

THE CONCEPT OF EUROPEAN ADMINISTRATIVE SPACE AND ITS IMPLEMENTATION IN UKRAINE

^aNADIYA KUDERSKA, ^bANDRII KSENZIUK, ^cYURIY KURYLIUK, ^dSVITLANA MIROSHNICHENKO, ^eINNA CHERNIKOVA

^a*Vinnitsia State Pedagogical University named after Mykhailo Kotsyubynsky, Vinnitsia, Ukraine*

^{b,c}*National Academy of Management, Bryukhovychi, Ukraine*

^{d,e}*Skovoroda Kharkiv National Pedagogical University, Kharkiv, Ukraine*

email: ^a*kuderska@ukr.net*, ^b*ksenzruk@gmail.com*,

^c*kuryliuk@gmail.com*, ^d*miroshnichenko@gmail.com*,

^e*chernikova@gmail.com*

Abstract: The article establishes the essence of the category "European administrative space" and determine the directions of implementation of its principles in Ukraine. Understanding the category "European Administrative Space" as a system of standards and principles for determining the effectiveness of public administration, aimed at implementing and protecting human rights and freedoms, building a service model of the state, achieving a balance of private and public interests. The concept of "European administrative space" is defined, the factors and sources of its formation are determined. The history of the origin of the concept of "European administrative space" is studied. Existing views on the emergence of the concept of "European administrative space" are considered. The concepts and principles of European administrative law are considered, the necessity of carrying out of domestic researches of problems of introduction in national and law-making practice of requirements of the specified principles taking into account domestic administrative traditions is defined.

Keywords: European legal space, European administrative space, principles of administrative law, European governance.

1 Introduction

In the European Union, the review of the content, nature, legal regulation of administrative proceedings was carried out in the middle of the twentieth century. In order to create a European administrative space in which public services should have a common legal basis and increase the efficiency of public administration, promote economic processes and reduce corruption in administrative activities by introducing common democratic standards of good governance and administration that conceptually renewed national administrative regulation, proceedings.

The signing of the Association Agreement with the European Union in 2014 finally determined the vector of development of Ukrainian society and state. In this regard, Ukraine must gradually adapt to the standards of the European legal space, which is a necessary condition for the implementation of the provisions of the Association Agreement. Virtually all international documents concluded by Ukraine in order to ensure the implementation of European integration processes use the category of "European legal space". This applies to both multilateral declarations and bilateral intergovernmental agreements. In addition, the category "European legal space" is used in scientific publications, documents of the European Union and the Council of Europe. Thus, the idea of implementing the "European legal space", the study of its essence and components is an urgent problem, the solution of which depends in part on the achievements of modern legal science of Ukraine.

The general principle used to define the essence of the "European legal space" is the understanding of law as the only guarantor of the formation of a civil society and the rule of law, in which the development of economy, politics, culture is characterized as progressively stable. Back in 1988, the French scholar Emma Grabby stressed that the components of the European legal space are not only a system of regulations, but also to ensure the implementation of common principles of economic, financial and political development (Polat, E.S., 2008).

Currently, domestic administrative law is at the stage of profound transformation, this process of change and

transformation is quite complex, accompanied by constant obstacles and difficulties, including mental and philosophical content. Such complications are mainly related to the perception of administrative law (as a science, as a discipline, as a field of law) by scholars and legal practitioners, including representatives of public administration. In particular, if we look at the columns of administrative and legal literature, an example of new trends, most of which are borrowed from the experience and legislation of the European Union (hereinafter – the EU), is the expansion of terminology due to the so-called European administrative legal space. research of new spheres of legal relations as components of the subject of administrative law and forms of their consolidation: administrative and economic law. Melnik R.S. (2010)

2 The initial presuppositions

The overall goal of the European Legal Area is to ensure the convergence of national legal systems of the Member States of the European Union in order to develop and implement common standards of public administration, ensuring and protecting human rights and freedoms, public and private interests. It seems necessary to develop a long-term concept of sustainable development of institutional support for public administration, as well as constant monitoring of existing and emerging problems in this area. At the same time, the concept of the European administrative space should be a guideline.

3 Methods

The methodological basis of the study is a set of general and special methods of scientific knowledge, the use of which allowed to provide a systematic approach to the disclosure of content, specifics of the European administrative space, opportunities for development and improvement of legal regulation in Ukraine.

4 Results and discussion

In general, the concept of the European Administrative Space is the direction of reform and development of administrative law, in which the functioning of public administration is carried out in accordance with the democratic principles of good governance and European Union standards in this area.

The creation of the European Administrative Space is aimed at establishing framework administrative cooperation between the Member States of the European Union on the basis of mutual assistance, ensuring openness and transparency of public administration bodies of the European Union, compliance with the principles of proportionality and confidentiality (1998).

The term "European administrative space" was first used in the documents of the Program to Support the Development of Public Administration and Management (hereinafter – SIGMA) in 1998 to denote the environment shaped by policies and norms of the European Union, which requires national standards and practices on the regulation of public relations, which are part of the subject of administrative law to ensure a uniform level of human rights and freedoms and citizen Kushnir I., Kuryliuk Y., Nikiforenko V. et al. (2021).

The SIGMA program covers a set of specialized reports that focus on specific governance and management issues, namely: expenditure control, administrative oversight, interagency coordination, public procurement, public service management, and more. A well-functioning public administration is a prerequisite for transparency and efficiency in democratic governance, but it is not a static phenomenon. One of the directions of the SIGMA program is to develop proposals and algorithms for implementing the concept of the European Administrative Space in various national legal systems. At the same time, the changes that need to be implemented in the

practice of a particular state may differ qualitatively and quantitatively, but will be aimed at achieving a common goal Iasechko S., Kuryliuk Y., Nikiforenko V., et al (2021).

Ukrainian scholars (in particular, M. Hnatovsky, V. Marmazov, I. Pilyaev) also contributed to the development of the content of the concept of "European legal space". They note that coordination and integration of the processes of entry into the legal space of the Council of Europe with the introduction into Ukrainian law of norms and standards of the Organization for Security and Cooperation in Europe, EU, because the law of these institutions together with Council of Europe law is the foundation of European law. (Hnatovsky M., 2002)

It should be emphasized that the key role in the concept of "European legal space" is given to the category of "law". It should be noted that in this context, the law is the only guarantor of the new European legal order, in which the leading role is objectively played by the principles related to the long-term goals of sustainable economic, political and other development. In a more general form, the law of the European Union means a set of legal norms governing the processes of European integration carried out within the European Union (Luts L. A., 2003).

It should be noted that according to the subject of regulation, the norms of European Union law are differentiated into such areas as: constitutional, administrative, financial law, etc. It should also be noted that the existence of such specific areas of EU law as: institutional, economic, banking, tax, trade, competition, corporate, migration, internal market, intellectual property. Thus, the European legal space can be differentiated into the European constitutional, administrative, financial, economic, tax, trade space, etc.

Regarding the relationship between the European administrative space and the European legal space as part and whole. For the first time, such an approach among representatives of Ukrainian legal science was proposed by Hnatovsky M. (2002).

Despite the fact that the category "European Administrative Space" has been used for over 20 years, the unity of scientific approaches to understanding its essence is still unclear. According to the provisions of the international program of presentation of the European Administrative Space program, it is understood as a form of European cooperation in the functioning of public administrations.

According to M. Hnatovsky, in a more general form, the European legal space can be defined as a system of legal norms and standards developed within European regional organizations (EU, Council of Europe, OSCE), as well as international and national mechanisms for their implementation in national legal systems. states. Hnatovsky M. (2002).

It should be noted that the states operating in the European legal space should share the whole set of democratic values, which will contribute to the development of various forms of their interaction, will preserve all the positive things achieved during the development of legal forms of cooperation.

Numerous scientific studies of the concept and nature of the European legal space have contributed to the emergence of the concept of the European administrative space. We believe that the emergence of this concept is due to the need to ensure the proper implementation of the rights and freedoms of EU citizens, their effective protection, settlement of disputes over the activities of public administrations. Of course, the gradual formation of the European administrative space has taken place and is taking place within the framework of the European legal space.

There is an approach that defines the European administrative space as a set of standards of public administrations, which should be defined at the legislative level, the implementation of

which is guaranteed by establishing mechanisms for their accountability Gniduk N. (2003).

The basis for the formation of the European administrative space, of course, are the results of the rule-making activities of the European Union, in particular, the legal provisions of its founding treaties, which define certain basic principles of such intergovernmental association. It is worth highlighting the legal provisions – Art. Article 2 of the Treaty on European Union defines human dignity, freedom, democracy, equality, the rule of law and respect for human rights as the highest value of the European Union, based on pluralism, non-discrimination, tolerance, justice, solidarity and gender equality (Konstanty O. V., 2010).

In Ukrainian jurisprudence, a scientific approach to understanding the category of "European administrative space" has not yet been developed. It is possible to meet views, the essence of which comes down to the identification of the "European administrative space" and the "European legal space". This is the position of O. Pylypchuk, who defines the European administrative space as a certain environment, the formation of which is influenced by political, economic, legal and other factors, based on ensuring the proper functioning of governments, which must ensure standards of public service state (Pylypchuk O., 2016).

The European administrative space has its own traditions, which, although based on the typical administrative traditions of the EU, have surpassed them.

The key features of this space have been administrative reliability, which is necessary to guarantee the rule of law, and the effective implementation of economic development and European policy. Definitions (European principles of administrative law) should be considered as a set of principles of European administrative law and the European administrative space, which reflect the processes of administrative convergence and deepening integration in Europe. Administrative principles are not just ideas based on the will of managers. They are contained in organizational structures and administrative procedures at all levels of government. Public (public) entities are obliged to adhere to these legal principles, which are ensured by independent control bodies, justice systems, the judiciary and parliamentary oversight.

In the field of European law, the Court of Justice of the European Union, based on general legal principles of administrative law common to the Member States, has identified a significant number of principles of administrative law. The list includes: principle of legality, principle of non-discrimination, principle of abolition of illegal administrative act, principle of legal certainty, right to protection, principle of proportionality, principle of respect for fundamental human and civil rights, principle of subsidiarity, principle of good governance, principle of transparency, principle of application. Based on them, modern principles of the European administrative space were formed.

It is necessary to highlight another humanistic approach to the understanding of the European administrative space as a complex structure of the relationship between vertical and horizontal power structures, which is due to territorial and functional ties. The European Administrative Space within this understanding includes not only public authorities at supranational and national levels, but also polycentric institutions, which include, in particular, the media system, public initiative groups and 133 associations for the formation and implementation of European integration policy. territorial proximity and functional similarity are inherent (Orzhel O., 2011).

Based on the above, in the framework of this study the European Administrative Space will be understood as a system of standards and principles for determining the effectiveness of public administration, whose activities are aimed at implementing and protecting human rights and freedoms,

building a service model of the state, achieving a balance of private and public interests. This approach is the basis for further implementation of this research, because its application allows us to separate the specifics of the implementation of certain types of sectoral legal regulation of public relations Iasechko S., Ivanovska A., Gudž T., et al (2021).

To date, there are many points of view on defining the content of the European administrative space. The most common are the following:

- the European administrative space is a set (group) of common standards of public administration, which are determined by law and the implementation of which in practice is ensured by appropriate procedures and accountability mechanisms;
- the European Administrative Space is a set of common standards for governance, which are defined by law and implemented through a system of measures, procedures and accountability mechanisms;
- the European administrative space is a specific branch of administrative law, a set of principles and rules that apply to the organization and management of public administration, as well as regulate relations between the administrative system and citizens;
- the European Administrative Space is a European policy and regulation that requires the active role of national public administrations – in which national administrations are called upon to ensure, in order to ensure equal rights of citizens and legal entities established within the European Union, quality of service provision.

5 Conclusion

Further reform of administrative law in Ukraine should be focused on the implementation of the concept of the European administrative space through the transformation of fundamental leading ideas of public administration. From the above it can be concluded that the European administrative space is an environment shaped by the policies and norms of the European Union, which provide for the active role of national governments. Within the European administrative space, the governing bodies of the Member States of the European Union are obliged to guarantee a uniform (equal for all) level of quality and efficiency of the provision of administrative services in order to effectively and comprehensively ensure the rights of citizens and business freedoms in the European Union.

The European administrative space means a system of legal norms and standards developed within European regional organizations, international and national mechanisms for their implementation in the national legal systems of European countries, designed to ensure equal rights of citizens and legal entities, ensuring quality administrative services, regulation of relations between the administrative system and citizens. The aim of creating the European Administrative Space is to ensure the equal realization of the rights of citizens and legal entities operating within the EU, as well as to ensure the effective quality of public administration of administrative services.

Literature:

1. Association Agreement between Ukraine, of the one part, and the European Union, the European Atomic Energy Community and their Member States, of the other part: ratified by the Law of Ukraine of 16 September 2014 № 1678-VII. Information of the Verkhovna Rada. 2014. № 40. Art. 2021.
2. Third Annual Report of the Commissioner for Human Rights of the Verkhovna Rada of Ukraine “Status of Respect and Protection of Human Rights and Freedoms in Ukraine” URL: http://ombudsman.kiev.ua/Dop_3/R3_1.htm.
3. Melnik, R. S. (2010). System of administrative law of Ukraine: [monograph] / RS Miller. Kharkiv National Publishing House. un-tu vnutr. Affairs. 398 p.
4. Toolkit for the preparation, implementation, monitoring, reporting and evaluation of public administration reform and

sector strategies. Guidance for SIGMA partners. URL: <https://www.oecd-ilibrary.org/docserver/37e212e6en.pdf?expires=1584775631&id=id&accname=guest&checksum=A92CF8DB85CEE8ECCCB98B1B4B4163A0>.

5. Hnatovskiy, M. M. (2002). Stanovlennia ta tendentsii rozvytku yevropeiskoho pravovoho prostoru: dys. ... kand. yuryd. nauk: 12.00.11/Hnatovskiy Mykola Mykolaiovych. 191 s.
6. Luts, L. A. (2003). European interstate legal systems and problems of integration with them of the legal system of Ukraine (theoretical aspects): monograph. Institute of State and Law. VM Koretsky NAS of Ukraine. P. 143–144.
7. European Principles for Public Administration. SIGMA papers, nov. 1999. URL: www.eupan.org.
8. Gnidyuk, N. (2003). Mechanisms of coordination of European policy: the practice of member countries and candidate countries. Kyiv, Millennium. 382 p.
9. Konstany, O. V. (2010). Judicial immunity as a guarantee of objective and impartial justice in the state. Bulletin of the Supreme Court of Ukraine. № 1. pp. 44–47.10.
10. Polat, E. S.: *Distance learning models*, 2008. Available at: <http://hr-portal.ru/article/modeli-distancionnogo-obucheniya-polat-es>.
11. Pylypchuk, O. (2016). European administrative space: principles and principles. Public administration and local self-government. Vip. 2. pp. 46–50.
12. Orzhel, O. (2011). Factors of formation of the European administrative space. Bulletin of the National Academy of Public Administration. № 2. pp. 65–73.
13. Iasechko, S., Ivanovska, A., Gudž, T., et al (2021). Information as An Object of Legal Regulation in Ukraine/ IJCSNS International Journal of Computer Science and Network Security. Vol. 21. No. 5, pp. 237–242. <https://doi.org/10.22937/IJCSNS.2021.21.5.33>.
14. Iasechko, S., Kuryliuk, Y., Nikiforenko, V., et al (2021). Features of Administrative Liability for Offenses in the Informational Sphere/ IJCSNS International Journal of Computer Science and Network Security. Vol. 21 No. 8, pp. 51–54. <https://doi.org/10.22937/IJCSNS.2021.21.8.7>.
15. Kushnir, I., Kuryliuk, Y., Nikiforenko, V. et al. (2021). Current Problems of Criminal Law Protection of Information Relations in Border Sphere. International Journal of Computer Science and Network Security. Vol. 21. No. 11, pp. 171–176.
16. What Future for the European Administrative Space? / Opening Report by the Head of the Italian Department of the Public Function Carlo D’Orta on the 41-st Meeting of the European Directors General Responsible for the Public Administration in Rome on 2–3 December 2003. The European Institute of Public Administration (EIPA), Maastricht, the Netherlands / Pays-Bas. 2003. 13 p. <http://www.eipa.nl>.

Primary Paper Section: A

Secondary Paper Section: AM