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ADMINISTRATIVE PROCEEDINGS IN UKRAINE: THE ROLE OF RECONCILIATION OF THE PARTIES IN THE CONDITIONS OF EUROPEAN INTEGRATION

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INTRODUCTION

The parties to a public legal dispute in practice quite rarely use an attempt to reconcile, namely the reconciliation of the parties in administrative proceedings cannot fully reveal its potential, reveal its social and legal significance, in particular, in the form of reducing the level of conflict in public-legal relations, as well as relieving administrative courts, which has been relevant for a long time the problem of functioning of these courts.

Reconciliation of parties in administrative proceedings is an attribute of a modern democratic and legal state. Therefore, enshrining this institution in the administrative legislation of Ukraine will contribute to the further development of Ukraine as a modern civilized state, which can satisfy its own European integration ambitions in the future. In addition, the studied phenomenon is characterized by a significant socio-legal significance, which is manifested in the fact that the reconciliation of the parties in administrative proceedings, in particular:

1) makes the practice of peaceful dispute resolution customary;

2) helps to save money and time resources of the parties to the dispute and the court;

3) contributes to the further evolution of justice in the state.

At the same time, the appropriate positive effect of reconciliation can be achieved if it is characterized by the following essential features:

1) will be based on the system of general, special and special principles and will be regulated by the norms of the Code of Administrative Procedure of Ukraine, the legislation of Ukraine;

2) will be guaranteed by the state and objectified only if there are necessary grounds and conditions;

3) will be a form of legal consensus, which will testify to the pluralistic tendency to expand the methods of resolving public legal disputes, and as a fact will be legalized within the framework of a special judicial procedure for resolving the dispute;

4) will be objectified as a reconciliation procedure, a reconciliation agreement (settlement agreement) and a legal fact resulting from the exercise of the right to conclude a reconciliation agreement;

5) will be characterized by a special subject composition;

6) will allow going beyond the scope of the dispute without violating the principle of legality, rights or legitimate interests of third parties.

The purpose of the reconciliation of the parties in the administrative proceedings of Ukraine is manifested in the effective resolution of the material-legal dispute through conciliation, where the effective resolution of the dispute is a fait accompli. The actual achievement of this goal takes place within the framework of the implementation of a set of reconciliation tasks, in particular:

1) creation of favorable conditions for constructive dialogue between the parties to the dispute;

2) carrying out negotiations and outlining a realistic model of mutual concessions;

3) awareness of the reconciliation terms worked out by the parties and their submission for approval;

4) assessment by the court of the application for reconciliation and its approval (or refusal to approve);

5) fulfillment of the terms of reconciliation approved by the court.

1. The concept and socio-legal value of the reconciliation of the parties in the administrative judiciary of Ukraine

There is no definition of the concept of "reconciliation" in Ukrainian legislation. Critically analyzing the special scientific literature, we can note that in the available works of scientists, a certain scientific vision of the mentioned phenomenon is revealed, which is mainly interpreted by them as:

1) "the latest alternative way of resolving disputes in court proceedings, which has significant advantages, namely: voluntary participation in such a procedure; its speed and high efficiency, as the parties can agree on a mutually beneficial result"[1];

2) "a complex, interdisciplinary legal institute that combines the norms of administrative law and administrative procedural law into an organizationally defined structure based on their focus on the peaceful settlement of an administrative-legal dispute in court"[2];

3) "on the one hand, the agreement between the parties on the termination of a public-law dispute, and on the other – the settlement of material (positive)

[1] Грицаєнко О. Л. До питання альтернативних способів врегулювання публічно-правового спору. *Наукові записки Львівського університету бізнесу та права. Серія : Юридична.* 2019. Т. 23. С. 126.

[2] Сидельніков О. Д. Інститут примирення сторін в адміністративному судочинстві : дис. … канд. юрид. наук: 12.00.07. Харків, 2017. С. 7.

public-law relations"[3]. In this sense, there is a certain ambivalence of reconciliation, which scientists draw attention to, pointing out that reconciliation is a concept of non-legal origin. However, given its current legal connotation, it can be concluded that the concept of conciliation "has an internal ambivalence, as it defines both the procedure to be followed in order to be able to put an end to the dispute, and the very consequences of the agreement"[4];

4) "the procedural legal fact of reaching an agreement between the parties to an administrative-legal dispute, which is manifested in their mutual willingness to conduct a reconciliation procedure, conclude a settlement agreement and submit it to the court for approval"[2];

5) "a polymorphic and multidisciplinary procedure capable of taking the most diverse forms, always trying to achieve the same result – a settlement agreement between the parties to the dispute – and capable of adapting to all types of disputed issues"[4], in particular, to most public legal disputes.

It is worth agreeing with the opinion of I. O. Koretskiy that "reconciliation of the parties is one of the forms of legal consensus, an expression of the principle of dispositiveness, which is reflected in various forms of judicial proceedings"[5].

At the same time, given the fact that people are characterized by different levels of conscientiousness, legal culture and legal awareness, as well as the inconsistency of their understanding of certain actions and events, the need for the consensus reached by the parties to the dispute to acquire a certain status that will allow the parties to the dispute, who have reconciled, can count on the state guaranteeing the fulfillment of the terms of reconciliation. Therefore, the conciliation of the parties in administrative proceedings involves the mandatory "legalization" of the reached terms of reconciliation, namely the approval of such terms by the court, regardless of whether the

[3] Плугатар Т. А., Катаєва Е. В. Напрями вдосконалення правового регулювання юрисдикції адміністративних судів України. *Наука і правоохорона*. 2016. № 4. С. 86.

[4] Joly-Hurard J. Conciliation et médiation judiciaires. Aix-en-Provence : Presses universitaires d'Aix-Marseille, 2003. 476 p. Presses universitaires d'Aix-Marseille. URL: https://books.openedition.org/puam/.

[2] Сидєльніков О. Д. Інститут примирення сторін в адміністративному судочинстві : дис. … канд. юрид. наук : 12.00.07. Харків, 2017. С. 71.

[4] Joly-Hurard J. Conciliation et médiation judiciaires. Aix-en-Provence : Presses universitaires d'Aix-Marseille, 2003. 476 p. Presses universitaires d'Aix-Marseille. URL: https://books.openedition.org/puam/.

[5] Корецький І. О. Принцип змагальності сторін в адміністративному судочинстві : дис. … канд. юрид. наук: 12.00.07. Київ, 2017. С. 129.

parties to the dispute reached a consensus on the terms of reconciliation with or without the participation of a judge[6].

Taking into account the above, we believe that the main signs of the reconciliation of the parties in the administrative proceedings of Ukraine are the following:

1) conciliation of the parties in the administrative proceedings of Ukraine is based on the system of general, special and special principles and is regulated by the norms of the Code of Administrative Proceedings of Ukraine, other acts of administrative legislation;

2) the reconciliation of the parties in the administrative proceedings of Ukraine determines the legal consequences, is guaranteed by the state and is objectified only in the presence of the necessary grounds and conditions;

3) conciliation of the parties in administrative proceedings is a form of legal consensus, which testifies to the pluralistic tendency to expand the methods of resolving public-law disputes, and how the fact is legalized within the framework of a special judicial procedure for dispute resolution;

4) the reconciliation of the parties in administrative proceedings is objectified as a reconciliation procedure, a reconciliation agreement (settlement agreement) and a legal fact resulting from the exercise of the right to conclude a reconciliation agreement;

5) conciliation of the parties in the administrative proceedings of Ukraine is characterized by a special subject composition;

6) conciliation of the parties in the administrative proceedings of Ukraine allows to go beyond the scope of the dispute without violating the principle of legality, rights or legally protected interests of third parties.

The identified signs of the studied phenomenon allow us to understand the reconciliation of parties in administrative proceedings as based on the principles of law and norms of current legislation, a voluntary and quick way of amicable (peaceful) agreement by the parties to a public-law dispute on mutually beneficial terms of reconciliation in court (without prejudice to the idea of people-centeredness and legality), which are approved by the administrative court. The proposed definition of conciliation allows you to understand it in the contractual procedural context, which is the plane for understanding "conciliation" in its actual context, namely, as the actions of the parties to the administrative-legal dispute who have reconciled, aimed at

[6] Сливка В.В., Сливка М.М. Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві: монографія. Львів: Каменяр, 2022. С. 27.

fulfilling the conditions of reconciliation, which are set forth in the statement on the reconciliation of the parties, approved by the court decision[6].

Although the advantages of conciliation of the dispute, as well as other alternative methods of dispute resolution, are mainly connected to the fact that due to conciliation the number (duration) of legal proceedings are reduced (despite this is an important aspect), we should agree with the Spanish scholar B. Belando Garin (Beatriz Belando Garín) because the attempt to interpret conciliation only purely as an appropriate method is one of the biggest mistakes when analyzing the conciliation parties of a public-law dispute (mediation, etc.)[7]. In fact, the advantages of reconciliation are manifested in a significant social effect, which has an obvious socio-legal significance.

The specified value of the studied phenomenon is revealed in the fact that:

1) *conciliation of the parties in administrative proceedings allows to properly use the positive potential of the dispute and to settle the public legal dispute in an amicable (peaceful) manner*. The corresponding "habituation" of the practice of achieving peace cannot be underestimated in view of the fact that "the judicial decision is unsatisfactory for at least one party to the dispute, and sometimes for both parties, and the solution formed in the conciliation process returns the parties to the dispute to a peaceful relationship, which is a particularly important element when these parties are required to continue living together: a public servant who has been subject to disciplinary sanctions, but has not been dismissed from his position or transferred to another position, will have to interact with the head of the personnel department; the company will have to continue to receive contacts from the municipality; the neighbor will have to live next to the one who prevented him from building a structure"[8];

2) *conciliation of the parties in administrative proceedings saves time and money resources of the parties to the dispute and the court.* Regarding the saving of time, which is usually spent during the consideration of the case in court, it should be borne in mind that already in the preparatory session, the court in accordance with the requirements of Clause 2, Part 1 of Art. 180 of the Code of Administrative Procedure of Ukraine (hereinafter referred to as the Administrative Court of Ukraine) "finds out whether the parties wish to

[6] Сливка В.В., Сливка М.М. Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві: монографія. Львів: Каменяр, 2022. С. 30.

[7] Belando Garín B. La mediación administrativa: Una realidad jurídica. Las prestaciones patrimoniales públicas no tributarias y la resolución extrajudicial de conflictos. València : INAP, 2015. P. 266.

[8] Chabanol D. Les modes non juridictionnels de règlement des litiges en droit administratif français. *Zbornik radova Pravnog fakulteta u Splitu*. 2017. G. 54, № 1. S. 20.

resolve the dispute through conciliation or go to court to settle the dispute with the participation of a judge"[9].

That is, the parties to the dispute can use the possibility of resolving the dispute through conciliation already at the preparatory meeting and are not deprived of this right at other stages of the case (also, the parties to the dispute are not deprived of this right within the limits of appeal and cassation[6].

As for saving money, it is worth noting that in Art. 142 of the Code of Administrative Procedure of Ukraine enshrines the rule according to which the settlement of the case through conciliation is the basis for the court in the relevant ruling (or decision) in accordance with the procedure provided for by law to resolve the issue of returning 50% of the court fee to the plaintiff (complainant or applicant), paid by him when filing a lawsuit (appeal or cassation complaint). In addition, it should be borne in mind that the sooner the parties reach a consensus, the less time the court will spend on the case, which contributes to:

a) actual savings in the amount of state expenses for resolving cases in court;

b) increasing the amount of "free" time resource.

3) *the reconciliation of the parties in administrative proceedings contributes to the pluralistic increase in the degree of democratization of administrative-legal dispute resolution and the transformation of the role of the judge.* Reconciliation of the parties to the dispute, as noted by T. A. Plugatar and E. V. Kataeva, involves "changing the role of the judge from a person who imposes his decision to a person who helps the parties to resolve the dispute by reaching a mutual compromise solution". This, in their opinion, will contribute to increasing public trust in the judiciary and judges, which is of great importance today given that "Ukrainian courts have not yet become a reliable institution for the protection of citizens rights"[3]. This position is not fair enough, because judicial protection today is one of the most effective ways to protect human rights, despite the traditional problems of insufficient material and technical support of the court, as well as constant judicial reforms, which together quite often are a barrier to effective implementation the court of its human rights functions.

At the same time, it should be noted that "judicial conciliation" is currently characterized by a number of shortcomings that had to be resolved, in

[9] Кодекс адміністративного судочинства України : Закон України від 06.07.2005 № 2747-IV. URL: https://zakon.rada.gov.ua/laws/show/2747-15.

[6] Сливка В.В., Сливка М.М. Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві: монографія. Львів: Каменяр, 2022. С. 16.

[3] Плугатар Т. А., Катаєва Е. В. Напрями вдосконалення правового регулювання юрисдикції адміністративних судів України. *Наука і правоохорона*. 2016. № 4. С. 87–88.

particular, in the process of implementing the judicial reform in Ukraine in 2021. Despite this, in the specified context, it should be borne in mind that "a significant obstacle on the way to the effective application of the institution of reconciliation of the parties is the lack of an established understanding of its essence and legal nature"[2]. Therefore, there is a need to update the scientific opinion regarding the concept and socio-legal significance of the reconciliation of the parties in administrative proceedings in the conditions of the European integration of Ukraine.

2. The purpose, tasks and functions of conciliation of the parties in administrative proceedings

Reconciliation of the parties to a public-law dispute, as a complex socio-legal phenomenon, is quite justified to be reduced to the corresponding "ultimate goal" – the effective resolution of a material-legal dispute through reconciliation, where the resolution of the dispute is an accomplished fact, namely: the public-law dispute is resolved in the manner, which satisfies the parties to the dispute and exhausts the conflict between the parties.

At the same time, other approaches to understanding the goal of reconciliation are a consequence of the fragmentation of the goal of reconciliation, associated with various stages of reconciliation and the results of positive objectification of these stages, which are interpreted by scholars as a sufficient goal of reconciliation. In this context, it should be borne in mind that reconciliation in its dynamic manifestation is focused on achieving the following three main results:

1) agreement between the parties on positions acceptable to them regarding possible mutual concessions, which are fixed in the statement of reconciliation;

2) court approval of the terms of reconciliation ("according to the results of the reconciliation procedure, an intermediate stage on the way to conflict resolution is reached, which consists in the official consolidation of agreements between the participants in the legal dispute, which should subsequently lead to the termination of the dispute"[2];

3) the actual implementation by the parties of the dispute of mutual concessions, which certify the fulfillment of the reached terms of reconciliation (the above can be carried out even before the court approves the application for reconciliation, because "mutual concessions of the parties lead

[2] Сидєльніков О. Д. Інститут примирення сторін в адміністративному судочинстві : дис. … канд. юрид. наук : 12.00.07. Харків, 2017. С. 75.

[2] Сидєльніков О. Д. Інститут примирення сторін в адміністративному судочинстві : дис. … канд. юрид. наук : 12.00.07. Харків, 2017. С. 59.

to the liquidation of the conflict"[5] and testify to good intentions parties to the dispute).

Meanwhile, it should be borne in mind that reconciliation as such is interpreted by scientists as a process (the procedure for reconciling the parties to a public-law dispute, which is carried out as a result of the exercise of the right to conciliation) and a result (in the legal sense, reconciliation is ascertained on the basis of the fact of approval applications for reconciliation by a court decision that has entered into force)[3]. Taking this into account, we can come to the conclusion that, in a more precise form, the goal of the reconciliation of the parties in administrative proceedings can be considered in two contexts of the manifestation of reconciliation:

1) as a process – consists in the parties to a public-law dispute reaching a real consensus, which they voluntarily reach, exhausts the dispute and manifests itself in mutual concessions, does not contradict the legislation and does not violate the rights and legitimate interests of third parties;

2) as a result of the conciliation procedure – consists in the effective resolution of the material-legal dispute through conciliation, the consequence of which is that the public-legal dispute is resolved in a legal manner and satisfies the parties to the dispute.

In the process of critical analysis of the positions of scientists regarding the tasks of reconciliation, we can note the diversity of approaches to their understanding.

For example, M. Ya. Polishchuk believes that one of the main tasks of reconciliation (mediation) is "reducing the burden on judicial bodies"[10]. However, one cannot agree with this to any extent, because reducing the burden on the court, as well as other derivative effects of this method of dispute resolution, is not a task of conciliation, but only a socio-legal consequence of the proper application of conciliation.

According to O. D. Sydelnikov, the most important task of reconciliation is "the termination of a public-law dispute, not the termination of a judicial process"[2].

Among the important tasks of reconciliation (on the example of mediation), according to A. S. Novosad, Y. Yu. Soyka and N. I. Semenkova, is "establishing a dialogue, promoting effective communication between the

[5] Корецький І. О. Принцип змагальності сторін в адміністративному судочинстві : дис. … канд. юрид. наук : 12.00.07. Київ, 2017. С. 129.

[3] Плугатар Т. А., Катаєва Е. В. Напрями вдосконалення правового регулювання юрисдикції адміністративних судів України. *Наука і правоохорона*. 2016. № 4. С. 86.

[10] Поліщук М. Я. Моделі медіації: порівняльно-правовий аналіз досвіду зарубіжних країн. *Судова та слідча практика в Україні*. 2016. № 2. С. 55.

[2] Сидельніков О. Д. Інститут примирення сторін в адміністративному судочинстві : дис. … канд. юрид. наук : 12.00.07. Харків, 2017. С. 77.

parties, creating conditions for their cooperation in order to find a mutually beneficial solution »[11].

Based on the positions of scientists regarding the understanding of the tasks of reconciliation, as well as taking into account part 1 of Art. 2 of the Code of Administrative Procedure of Ukraine, the concept, essential features and purpose of reconciliation of parties in the administrative procedure of Ukraine, we believe that the main tasks of reconciliation at the moment are:

1) creating favorable conditions for a constructive dialogue, within which the desire to peacefully resolve the dispute will be satisfied, the level of conflict between the parties to a public-law dispute will be reduced, and the existing conflict between the parties will not be exacerbated;

2) carrying out constructive negotiations between the parties, in which the parties to the dispute outline their own vision of the dispute and ways of resolving it through reconciliation, seek to reach mutual understanding;

3) free outline in the negotiations by the parties of a realistic model of mutual concessions (conditions of reconciliation), which will recognize the need to satisfy the rights and legitimate interests, demands and needs of the parties to the dispute, the result of which should be the exhaustion of the conflict;

4) full awareness by the parties of a public-law dispute of the algorithm of actions to resolve the dispute through reconciliation and the consequences of mutual concessions to which they agree;

5) drawing up and submitting an application for reconciliation, which will be based on the principles of reconciliation of the parties in the administrative court of Ukraine, and will also meet the requirements of the current legislation of Ukraine.

6) impartial and timely verification by the court of the fairness and legality of the terms of reconciliation, which allows to protect the rule of law in society and ensure the public interest, and in case of establishing:

a) compliance of the application for reconciliation with the requirements of the law – approval of the terms of reconciliation by the court;

b) inconsistency of the application for reconciliation with the requirements of the law – refusal to approve the terms of reconciliation by the court;

7) further implementation of the terms of reconciliation approved by the court, which will condition the restoration of law and order and mutual

[11] Новосад А. С., Сойка Ю. Ю., Семенкова Н. І. Проблематика медіації як альтернативної форми врегулювання спору за участю судді чи адвоката. *Вчені записки Таврійського національного університету імені В. І. Вернадського. Серія : Юридичні науки*. 2019. Т. 30, № 2 (69). С. 57.

understanding in the public-legal relations of the reconciled parties to the dispute[6].

The functions of conciliation of the parties in the administrative proceedings of Ukraine are derived from the tasks of conciliation, being a reflection of the directions of legal influence on all processes that require such influence. That is, if the task of conciliation of the parties in administrative proceedings outlines the directions for the realization of the goal of conciliation of the parties, then the functions of conciliation of the parties in the administrative proceedings of Ukraine are coordinated with the principles of conciliation, determined in advance by the current administrative and administrative-procedural legislation, scientifically based activity of a judge (also a conciliator in the states -members of the EU) and parties to a public legal dispute, aimed at resolving the dispute through reconciliation.

The system of main functions of the studied phenomenon consists of:

1. Organizational function of reconciliation of the parties in the administrative proceedings of Ukraine. In a general sense, this function is aimed at determining the procedural and procedural context of resolving a public-law dispute by reconciling the parties to the dispute, namely at forming all the necessary conditions for a peaceful settlement of the dispute[6]. By pointing out that the organizational function determines the procedural context of reconciliation, we mean that thanks to this function the organization takes place:

1) the parties to the dispute processes: a) negotiations regarding the development of a specific consensual path, moving along which the parties will be able to achieve peace, overcome the negative consequences of the dispute and prevent similar conflicts in the future; b) setting out the terms of reconciliation in the relevant statement and submitting it for court approval;

2) the judge of the process: a) verification of the presence of persons applying for reconciliation, a sufficient level of legal personality to make such an application; b) assessment of the voluntariness of the application for reconciliation and the preservation of the tendency towards reconciliation of both sides of a public-law dispute at the time of "legalization" of reconciliation; c) analysis of the application for reconciliation for compliance with the legislation (in particular, it is checked whether the terms of reconciliation do not violate the rights and legitimate interests of third parties, the provisions of current legislation); d) approval of reconciliation conditions

[6] Сливка В.В., Сливка М.М. Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві: монографія. Львів: Каменяр, 2022. С. 39.

[6] Сливка В.В., Сливка М.М. Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві Вплив євроінтеграції України на примирення сторін в адміністративному судочинстві: монографія. Львів: Каменяр, 2022. С. 42.

("legalization" of reconciliation); e) verification of compliance with the requirements of the resolution approving the terms of reconciliation.

2. The function of stimulating the parties of a public-law dispute to a constructive resolution of this dispute. This reconciliation function:

1) encourages the parties to the dispute to have a real desire to change the strategy of their own behavior in the conflict that has arisen, namely, from victory in this conflict to reconciliation. This motivation is manifested in:

a) the very legal nature of conciliation, which allows us to understand certain objective advantages of the disputing parties turning to the possibilities of conciliation over the traditional resolution of the dispute in court, namely: less time spent on resolving the dispute; saving money spent by the parties to the dispute during the court case (payment of expert opinions; payment of services provided by a lawyer; lost benefit from an ongoing dispute, etc.);

b) the constructive policy of the state in relation to the incentives and inducements of the parties to the dispute to resolve this dispute through conciliation, namely: the creation by the state of such conditions for consideration of the case by the court (at the level of administrative procedural legislation), under which the parties to the dispute can always turn to the possibility of conciliation; establishing at the level of administrative procedural legislation a rule regarding the return of 50% of the court fee to the plaintiff (complainant or applicant), paid by him when filing a lawsuit (appeal or cassation complaint); creation by the legislator of additional guarantees for the protection of the rights and legitimate interests of the reconciled parties to the dispute, in particular ensuring the binding nature of the resolution approving the terms of reconciliation;

2) reinforces the positive trends that have already manifested themselves in the process and in the form of reaching a consensus regarding the resolution of the dispute through reconciliation. In this context, the incentive function is the activity of the judge and the parties to the dispute to develop incentives and guarantees that increase the confidence of the parties to the dispute regarding the reality of the possibilities of resolving the dispute as a result of mutual concessions by the parties to the dispute, namely on the terms that will be fulfilled by these parties and will definitely lead to the expected a positive consequence for them.

3. Analytical function of reconciliation of the parties in the administrative proceedings of Ukraine. The corresponding function is manifested in the activity:

1) the parties to the dispute regarding: a) assessment of the essence of the dispute, the amount of damage to the rights and legitimate interests of the parties to the dispute, which is caused by the existing dispute between them; b) search for possible mutual concessions (exactly which and to what extent)

that will contribute to the reconciliation of the parties; c) the ratio of the reached consensus between the parties with the requirements of the legislation on the grounds and conditions for approving the terms of reconciliation;

2) to the court in relation to: a) the substance of the corresponding public legal dispute; b) assessment of the voluntariness of the will of the parties to the dispute regarding the terms of reconciliation; c) analysis of the application for reconciliation for compliance with the principles of reconciliation of parties in administrative proceedings, the requirements of the Code of Administrative Proceedings of Ukraine and other laws, by-laws; d) clarification and assessment of the reality of the fulfillment of the terms of reconciliation and the actual readiness of the parties to fulfill the stated terms of reconciliation.

4. Information and communication function of reconciliation of the parties in the administrative proceedings of Ukraine. This feature means that:

1) the information obtained as a result of the assessment of the dispute, the claims of the parties to this dispute, becomes the basis for the development by the parties to the dispute (and/or the conciliator) of a certain strategy to achieve reconciliation;

2) the conciliator becomes a certain impartial "mediator" between the parties of a public-law dispute and performs actions aimed at forming the terms of reconciliation, provides a draft of these conditions, which are considered by the parties of a public-law dispute;

3) the parties to the dispute are in communicative relations:

a) informing each other (or, for example, a conciliator) about the possibilities of resolving the dispute by conciliation and constructively discussing this issue, exchanging relevant information;

b) voluntarily providing the information that the other side of the dispute needs in order to agree (or not agree) to the offer offered to it regarding a certain concession. It should be borne in mind that the termination of the exchange of information (or the unjustified refusal to provide the necessary data to the party to the dispute or the conciliator) before the agreement on the terms of the conciliation testifies to the fact that the process of conciliation is not constructive and the parties (or one party) to the dispute have lost interest in resolving the existing conflict accordingly;

4) the parties to the dispute inform the court about reaching a consensus between them regarding the resolution of the dispute and declare the terms of reconciliation, which is the appropriate informative basis, which is analyzed by the judge and can be approved;

5) the court approves the application for reconciliation with a decision that is binding and contains comprehensive information about the mutual

concessions of the parties to the dispute, the terms of their implementation, etc.

5. Control and supervision function of the reconciliation of the parties in the administrative proceedings of Ukraine. This function is manifested in the activities of the parties to the dispute (also the conciliator – in the EU member states), regarding:

1) verification of the reality of the desire of the party (parties) to the dispute to resolve the relevant public-law dispute through conciliation and implementation of actions by him (them) aimed at achieving a constructive result of the reconciliation process – agreement on the terms of reconciliation. It is difficult to underestimate the importance of the indicated manifestation of the control and supervisory function of reconciliation, because one of the parties to the dispute may pretend to want to resolve the dispute through reconciliation, in reality, using: a) the appropriate time to obtain certain advantages in the dispute (obtaining during this time certain evidence, changes political or other situation in the state, etc.); b) the conciliation procedure itself to force the disputing party to make disproportionate concessions (up to giving up their claims, when they are not groundless);

2) checking the good faith and integrity of the behavior of the parties to the dispute in the process of resolving the dispute through conciliation;

3) verification of the compliance of the terms of reconciliation with the requirements of the law;

4) termination of the process of resolving a public-law dispute by termination on the basis of failure of the parties to the dispute to reach a consensus regarding the possibility of reconciliation;

5) non-approval of the terms of reconciliation by the court.

6. Preventive and educational function of the reconciliation of the parties in the administrative proceedings of Ukraine. This function is manifested in the fact that the parties to a public legal dispute, interacting with each other with the aim of achieving understanding and peace:

1) develop their own non-confrontation skills. In particular, in the event that a similar or other conflict situation arises between the parties to the dispute, who have reconciled, in the future, they will be able (given the experience gained in the framework of administrative proceedings) to reduce the solution of such a problem to a constructive discussion and negotiations aimed at solving problems;

2) demonstrate to other subjects of administrative law a positive example of the possibility of avoiding the aggravation of the conflict, their actual potential for achieving mutual understanding;

3) form a general idea about the conflict as an undesirable result of the socio-legal interaction of a citizen and a public service body, which can not

only be resolved peacefully, but also not be allowed in the future, eliminating the reasons (factors) that cause a public-legal dispute.

The above allows us to interpret the preventive and educational functions of reconciliation as having significant importance under the modern conditions of existence of our state, which currently "pays special attention to ensuring national security, and more precisely, timely detection, prevention of threats and protection of the most important public and state interests with the aim of promoting sustainable development of the country"[12].

CONCLUSIONS

A special way of resolving a dispute with the state is conciliation in administrative proceedings, which is characterized by a special purpose, which in a broad sense is manifested in:

1) amicable settlement of the dispute by drawing up terms of reconciliation, which the parties must adhere to after approval of these terms by the court;

2) creation of conditions for peace between the parties to the dispute and protection of the violated subjective right.

Preventing the aggravation of the conflict in the sphere of public-legal relations contributes to increasing the level of trust in the state, steadfastness of the authority of public service bodies (as state bodies of a democratic and legal state), reducing social tension and revolutionary moods in society in general.

The introduction and spread of conciliation of the parties in administrative proceedings is a certain civilizational transformation of the understanding of justice, as well as the role of the judge in the resolution of public legal disputes, which is a reflection of the pluralistic tendency to expand the methods of resolving public legal disputes, which is observed today in the EU member states.

Thus, the reconciliation of the parties in administrative proceedings in its functional manifestation contributes to the sustainable development of Ukraine, and therefore to the possibilities of its development as a legal and democratic state that can satisfy its own European integration aspirations.

SUMMARY

Reconciliation of the parties to a public-law dispute, as a complex socio-legal phenomenon, is quite justified to be reduced to the corresponding "ultimate goal" – the effective resolution of a material-legal dispute through reconciliation, where the resolution of the dispute is an accomplished fact,

[12] Швидкий Я. Ю. Механізми інституційного забезпечення протидії корупції : дис. … канд. наук з держ. управл. : 25.00.05. Київ, 2021. С. 9.

namely: the public-law dispute is resolved in the manner, which satisfies the parties to the dispute and exhausts the conflict between the parties.

The system of main functions of the studied phenomenon consists of:

1) organizational function of reconciliation of the parties in the administrative proceedings of Ukraine;

2) the function of stimulating the parties of a public-law dispute to a constructive resolution of this dispute;

3) analytical function of reconciliation of the parties in the administrative proceedings of Ukraine;

4) information and communication function of reconciliation of the parties in the administrative proceedings of Ukraine;

5) control and supervision function of the reconciliation of the parties in the administrative proceedings of Ukraine;

6) preventive and educational function of the reconciliation of the parties in the administrative proceedings of Ukraine.

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