukraine "On the Bureau of Economic Security of Ukraine" (The Verkhovna Rada of Ukraine, 2021) uses the concepts of "state economy", "economic function", etc. to specify the activities of the central executive body. Therefore, it can be stated that administrative legislation always uses economic concepts in the texts of normative legal acts, otherwise it is impossible to determine, firstly, the scope of competence of the relevant authority and, secondly, the peculiarities of its functioning in a specific area of economic relations.

1.2. Methodological Peculiarities of the Study of the Influence of Economic Sciences on the Formation of Administrative and Legal Nomenclature

The methodological basis of this publication is a set of scientific methods that helped to comprehensively disclose the topic under study and formulate scientifically sound conclusions. In particular, reference is made to the dialectical method (used to identify trends in the dynamic development of the terminology of administrative law), the comparative legal method (used to identify the positive and negative influence of other sciences on the nomenclature of administrative law), the historical method (used to identify the stages of development of the nomenclature under the influence of economic sciences), the analytical method (used to formulate scientifically substantiated conclusions on the issues under study). The list of methods is not exhaustive. In the course of the study, other cognitive methods were used.

2. Economic Concepts in the Nomenclature of Administrative Law

2.1. General Trends in the Evolution of Administrative and Legal Nomenclature and the Growing Role of Economic Concepts

Changes in terminology confirm the processes of reforming administrative law. The nomenclature used by scholars in the 90s of the last century has already changed by fifty percent. In the nomenclature of administrative law:

– Such concepts as "administrative law provision", "administrative and legal relations", "mechanism of administrative and legal regulation", etc. have not undergone significant changes;
– such categories as "public administration", "subjects of public administration", "functions, methods and forms of public administration" have disappeared;
– new concepts have emerged (e.g., "administrative procedure", "administrative service", "administrative agreement", "public administration", and so forth);
– the concepts of other sciences (in particular, "management", "monopoly", "natural monopoly", "consumer", etc.) have become widely used.

Despite the fact that scientific sources pay a lot of attention to some concepts of administrative law (Boiko, 2022; Darahanova, 2022; Kolpakov, 2019; Lukianets, 2019), the analysis of their content is carried out without reference to the science of administrative law and trends in the development of its terminology. In general, it should be emphasised that in branch legal sciences the problems of formation and use of nomenclature are hardly discussed and solved. For example, certain issues of the formation of the nomenclature of administrative law science can be found in the works of O. I. Mykolenko (2010); general problems of criminal law nomenclature are raised in the works of Z. A. Trostiuk (2003). However, most representatives of the legal profession ignore the relevant issues in their publications.

Before outlining research aims, objectives, methods and expected outcomes, any researcher should outline the categories that will underpin the research. One might think that it does not make much difference whether researchers use the term "public management", "public administration" or "management" in their research. Nevertheless, the choice of categories on which to base the study is crucial for research activities. The results and conclusions of scientific research will differ significantly depending on which concept a researcher uses – "public management", "public administration" or "management". For example, studying the functional peculiarities of administrative courts in Ukraine through the prism of "public management", it can be concluded that the administrative court is one of the governmental bodies (Bytiak, 2021). Based on the current positions of the theory of administrative law, such a conclusion is inconsistent with the doctrinal provisions of the relevant science. Examining the features of internal organisational activities of executive authorities through the prism of the category of "public administration", it is possible to conclude that the head of a particular state body, who has official relations with his subordinates and applies disciplinary measures to them, is a public administration body (Buhaichuk, 2020). This conclusion also does not correspond to the current trends in the development of administrative law science. Finally, considering the specifics of intra-organisational activities in executive authorities through the prism of the category of "governance" (Bondar, 2013), it can be concluded that "good governance" is one of the types of governance

implemented by public authorities. Such a conclusion may be consistent with the modern views of economic sciences on the concept of "management", but it contradicts many doctrinal provisions of administrative law of Ukraine.

By deliberately focusing on the negative results of scientific activities which ignored the methodological principles of selecting categories before studying administrative law phenomena, the authors tried to demonstrate the importance of nomenclature for any research and science. Given the fact that research results are often used as a basis for legislative activity, the appropriate methodological use of terminology in the study of administrative law phenomena becomes even more important.

Therefore, the authors fully agree with O. I. Mykolenko (2010), who expresses the following thoughts on nomenclature: "Any science presupposes the existence of a developed and ordered system of knowledge. At the same time, it should have as an attribute a specific tool of knowledge: a developed system of categories and concepts – nomenclature defined by the subject of the relevant science."

The development of market relations in Ukraine and the increasing role of state control in economic relations actively contribute to the introduction of economic concepts into the nomenclature of administrative law. Most of these concepts are used without changing their content (for example, "fair competition", "economic competition", "public procurement", etc.). There are, however, economic categories that administrative lawyers try to adapt to the needs of a particular branch of national law (for example, "management", "economic efficiency", etc.). These experiments with terminology do not always have a positive effect, but research is one of the types of creative activity that is characterised by such an obligatory feature as "freedom of thought". In this regard, the authors share the views of S. Konovets, who states: "In modern conditions, freedom should be regarded as a factor of creative activity and an essential means of forming a spiritually rich, creative and truly free individual" (Konovets). The theory of administrative law formalises all contradictions in the views of scholars on the content of certain concepts and discussions on their correct use in the form of alternative ideas or authors' views which do not interfere with the overall development of administrative law nomenclature.

Thus, taking into account the subject of the present study, it is possible to distinguish two trends in the introduction of economic concepts into the nomenclature of administrative law: 1) borrowing economic concepts without changing their content in order to reflect phenomena and processes of administrative law, which are due to the development peculiarities of economic relations in the world and in Ukraine; 2) borrowing an economic concept with its subsequent filling with a new content, which meets the needs of administrative law.

In both cases, the nomenclature of administrative law is enriched, allowing it to be used as efficiently as possible in the study of administrative law phenomena. It should also be recognised that the above is sometimes accompanied by extraordinary methodological approaches, which are good for the progress of science – from the point of view of "it cannot be done because it is a dead end" – but destructive for practice, because they do not offer real solutions to current problems.

2.2. Criteria for Economic Concepts to be Included in the Nomenclature of Administrative Law

The nomenclature of any science is subject to numerous requirements, which must be met. Using these general requirements, the article will explore the specifics of introducing economic concepts into the nomenclature of administrative law.

First, the science of administrative law should have an extensive but coherent system of categories and concepts. In addition, it is worth noting that the list of terms used appeared in the first articles of regulatory legal acts. Therefore, it is important not to confuse scientific categories and concepts with the terms used in current legislation. In scientific sources, a problem sometimes arises when a scholar begins to substitute scientific categories for terms defined in legal acts. Categories are used in the study of administrative law phenomena to explain their legal nature, reveal their features, describe the peculiarities of their manifestation in public life, etc. Terms are used exclusively in legal regulation to explain the specifics and outline the boundaries of administrative and legal regulation in a particular area of public relations. For example, the term "public place" may acquire different meanings in legal acts, depending on the social relations in question in a particular case. An interesting case is the provision of Article 1(3) of the Law of Ukraine "On Protection of Economic Competition": "The terms used for the purposes of this Law shall have the meaning given in the Law of Ukraine 'On Protection of Economic Competition'" (The Verkhovna Rada of Ukraine, 1996). In other words, the legal act emphasises that the terms used by the legislator in one or, as in a particular case, two legal acts are not applicable to any other phenomena and processes occurring in society and administrative law.

In considering the characteristics of the first feature of administrative law nomenclature, it is worth noting that today administrative law has an extensive system of categories and concepts. This comprises both widely used concepts (for example, the economy as an object of public power) and

completely new concepts to Ukrainian legal system (for example, e-business).

Second, all methods of cognition are involved in the formation of categories and concepts within the field of administrative law science. However, the dialectical method, induction and deduction as general logical techniques are of the utmost importance. For instance, when studying an administrative law phenomenon in its dynamic context, it is possible to identify those features that have characterised it throughout its existence. This allows for the creation of a generalised definition that is applicable to all historical periods of its existence (the use of the dialectical method). In his study of the features of administrative law support for enjoying civil socio-economic rights, A. P. Pohosian presents the development dynamics of, firstly, the legal consolidation of the socio-economic rights of individuals and, secondly, the legal support for their implementation (Pohosian, 2011). Formulating the categories of administrative law science is possible in studies which provide a generalized definition for all of them based on specific administrative law phenomena. For instance, by examining the administration of specific economic sectors, such as the regulation of administrative law or public administration, it is possible to propose a general definition (inductive reasoning). Conversely, by analysing theoretical approaches to defining administrative services, it is possible to define registration, licensing, or any other types of administrative services in the economic realm (deductive reasoning). Nevertheless, it is important to note that other methods of cognition may also be involved in the formation of administrative law nomenclature.

Third, the categories and concepts of administrative law science should be characterised by relative constancy and stability, as they fix a specific level of knowledge about administrative law and administrative law phenomena. Consequently, the change in the nomenclature of administrative law indicates its renewal. Conversely, a constant (endless) change in categories will indicate such negative phenomena in science as chaos and lack of consistency. As a rule, the categories and concepts of any science exist for a certain period (decades or centuries), but then the nomenclature is updated for various objective reasons (changes in the socio-economic sphere of social relations, new discoveries that require revision of outdated ideas, etc.) As a result, it is a matter of "relative" stability and stability of the nomenclature. The modern nomenclature of administrative law science has yet to incorporate the characteristics of "sustainability" and "stability". This is due to the fact that administrative law is undergoing a process of reworking and replacement of the existing nomenclature with a new one, and therefore, it is susceptible to change in the near future. For instance, the concept of "electronic business" has recently emerged in the lexicon of administrative law. Without this concept, it is no longer possible to provide administrative law support for business activities via information and communication technologies.

Fourth, the nomenclature of administrative law constitutes the substantive part of the discipline. This is explained by the fact that no study of an administrative law phenomenon can be initiated without first clarifying the underlying categories and their content. In other words, the categories of administrative law represent the key pillars of any research in administrative law and process. In this context, it is evident that a clear distinction between the concepts of "public administration", "good governance" and "public management" is of particular relevance. This is because the "management" and "economic" concepts that dominate in the theory of administrative law do not always adequately address the primary objective of administrative law science, namely to elucidate the nature and characteristics of the manifestation of a particular phenomenon in society.

Fifth, the nomenclature of administrative law science is comprised of two distinct categories of concepts: doctrinal and legal. Doctrinal concepts are those developed directly by the science of administrative law, while legal concepts are official concepts enshrined in the provisions of national legislation. As previously noted, not all concepts (terms) that are enshrined in normative legal acts are legal concepts related to the nomenclature of administrative law. It is only about concepts that, firstly, were necessarily developed by the science of administrative law (for example, "economic rights", "economic administrative legal relations", "economic foundations of local self-government", etc.) and, secondly, were officially supported at the legislative level (for example, the concepts of "economic competition" or "economic violence" are used even when qualifying unlawful acts as administrative offences) (The Verkhovna Rada of Ukraine, 1984).

Sixth, the nomenclature of the science of administrative law consists of legal and non-legal concepts. It is clear that legal concepts are developed either by legal science or directly by the science of administrative law (for example, "economic rights of a person"). The peculiarity of such concepts is that they lose a reason for their existence outside legal consciousness. However, non-legal concepts are also used in the science of administrative law. This is due to the fact that it studies administrative law phenomena in close connection with other political or socio-economic processes occurring in society (for example, demand). As a result, explanation of legal or law-related situations requires the use of non-legal terminology. O. I. Mykolenko emphasises that the use of non-legal concepts (e.g., economic, moral, technical, etc.) in the science of administrative law is due to the

laws of social development in general. According to O. I. Mykolenko (2010), the only prerequisite for this is the coherence of non-scientific concepts with scientific ones and their appropriate coordination.

Seventh, the nomenclature of the science of administrative law should be a holistic, systematic and logical formation. Such logicality, systematicity and integrity is manifested in the fact that all categories of administrative law should be closely interrelated and have a logical hierarchical structure. As an example, when it comes to administrative law phenomena related to economic phenomena and processes occurring in society, the hierarchical subordination of the concepts of administrative law science can be represented as follows: "public administration of the economy" – "public administration of finance" – "financial control". In other words, the first concept is a generalised one for all the others in the list. Each subsequent concept is more specific in relation to the previous one. Thus, the consistency, hierarchy and systematic nature of the administrative and legal nomenclature is ensured and maintained.

Conclusions

At the current stage of development of administrative law, economic sciences have a significant impact on the formation of its nomenclature. This has numerous positive consequences for the development of administrative law science and administrative legislation: 1) administrative and legal regulation and public administration carried out in the field of economics, taking into account the achievements of economic sciences to increase the efficiency in the relevant field of both administrative law and the activities of public administration entities; 2) maximum satisfaction of economic interests and the realisation of economic human rights in administrative and legal relations; 3) the actual implementation of the human-centred concept in relations between public administration entities and individuals when it comes to the provision of public services in the field of economic activity; 4) a harmonious combination of the achievements of economic sciences and administrative law, which complement each other in a certain way.

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