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SCIENTIFIC AND PRACTICAL ANALYSIS OF ADMINISTRATIVE JURISDICTION IN THE LIGHT OF ADOPTION OF THE NEW CODE OF ADMINISTRATIVE PROCEDURE OF UKRAINE

Summary

The article illustrates the results of scientific and practical analysis of the institute of administrative jurisdiction under the new rules of administrative legal proceedings of Ukraine. The investigation and clarification of the essence and content of the subject-matter, instance, and territorial jurisdiction (original jurisdiction) of administrative courts of Ukraine in the light of the adoption of the new Code of Administrative Procedure of Ukraine were carried out. In particular, it analysed individual cases which are subject to the jurisdiction of administrative courts. The scope of powers of a competent court of each court branch for the consideration and resolution of administrative cases in the first, in appellate and cassation instances is considered and determined. The new general rules of territorial jurisdiction were studied, in particular, the peculiarities of jurisdiction at the choice of a plaintiff, at the place of residence or the location of a defendant, exclusive jurisdiction were considered. The research was conducted taking into account changes that were introduced into administrative procedural legislation in the context of judicial legal reform in Ukraine.

Now, Ukraine is in a difficult but necessary process of reforming all social spheres, in particular, system improvement and qualitative transformation in the judicial field. Ratified Association Agreement between the European Union and the European Atomic Energy Community and their Member States (hereinafter referred to as «Agreement»), Ukraine undertook a commitment towards the actual implementation of international obligations at the domestic level, as well as the inclusion of international legal norms in the national legal system [1, p. 227]. According to Art. 14 of the Agreement, Ukraine shall strengthen cooperation in the field of justice, freedom and security: strengthening the judiciary, improving its efficiency, guaranteeing its independence and impartiality, combating corruption on the basis of the principle of respect for human rights and fundamental freedoms in order to ensure the rule of law [2]. Adoption of a number of legal acts, in particular, Justice Sector Reform Strategy 2015–2020 [3], the Law of Ukraine «On the Judiciary and Status of Judges» dated June 2, 2016, № 1402-VIII

(hereinafter the Law № 1402-VIII) [4], the Law of Ukraine «On Amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine and other Legislative Acts» № 2147-VIII dated October 3, 2017 [5] made significant amendments in administrative procedure too. In particular, the study of new subject-matter, instance and territorial jurisdiction of administrative courts deserves considerable attention, and the research of its essence is particularly topical in the context of judicial and legal reform. Judicial reform is one of the most urgent reforms that should be implemented as soon as possible. Its result lays in guaranteeing an effective administration of justice in Ukraine, free access to it, impartial and fair settlement of legal disputes on the basis of the rule of law.

The study of individual issues of administrative jurisdiction was carried out by well-known researchers such as V. Averianov, V. Bevzenko, Yu. Bytiak, V. Zui, T. Kolomoiets, V. Kolpakov, R. Kuibida, A. Osadchyi, O. Panchenko, O. Paseniuk, Yu. Pedko, D. Prytyka, M. Smokovych, M. Tsurkan, V. Stefaniuk, V. Shyshkin, and others. But along with this, taking into account the diversity and depth of conducted researches as well as the significant changes that were made in the administrative procedure legislation in the process of judicial system reform, the essence and content of subject-matter, instance, and territorial jurisdiction (original jurisdiction) of administrative courts of Ukraine need additional research and clarification.

Essence and content of the subject-matter jurisdiction of administrative courts in Ukraine

The jurisdiction of administrative cases is determined due to a set of legal features (properties) of a case on the basis of which the law determines a court that have the right and obligation to consider such case and resolve it. In addition, the jurisdiction of a case is determined by the following criteria which characterize the types of jurisdiction of cases as follows: 1. Subject of a trial – issue of law; 2. Subjective membership of the parties of a dispute; 3. Instance structure of the judicial system; 4. Territory which is covered by the court activities.

In accordance with these criteria for the division of competences of different courts, it is distinguished the following types of administrative jurisdiction: a) subject-matter; b) subjective; c) instance; d) territorial.

Considering the first criterion of administrative jurisdiction – issue of law (subject-matter administrative jurisdiction), it should be noted that this dispute is directly related to public-legal relations.

That is, subject-matter administrative jurisdiction is one of the main elements, which makes the distinction between administrative legal proceeding and other types of legal proceeding (civil, commercial, criminal, constitutional). The law indicates which categories of cases are subject to administration of this type of court.

Therefore, Art. 19 of the Code of Administrative Procedure of Ukraine (hereinafter referred to as CAPU) specifies the categories of administrative cases that fall into the competence of administrative courts in public-law disputes, the consideration of which, in turn, relates to the jurisdiction of administrative courts.

At the same time, in accordance with p. 2 para. 1 of Art. 4 of CAPU, public legal dispute is a dispute in which:

– even if one of party carries out governmental administrative functions, including for the performance of delegated powers, and a dispute arose in connection with the execution or non-execution by such party of specified functions; or

– even if one of party provides administrative services on the basis of legislation that authorizes or obliges to provide such services exclusively to the subject of authoritative powers, and a dispute arose in connection with the provision or non-provision by such party of specified services; or

– even if one party is the subject of an election process or referendum process, and a dispute arose in connection with the violation of its rights in such process by the party of subject of authoritative powers or other person [6].

At the same time, Article 19 of CAPU specifies and provides a list of public legal disputes submitted to administrative court for resolution.

Thus, disputes between natural or legal persons with the subject of authoritative powers regarding the appeal of its decisions, actions or inactivity, except for cases when the law establishes a different procedure for court proceedings for the consideration of such disputes, are resolved within the ambit of administrative proceedings.

Therefore, it is logical to include issues regarding the legitimacy (except the constitutionality) of bye-laws of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Verkhovna Rada of the ARC to the jurisdiction of administrative courts, as well as the legality and compliance with the legal acts of higher legal force of legal acts of ministries, other central executive bodies, the Council of Ministers of the ARC, local state administrations, local self-government bodies, and other bodies of authoritative power. [7].

In addition, the jurisdiction of administrative courts may be established by law, in particular Art. 23 of the Law of Ukraine dated January 13, 2011, № 2939-VI «On Access to Public Information» [8], Art. 28 of the Law of Ukraine dated March 22, 2012 № 4572-VI «On Public Associations» [9], p. 2, Article 74 of the Law of Ukraine dated June 2, 2016, № 1404-VIII «On Enforcement Proceedings» [10], etc.

For example, administrative courts also consider cases in the field of national assistance to economic entities, as it is indicated in p. 3 of Art. 14, Art. 17 of the Law of Ukraine «On State Aid to Undertakings», № 1555-VII dated July 1, 2014, which came into force on 02.08.2017 [11].

Despite the fact that significant changes have recently been made to the CAPU, in practice many questions arise as to the delimitation of the jurisdiction of certain categories of disputes between courts of different competence.

Thus, there are difficulties in determining the jurisdiction of disputes regarding the acceptance of citizens for the public service, its implementation, and dismissal from the public service. In our opinion, the content of such disputes is disclosed through the definition of public service (para. 17 p. 1. Art. 4 of the CAPU), which is an activity in state political positions, in state collegial bodies, professional activity of judges, prosecutors, military service, alternative (non-military) service, other civil service, executive support service in state bodies, service in the ARC authorities, local self-government bodies. That is why such disputes are public-law, not related to labour ones and governed by the norms of administrative law.

Disputes arising due to with conclusion, execution, termination, cancellation or recognition of administrative agreements as invalid are also settled within the framework of administrative proceedings.

In accordance with para. 16 p. 1 Art. 4 of CAPU, an administrative agreement is defined as a joint legal act of the subjects of authoritative powers or a legal act with the participation of a subject of authority and other person, which is based on their consent, has the form of a contract, agreement, protocol, memorandum, etc., defines mutual rights and duties of its participants in the field of public law and is concluded in accordance with of the law.

CAPU also gets into specifics fields and purpose of conclusion of an administrative contract, which serves: a) to distinguish the competences or determine the procedure for interaction between the subjects of authoritative powers; b) to delegate governmental functions; c) to redistribute or combine budget funds in cases specified by law; d) instead of issuing an individual act; e) to regulate issues of providing administrative services [6].

Currently, according to some research, there is a lack of a category of cases in administrative courts procedure over disputes arising in connection with the conclusion, execution, termination, cancellation or recognition of administrative agreements as invalid. Thus, at this stage of development of public relations, it makes sense to speak only about the presence of certain signs of administrative agreements in relations between governmental and non-governmental organizations regarding administrative and legal regulation in the field of transport and communication, in the field of construction and housing and municipal services, in the field of environmental protection, in the field of social policy, in the field of healthcare, education and science, culture, youth policy, physical culture and sports. So, we can speak about the presence of the principles of contractual relations of public administration in the social and humanitarian and cultural activities of the state, and consequently define an administrative contract as a form of public administration [12, p. 62-63]. Normative and legal acts in legal relations related to the electoral process or referendum process are Laws of Ukraine «On Elections of the President of Ukraine» dated March 18, 2004 № 1630-IV [13], «On Elections of People's Deputies of Ukraine» dated November 17, 2011 № 4061-VI [14], «On All-Ukrainian Referendum» dated November 6, 2012 № 5475-VI [15] and other normative-legal acts that determined the stages (the beginning, passing and end) of the electoral process and the referendum process. Art. 99 of the Law of Ukraine «On Elections of the President of Ukraine» establishes that decisions, actions or inactivity of election commissions, members of these commissions, executive authorities, the ARC authorities, local self-government bodies, mass media, enterprises, institutions, organizations, their officials, creative media workers, candidates for the post of President of Ukraine, their trustees, parties – subjects of the election process, their officials and authorized persons, official observers who violate election legislation can be challenged in pretrial manner in the procedure that is specified by CAPU [13].

Some disputes in the field of legal relations related to the electoral process or referendum process can be categorized as disputes with the subject of authoritative powers regarding the appeal of its decisions, actions or inaction. At the same time,

disputes, in particular regarding the appeal of decisions, actions or inactivity of election commissions or referendum commissions that arose outside the stages of election process and referendum process or are not related to the electoral process or referendum process, do not belong to disputes related to the electoral process or referendum process, that is why the definition of the jurisdiction of such disputes and their consideration are carried out in the general order.

Disputes concerning legal relations related to the electoral process or referendum process can include disputes over: 1) appeals of decisions, actions or inactivity of election commissions, referendum commissions, members of these commissions (Article 273 of CAPU); 2) clarification of the list of voters (Article 274 of the CAPU); 3) appeals of decisions, actions or inactivity of executive bodies, local self-government bodies, mass media, news agencies, enterprises, institutions, organizations, their officials and officers, creative media workers and news agencies that violate election and referendum law (Article 275 of the CAPU); 4) appeals against actions or inaction of candidates, their trustees, a party (bloc), local party's organization, their officials and authorized persons, initiative referendum groups, other parties of initiation of a referendum, official observers from the subjects of the electoral process (Article 276 of CAPU); 5) the election of the President of Ukraine (Article 277 of CAPU).

P. 2. Art. 19 of CAPU determines cases in public-law disputes which are not subject to the jurisdiction of administrative courts.

According to para. 5 of the Resolution of the Plenum of the Supreme Administrative Court of Ukraine № 8 dated May 20, 2013 «On Issues of the Jurisdiction of Administrative Courts», public-law disputes concerning the constitutionality of laws, international treaties, by-laws of the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Verkhovna Rada of the ARC belong to the jurisdiction of the Constitutional Court of Ukraine [16].

In accordance with para. 1 p. 2 of Art. 19, para. 1 Art. 264 of CAPU, the jurisdiction of administrative courts involves the issue of the legitimacy (except constitutionality) of the resolutions and ordinances of the Cabinet of Ministers of Ukraine, resolutions of the Verkhovna Rada of the ARC, as well as the legitimacy and compliance with the legal acts of higher legal force of the normative legal acts of ministries and other central executive authorities, Council of Ministers of the ARC, local state administrations, local self-government authorities, other subjects of power.

The jurisdiction of administrative courts does not cover cases that must be settled in the framework of criminal procedure (they must be decided according to the norms of the Criminal Procedure Code of Ukraine) and concerning imposition of administrative penalties (they should be decided according to the norms of the Code of Ukraine on Administrative Offenses). At the same time, in accordance with CAPU, a public-legal dispute is not any public-legal dispute, but only one that emerges from exercising by the subject of authoritative powers of its authoritative management functions. Agencies of inquiry, investigation and public prosecution service verifying crime report and its solution perform non-government management functions, but power procedural functions.

Therefore, taking into account the provisions of CAPU, such disputes do not arise from the exercise of authoritative management functions by the subjects of authoritative powers, and therefore they do not belong to the jurisdiction of administrative courts [17] and do not fall within the definition of cases belonging to para. 1 p. 1 Art. 19 of CAPU connected with disputes of natural or juridical persons with a subject of authority to appeal its decisions, actions or inactivity.

The competence of administrative courts does not apply to cases concerning relations, which according to the law, statute (regulation) of a public association, self-regulatory organization are attributed to its internal activity or exclusive competence, except cases in disputes specified in paragraphs 9, 10, part 1 of these articles (so, such exceptions are disputes concerning the appeal of decisions of attestation, competition, medical and social expert commissions and other similar bodies whose decisions are mandatory for state authorities, bodies of local self-government, others, and disputes concerning the formation of team of the state bodies, local authorities, election, appointment, dismissal of their officials).

In accordance with para. 3 Art. 19 of CAPU, administrative courts do not consider claims that are derived from requirements in a private-law dispute and declared with them, if this dispute is subject to consideration in order of other, than administrative, proceeding and is under consideration of a relevant court. Para. 23 Art. 4 of CAPY defines a derivative claim as a demand, the satisfaction of which depends on satisfaction of another claim (main requirement).

Taking into account the abovementioned, it may be concluded that the subject-matter jurisdiction is a fundamental in determining the jurisdiction of a dispute. Therefore, when answering a question which court (with general jurisdiction, administrative or economic) will consider a dispute, the content of the violated right should be taken into account.

Instance jurisdiction of administrative courts in the context of judicial and legal reform in Ukraine

In the modern conditions, significant changes touched the instance jurisdiction for which amended CAPU has a separate paragraph 2, arts. 22–24. Only one article was previously devoted to the definition of the instance jurisdiction, and it was defined as an instance of original jurisdiction in administrative cases. The essence of full jurisdiction was investigated by researchers in various aspects. Full jurisdiction is understood as an institution of administrative procedure law, the rules of which, depending on the set of features and properties of an administrative case, the jurisdiction of a court and other criteria determine in which administrative court and in which composition of this court it should be considered in the first, appeal or cassation instance [18, p. 19]. Another researcher defines the essence of instance original jurisdiction as a correlation of cases and courts on the basis of such mark as a place of court in the competence hierarchy, that is, he delimits the competence of administrative courts of different levels (first, appeal and cassation instances) [19, p. 29].

The purpose of the instance original jurisdiction is to determine equal opportunities for appealing judicial decisions for each administrative case, in another words to prognosticate the same number of courts that a person's right to appeal and

review of the court judgment is not unreasonably restricted, and the original jurisdiction of several interconnected requirements – to ensure the unification of several requirements, which should be considered within the framework of administrative procedure in one proceeding. (20, pp. 250–251).

Thus, judicial authority is a judicial body as a whole or its structural unit, which performs a certain procedural function in the administration of justice. Courts vary in terms of procedural powers towards disputes resolution. It is distinguished the court of first instance, the court of appeal, the court of cassation.

The courts of first instance perform the function of considering and deciding a case on the merits. Courts of appeal review cases in appellate order, court of cassation – in cassation order. Each following court is a court with more powers in relation to the court that previously ruled. For example, the court of appeal is superior to the trial court. The court of cassation is superior to the court of appeal.

As a result of the judicial system reform the legislation, in particular p. 3 Art. 17 of the Law № 1402-VIII, established three-level judicial system of Ukraine consisting of local, appellate courts and the Supreme Court [4]. For the consideration of certain categories of cases in the judicial system there are higher specialized courts as the Supreme Court on Intellectual Property, the Supreme Anticorruption Court, they exercise their powers as trial courts and appellate courts for a consideration of certain categories of cases.

Local courts are trial courts dealing with and settling cases on the merits. According to Art. 21 of the Law No. 1402-VIII, local courts of general jurisdiction are district courts which are formed in one or several regions or districts in cities, or in a city, or in a district (districts) and city (cities). Local administrative courts are district administrative courts, as well as other courts, defined by procedural law, that is, CAPU [4].

Art. 22 of CAPU established rules of the instance jurisdiction of administrative cases, which constitute an algorithm for determining the competent court for a consideration and resolution of a particular administrative case. Thus, according to p. 1 Art. 22 of CAPU, trial courts include local administrative courts (local general courts as administrative courts and district administrative courts) that decide administrative cases, except cases specified in parts 2–4 of this article [6].

In addition to local administrative courts, the courts of first instance in administrative procedure include Kyiv Administrative Court of Appeal, Administrative Court of Appeal and Supreme Court which deal with separate cases.

According to p. 2 Art. 22 of CAPU, Kyiv Administrative Court of Appeal as a trial court deals with cases concerning appeals against decisions, actions and inactivity of the Central Election Commission (peculiarities of proceedings in such cases – Article 273 of CAPU) (except for those which are specified in part four of this article), actions of candidates for the post of President of Ukraine, their trustees (peculiarities of proceedings in such cases – Article 277 of CAPU). In accordance with p. 3 Art. 22 of CAPU, as courts of first instance, administrative courts of appeal deal with cases over claims for a condemnation proceeding on grounds of public necessity of a land plot, other objects of real estate, which are located on it. (The peculiarities of proceedings in such cases, Article 267 of CAPU).

Cases concerning the establishment of election results or an all-Ukrainian referendum (peculiarities of proceedings in such cases, Article 273 of CAPU) by the Central Election Commission, cases of the claim for early termination of the powers of a people's deputy of Ukraine (peculiarities of proceedings in such cases, Article 285 of CAPU), as well cases concerning the appeal of acts, actions or inactivity of the Verkhovna Rada of Ukraine, the President of Ukraine, the High Council of Justice, the High Qualifications Commission of Judges of Ukraine, Qualifications and Disciplinary Commission of Public Prosecutors (peculiarities of proceedings in such cases, Article 266 of CAPU) is carried out by the Supreme Court of Ukraine as a trial court in considering these cases.

Courts of appeal act as courts of second instance, and in cases specified by procedural law, as courts of first instance, for consideration of civil, criminal, economic, administrative cases, as well as cases of administrative offenses.

According to art. 26 of the Law, courts of appeal for the consideration of cases of administrative offenses are courts of appeal that are formed in appeal districts. And courts of appeal for a consideration of administrative cases are administrative courts of appeal that are formed in the respective appeal districts.

The main task of a court of appeal is to verify the legality and validity of the decision of the court of first instance within the framework of the arguments of the appeal petition and claims made in the court of first instance.

Thus, in accordance with p. 1 Art. 23 of CAPU, administrative courts of appeal reconsider court decisions of local administrative courts (local courts of general jurisdiction as administrative courts and district administrative courts), which are within their territorial jurisdiction, in appeal proceedings as courts of appeal.

The Supreme Court of Ukraine, which is the superior court in the judicial system of our state too, has a special status in the system of legal proceedings. As a rule, the Supreme Court carries out justice as a court of cassation, that is, it reconsiders court decisions of local courts and administrative courts of appeal in cassation procedure as cassation court (according to Art. 24 of the CAPU), and in cases specified by procedural law as the court of the first (Art. 22 CAPU) or appeal instance, in accordance with the procedure established by the procedural law.

According to p. 2 Art. 23 of CAPU, in cases determined by the CAPU, the Supreme Court reconsiders judicial decisions of an administrative court of appeal as a court of second instance in appeal order. That is, the Supreme Court reconsiders decisions of appeal courts in appeal procedure, which they have adopted as courts of first instance that is in p. 2 Art. 292 of CAPU. It is referred to cases of complaints for condemnation proceeding on grounds of public necessity of the land plot, other objects of real estate, which are located on it (p. 3 Art. 22 of the CAPU).

In accordance with p. 3 Art. 23, in cases determined by CAPU (p. 4, Art. 22 of CA3U), the Grand Chamber of the Supreme Court reconsiders judgments, in appeal procedure as court of appeals, in cases considered by the Supreme Court as a court of first instance.

Consequently, rules of instance jurisdiction are an algorithm for determining a competent court for a consideration and resolution of a particular administrative case. Determination of instance jurisdiction gives the answer to the questions, which courts

are dealing with cases in the first instance and which in appeal and cassation instances. CAPU establishes which of the procedural actions has the right to conduct this court, that is outlines its functions. Thus, the instance jurisdiction determines the scope of powers of each branch of the unified judicial system of Ukraine: local courts, courts of appeal and the Supreme Court.

New rules of territorial jurisdiction (original jurisdiction) of administrative cases in Ukraine

The territorial jurisdiction divides the competence for reviewing and resolving administrative cases for claims between courts of one level, depending on the territory to which their powers apply. It personifies courts for a consideration of cases, determines which particular court may consider a particular case at first instance.

It is determined that territorial original jurisdiction establishes the correlation of cases and courts on the basis of such peculiarity as the place of hearing of the case, that is, it specifies which administrative court may consider a particular administrative case at the first instance [19, p. 39]. The main purpose of territorial original jurisdiction is to establish a distinction between the competences of administrative courts of the same level depending on the place of consideration of administrative cases [20, p. 250].

The territorial jurisdiction of administrative cases is established by the rules of Article 25 of CAPU where original jurisdiction of cases is at the choice of a plaintiff. Thus, according to the aforementioned article, lawsuits concerning the appeal of individual acts, as well as actions or inactivity of the subjects of authority that were adopted (committed, admitted) in relation to a particular natural or legal person (their associations), are made at the choice of the plaintiff to the administrative court:

- either at the place of residence of a plaintiff (in relation to whom individual appealed acts were performed, actions were taken, or there was inactivity on the part of subjects of authoritative powers;

- or at the location of the defendant, except for cases determined by CAPU. (For example, administrative cases with exclusive jurisdiction, Art. 27 of CAPU).

In accordance with p. 1 of Art. 26 of CAPU, in the case if defendant is a natural entity, the claim shall be submitted to the relevant court at the place of official registration. That is, it is necessary to indicate information about the registration of a natural person, the definition of which is contained in para. 11 Art. 3 of the Law of Ukraine «On Freedom of Movement and Free Choice of Place of Residence in Ukraine» № 1382-IV dated December 1, 2003, (last edition), according to which registration is information entering in the register of the territorial community, documents which are filled with information about the place of residence / location of the person with the indication of the residence address / location area, with the subsequent submission of the relevant information to the Unified State Demographic Register in accordance with the procedure established by the Cabinet of Ministers of Ukraine.

In the case of filing a claim to juridical persons, such actions are brought to an administrative court at the location of legal entities – defendants, according to the

data of the Unified State Register of Legal Entities, individuals – entrepreneurs and public formations.

According to Art. 93 of the Civil Code of Ukraine dated 16.01.2003 № 435-IV, a location of legal entity is the actual place of business or office location, from which the daily management of the legal entity activity is conducted (there are mainly executives) and the administration and accounting are carried out.

Law of Ukraine «On State Registration of Legal Entities, Individual Entrepreneurs and Public Organizations» dated 15.05. № 755-IV of 2003 stipulates that information concerning the location of a legal entity is entered into the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations, on the basis of information which is provided by legal entities to the state registrar (for example, during the state registration of a legal entity). That is, information on the location of a legal entity is used by the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organizations.

CAPU also established the rules of exclusive original jurisdiction. The exclusive territorial jurisdiction determines which court will consider a case in certain non-typical cases, which are directly provided in Art. 27 of CAPU. Thus, p. 1 Art. 27 of CAPU defined categories of administrative cases in which a plaintiff must make a claim exclusively to the district administrative court, whose territorial jurisdiction extends to the city of Kyiv.

For example, since 02.08.2017, three years after the publication of the Law of Ukraine «On State Aid to Undertakings», the provisions of p. 1 Art. 27 of CAPU were put into effect in relation to the original jurisdiction of cases in disputes concerning appeals against decisions in the field of state aid to economic entities and administrative cases on the suit of the Antimonopoly Committee of Ukraine in the area of state aid to economic entities. So, the consideration of these cases is carried out by the district administrative court, the territorial jurisdiction of which extends to the city of Kyiv.

In addition, p. 3 Art. 27 of CAPU provides special rules of territorial jurisdiction of certain categories of administrative cases, it is consolidated in Chapter 11 of Section II of CAPU:

- cases concerning the appeal of decisions, actions or inactivity of election commissions, referendum commissions, members of these commissions whose territorial jurisdiction is appealed to the Supreme Court, the Kyiv Administrative Court of Appeal (p. 3 Art. 273 of CAPU), the district administrative court at the location of the relevant commission (p. 4 Art. 273 of CAPU), the local court of general jurisdiction as an administrative court at the location of the relevant commission (p. 5 Art. 273 of CAPU);

- cases concerning the specification of voters' list are considered by the local court of general jurisdiction as an administrative court at the location of the relevant commission (p. 2 Art. 274 of CAPU);

- cases concerning appeal against decisions, actions or inactivity of executive authorities, bodies of local self-government, mass media, news agencies, enterprises, institutions, organizations, their officials, creative media workers and news agencies that violate election and referendum law: – a claim concerning the appeal of

decisions, actions or inactivity of executive authorities, local self-government bodies, their officials and officers is submitted to the district court at the location, – a claim concerning actions or inactivity of the mass media, news agencies, enterprises, institutions, organizations, their officials and officers, creative media workers and news agencies violating election and referendum law is submitted to a local general court as an administrative court at their location (p. 3 Art. 275 of CAPU);

– cases concerning the appeal of actions or inactivity of candidates, their trustees, party (bloc), local organization, their officials and authorized persons, initiative referendum groups, other subjects of referendum's initiation, official observers from the subjects of the election process, – a claim is submitted to the local general court as an administrative court at the location of the territorial election commission, which registered a candidate (p. 4 Art. 276 of CAPU);

– cases related to the election of the President of Ukraine: – actions of candidates for the post of President of Ukraine, their trustees are appealed in the Kyiv Administrative Court of Appeal (p. 7 Art. 277 of CAPU); – decisions, actions or inaction of the district election commission and its members may be appealed to the administrative court at the location of the district election commission (p. 8 Art. 277 of CAPU), – decisions, actions or inactivity of the district election commission or a member of such commission may be appealed to the district administrative court at the location of district election commission (p. 9 art. 277 of CAPU);

– cases of administrative lawsuits concerning the elimination of obstacles and the prohibition to interfere in exercising the right to freedom of peaceful assembly are considered by the administrative court at the venue of these events (p. 1 Art. 281 of CAPU);

– cases concerning the secured provisions of defense's needs are considered exclusively by the district administrative courts at the location of the defendant (p. 2 Art. 282 of CAPU) [6].

The rule of territorial original jurisdiction of administrative cases for their review in an appeal procedure is fixed in Art.23 of CAPU. In accordance with it, the judicial decision of the local administrative courts is reviewed by an administrative court of appeal, the territorial jurisdiction of which covers a relevant local administrative court. The territorial jurisdiction of administrative courts of appeal is established by the Decree of the President of Ukraine «On Establishment of Local Administrative Courts, Approval of their Network» as revised 29.12.2017.

Within the framework of judicial reform, the President of Ukraine issued the Decree «On Liquidation of Administrative Courts of Appeal and Formation of Administrative Courts of Appeal in Appellate Districts» № 455/2017 dated 29.12.2017 concerning the reorganization and liquidation of administrative courts of appeal. Therefore, 9 administrative courts of appeals were liquidated, and 8 administrative courts of appeal were established in appellate districts. Now, for example, the Second Administrative Court of Appeal in appellate district was established on a territorial basis, which includes Poltava, Sumy and Kharkiv regions, with its location in Kharkiv [21].

Consequently, the powers of administrative courts are limited not only by the extent of their powers, but also by the territory in which such powers can be

exercised. Such a delimitation of the competence of the judicial authorities is called territorial jurisdiction or original jurisdiction.

In general, the rules of territorial jurisdiction are less strict than the rules of subject-matter jurisdiction. It is considered that the level of the court is proper, but as a result of non-compliance with the rules of territorial jurisdiction, additional inconveniences may be created, but they do not influence a content of decision objectively.

Conclusion:

Taking into account the abovementioned, it may be concluded that the changes in the CAPU, in particular, the institute of administrative jurisdiction, are aimed at adhering to the modern principles of the doctrine of administrative law and judicial doctrine. In fact, the doctrine of administrative law in Ukraine provides a new understanding of «publicity», which is characterized by service to mankind, a return to basic human values, the recognition and consolidation of natural human and civil rights.

CAPU significantly specified and extended the list of cases which are subjected to the jurisdiction of administrative courts, and the division of the subject-matter jurisdiction of administrative courts is carried out. There is a distinctive cross from the subjective principle of delimitation of administrative jurisdiction to subject-matter.

It should be noted that the list of terms was expanded in CAPU, and their definition were specified, which improves and facilitates administrative court procedure. A separate novel of updated CAPU is that a court can itself send to another court an administrative case which is not under jurisdiction territorially, which facilitates access to justice, promotes greater openness of the court and public's confidence in justice as a whole.

In such a manner, the ways of the implementation of administrative legal proceedings are established in law: well-timed and effective protection of the rights, freedoms and interests of individuals, rights and interests of legal entities from violations on the part of the subjects of authoritative powers. Although, we note that in practice many questions arise regarding the interpretation and application of the updated rules of CAPU, and it requires the further individual detailed research.

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**ADMINISTRATIVE AND LEGAL COMPONENT
OF THE CONCEPT OF PROVISION OF PUBLIC SERVICES
IN UKRAINE (ACCORDING TO THE RESULTS
OF SOCIOLOGICAL SURVEY)**

Summary

The paper defines the main theoretical aspects of the concept of public services in Ukraine. It is substantiated the expediency of the development of a unified concept of public services as a basic document for the modern domestic rule-making process aimed at developing modern legislation on public services, which is perfect in content and effective in application, and also for the elaboration of its scientific basis – the provisions of modern national administrative-legal science.

It is developed a version of the Concept of public services, its content is covered. The proposed version contains three sections: Section I «General provisions» defines the main conceptual framework, raises problems, establishes purpose, tasks, terms of implementation of the Concept of public services; Section II «Ways and methods of problems solving, terms of implementation of the Concept of public services in Ukraine» specifies particular measures that must be taken to achieve the goal and