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ОСОБЛИВОСТІ СУДОВИХ РІШЕНЬ В АДМІНІСТРАТИВНИХ СПРАВАХ

Анотація. Розкрито особливості судових рішень в адміністративних справах. Проаналізовано судове рішення, яке спрямоване на захист прав, свобод та інтересів фізичних осіб, прав та інтересів юридичних осіб у сфері публічно-правових відносин від порушень із боку органів державної влади, інших суб'єктів у процесі реалізації ними владних управлінських функцій. Розглянуто принципи здійснення судочинства адміністративними судами. Обґрунтовано законність судових рішень в адміністративному процесі.

Ключові поняття. Судові рішення, адміністративні суди, адміністративний процес, правосуддя, спір.

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SPECIAL FEATURES OF COURT DECISIONS IN ADMINISTRATIVE CASES

Abstract. Special features of court decisions in administrative cases are disclosed in the article. The court decision which is aimed at protecting rights, freedoms and interests of individuals, rights and interests of legal entities in the sphere of public and legal relations from violations by state authorities and other entities during the exercise of their managerial administrative functions is analyzed. The principles of judicial administration by administrative courts are considered. The legitimacy of court decisions in the administrative process is substantiated.

Key concepts: court decision, administrative court, administrative process, justice, dispute.

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Introduction

Hearing and resolution of specific administrative cases in an administrative court is completed by the adoption of procedural documents – court decisions.

A court decision is an act of exercise of state power, made on behalf of the state. When administering justice, the court exercises state power in specific forms. And if the law is the general will of the state, then the court decision is the will of its body. A court decision enforces the will of the state in respect of such facts and relationships by applying the rules of law to them, recognizing the existence or absence of legal relations, changing or terminating them.

Characteristic features of court decisions in administrative cases were the questions under research of such scientists as: V. B. Averyanov, O. F. Andriyko, O. M. Bandurka, Yu. P. Bytyak, I. P. Holosnichenko, S. S. Yesimov, R. A. Kalyuzhnyi, V. K. Kolpakov, A. T. Komziuk, O. V. Kuzmenko, O. I. Ostapenko, Yu. S. Shemshuchenko and many others.

The purpose of the article is to reveal the special features of court decisions in administrative cases.

1. The concept and the legal nature of court decisions in the administrative process

The result of the administration of justice, that is, the consequence of the circumstances established in the case, is an act, adopted in accordance with the rules of substantive and procedural law – a judicial decision.

Judicial decision is the most important act of justice designed to ensure the protection of human rights and freedoms guaranteed by the Constitution of Ukraine, the rule of law and the implementation of the principle of rule of law proclaimed by the Constitution. It is a legal (enforceable) personalized act adopted by a court on the basis of a normative and legal act, which is one-off and is required to be performed [1, p. 412].

Consequently, judicial decision resolves the dispute over the law; this is a ruling of a court of first instance that resolves a substantive dispute and thereby responds to an appeal to a court for the protection of a subjective right or the interest protected by the law; a court ruling answering the claims and defining the rights and obligations of the parties arising from the disputed legal relationship; this is a ruling of the court of first instance, which manifests the court's own will regarding the stated claims and objections concerning the protection of the rights and interests of the parties; this is a court order that resolves essentially substantive dispute that is the subject of the process, with a view to the final establishment and protection of the rights and interests of the subjects of this dispute, in full accordance with the true circumstances of the case and the laws [1, p. 413].

The term judicial decision is used to refer to the outcome of a decision of civil, administrative or economic dispute. It should be noted that such a name is common to all court acts, regardless of whether they are adopted in civil, administrative or commercial proceedings. The essence of the judicial decision is seen in the protection of the rights of the parties by confirming the presence or absence of legal relations, mutual rights and obligations of the parties, and in the coercion of relevant conduct, specified in the decision.

The essence of the judicial decision lies in the fact that it is an act of justice that protects the rights of the parties, the rule of law in the state by resolving legal disputes between the parties on the merits.

Thus, the court decision is considered by M. Y. Shtefan as an act of justice in a case, which is based on the facts established in court and the application of the rules of substantive and procedural law [2, p. 401].

In the modern writings, the question of the essence of the judgment and its definition is also left unaddressed, and there is no single approach to the interpretation of this institution. At the same time, the positions of some authors differ with some originality. Thus, a court decision is a law enforcement act, made in the name of Ukraine, drawn up in the form of a procedural document, which powerfully confirms the presence or absence of a controversial legal relationship, as a result of which it becomes indisputable on the basis of the facts of the case established in court. M. M. Yasynok asserts that the court decision is an individual procedural legal document, which is adopted by a court on behalf of the state, based on the rules of civil procedural law, the content of which is aimed at protecting the rights, freedoms and interests of both individuals and legal entities [3, p. 60]. The list of approaches could be continued, but the above allows stating that practically all scientists now still consider the court decision as one of the types of court decisions and as the most important document of the court, but the only approach to understanding the essence of this act has not been elaborated.

According to Ya. P. Synytska's point of view, a court decision in administrative proceedings is a procedural document based on the facts established in court and the application of the rules of law, which resolves essentially an administrative case concerning the protection of the rights, freedoms and interests of individuals, rights and interests of legal persons in the field of public and legal relations from violations on the part of pub-

lic authorities, local self-government bodies, their officials, other entities in the exercise of their managerial administrative functions based on the legislation including fulfillment of delegated powers that come into force in accordance with law and are required to be performed [4, p. 681].

I. O. Rozum states that a court decision in the cases of administrative jurisdiction is an act of justice, approved by the name of the state in the appropriate procedural form on the basis of a complete, objective, comprehensive and impartial analysis of all the factual circumstances of the administrative case in accordance with the rules of substantive and procedural law and strict compliance with the constitutional norms and the principles of administrative justice by which the administrative court resolves the parties› dispute on the merits; suspends or closes the records on the case, leaves the claim without consideration or decides on other procedural actions or motions, which becomes valid and is subject to mandatory enforcement throughout the territory of Ukraine in accordance with the procedure established by administrative procedural norms [5, p. 57].

Taking into account the opinions of A. T. Komziuk, V. M. Bevzenko and R. S. Melnyk, judicial decisions in the administrative process must meet such requirements as: certainty, non-alternativeness and accessibility. Certainty of judicial decisions, in the opinion of the scientists, means that its resolution does not allow the conditions enforcement of which is related to the implementation of the decision of the administrative court; the enforcement of a court decision should not depend on the occurrence or non-occurrence of certain conditions. Decisions in a categorical form must specify the actions that are the responsibility of the parties to the disputed relationship. Non-alternativeness as a requirement for a court decision does not allow the choice of different ways to enforce such a decision. Free access to court decisions, including administrative courts, is a legislative guarantee of the lawfulness and transparency of the activities of these judicial bodies, the objective and fair administration of justice in administrative cases [6, p. 367–368].

A court decision of the administrative case can be considered in two aspects: as a procedural document and as an act of the judicial authority. As an act of the judicial authority, a court decision is characterized by three-component structure consisting of subject matter, grounds and content.

A court decision as a document, which is an external form of the expression of an act of the judicial authority, consists of four elements: introductory, descriptive, motivating and resolutionary parts.

2. Principles of judicial administration by administrative courts

The activity of the judicial authority, as well as other state structures, is based on certain principles which are considered as the grounded, initial position of any scientific theory, ideological direction, etc. The feature that underlies the creation or implementation of something, the way of creating or implementing something; conviction, rule, norm that guides anyone in life, behavior, a canon. In turn, legal principles are understood as the basics, the most general guidelines of law, which have a legally binding obligation. Such fundamentals are inherent both in law as a whole (legal system) and in particular legal branches, sub-branches and even institutions [7, p. 77].

A subset of legal principles is the principles of justice, which define the basic rules for the consideration and resolution of litigation and have an external expression in the rules of procedure codes. V. Horodovenko states that principles of justice (regardless of the branch) are provided by legislation, related to the purpose and task of the legal principle, reflecting the specifics of its stages, institutions, peculiarities of the court and all other participants in the process [8, p. 125]. It should be noted that a number of principles for the formation and functioning of courts are contained in the Constitution of Ukraine. In particular Art. 124 of the Basic Law stipulates «Principle of the administration of justice in Ukraine is exclusively enforced by the courts»; Art. 125 – «Principles of territoriality and specifics of the construction of the system of courts of general jurisdiction»; Article 126 – «Principles of independence and integrity of judges»; Art. 127 – «Principles of non-partisanship of professional judges»; Article 130 – «Principles of securing financing and creating the proper conditions for the functioning of the courts and the activities of judges». In addition, Article 129 of the Constitution of Ukraine defines the basic principles of justice, which include: legality; equality of all parties to the lawsuit before the law and the court; ensuring the provenance of guilt; the parties› competitiveness and freedom to present their evidence to the court and to prove their conviction before the court; support of the public prosecution in court by the prosecutor; providing the accused with the right to defense; publicity of the trial and its full fixation by technical means; providing appeal and cassation appeal against the court decision, except in cases established by law; the abidingness of court decisions, which, together with the preceding ones (provided for in Art. 124–127, 130), are the basic principles of justice in Ukraine [9].

Administrative justice, recognizing its task in protecting the rights and freedoms of the individual and the citizen, the legitimate interests of

legal persons in the field of public and legal relations, perceives both the guarantee of the implementation of the tasks of justice and the observance of the procedural form of this protection in the principles. At the same time, the main function of the rules and principles of administrative procedural law is to promote the legally correct exercise of the rights and freedoms of citizens and the performance of duties by all parties to the process.

The principles of administrative justice are considered by scientists as the principles, fundamental ideas, which reflect qualitative features, certain specific properties, enshrined in the rules of law, reflecting the structure of administrative justice, the state and prospects of its development, aimed at protecting the rights, freedoms and interests of individuals , rights and interests of legal entities in the field of public legal relations against violations by public authorities, local self-government bodies, their officials and other institutions in carrying out their duties on the basis of legislation, including the delegated powers.

Legislator enshrined ten principles of administrative justice in Art. 2 of the Code of Administrative Procedure of Ukraine: rule of law; equality of all parties to the lawsuit before the law and the court; publicity and openness of the trial and its full fixation by technical means; competitiveness of the parties, dispositiveness and official clarification of all circumstances in the case; binding decision; securing the right of appeal review; securing the right to appeal against a court decision in cases determined by law; the reasonableness of the terms of trial; inadmissibility of abuse of procedural rights; reimbursement of legal expenses of individuals and legal entities in favor of which the court decision was taken [10].

3. The legal power of court decisions in the administrative process

Analyzing the rules of the current legislation and summarizing the positions of scientists, we can conclude that after the court decision gains strength in an administrative case, legal consequences take effect in the form of its invariability, binding, inevitability, inability to appeal to the court with the similar appeal and accuracy.

In fact, a court decision in an administrative case is taken by a court and is drawn up in the form of a procedural document. This document contains the court's findings as to the circumstances in which the parties substantiate their claims and objections.

A court decision may not be modified or overturned by any public authority, local government or their officials. The court decision is reviewed only by a higher court which can change or annul such decision. The exclusive right to verify the legality and validity of court decisions is vested in the relevant court in accordance with procedural law. Appeal of judgments, activities of courts and judges on hearing and resolution of a case outside the provided by the procedural law order in the case is not allowed, and courts must refuse to accept claims and statements in such a case. Bodies that decide on disciplinary responsibility and liability for breach of oath by a judge are not empowered by law to assess the legality of the judgment.

One of the basic constitutional principles of the judiciary in Ukraine is the bindingness of court decisions (Article 129 of the Constitution of Ukraine). This provision is also provided in Art. 14 of the Code of Administrative Justice as one of the main principles of administration of justice in administrative courts. The Constitutional Court of Ukraine, in its decision dated June 30, 2009, No. 16-rp/2009, emphasized that the enforcement by all legal entities of legal provisions outlined in the court decisions affirms the authority of the state as legal. Court rulings and decisions in administrative cases are binding and enforceable throughout Ukraine. Binding character is often referred to as the main peculiarity of a judgment that has entered into force. Many scientists believe that binding constitutes the very concept of the validity of a judgment.

Legal validity is an organic combination of the peculiarities of a judgment that determine its stability and functioning. In other words, the validity of a judgment is characterized by moments of static and dynamic order. Impartiality, exclusivity and preconditioning have one unifying feature – they reflect the stability of the judgment and contain the requirements of certain conduct in relation to this act by specific entities.

Being united, they provide the necessary stability of the judgment as a law enforcement act and represent a static element of validity. However, the features that ensure the stability of the court decision cannot enforce the state-governmental order contained in the court decision. The power of coercive influence gives the decision such an element of validity as the obligation. This peculiarity provides the dynamism of the court decision and the ability to influence, first of all, the obliged entities, and secondly, the other persons, who have to take into account the facts and legal relations established by the court, as well as to take all measures for the enforcement of the court decision. Obligation is a dynamic element of the validity of a judicial decision. Examples of constructive interaction between the judiciary and society in the European Union indicate the need to include dialogue mechanisms in the political and communication process in Ukraine. With the implementation of conventional models of information and communication interaction of the judiciary and society

it is possible to achieve a significant reduction of conflict and socio-political tensions [11, p. 181].

Conclusions

Having analyzed the norms of the current legislation and summarizing the positions of scientists, it is concluded that after court decision gains strength in an administrative case, legal consequences take effect in the form of its invariability, binding, inevitability, inability to appeal to the court with the similar appeal and accuracy.

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