

CHAPTER 14

ADMINISTRATIVE AND JURISDICTIONAL ACTIVITY OF UKRAINIAN LAW ENFORCEMENT BODIES

Pluhatar T. A.

INTRODUCTION

Article 3 of the Constitution of Ukraine provides for that an individual, his or her life and health, honour and dignity, inviolability and security are recognised in Ukraine as the highest social value. Human rights and freedoms and their guarantees determine the essence and course of activities of the State activities¹. That is to say, according to the Basic Law, the main duty of our State is to affirm and ensure human rights and freedoms that cannot be implemented without an effective mechanism for their protection in case of violation. This is supported by the provisions of the National Human Rights Strategy, which states that ensuring the priority of human rights and freedoms is a determining factor in the State policy, decision-making by State authorities and local self-government bodies, furthermore, the State activities improvement in relation to the approval and enforcement of rights and human freedoms determines the creation of an effective mechanism for the protection of human rights and freedoms in Ukraine². Law enforcement bodies play an important role in this mechanism. However, significant political and economic changes have taken place in the State since the adoption of the Constitution of Ukraine; accordingly, the system of law-enforcement bodies requires reforms to comply with modern socio-economic and political realities. According to the Strategy for Sustainable Development “Ukraine 2020,” the reform of the law-enforcement system is a priority, whereas the objective of State policy in this area is to adjust the tasks and functions of law enforcement bodies, introduce new principles of service, new criteria for assessing the work of law-enforcers in order to increase the level of protection of human rights and freedoms, as well as the interests of society and the State from

¹ Konstytutsiia Ukrainy [The Constitution of Ukraine] (No. 254k/96-VR of 28 June 1996). Vidomosti Verkhovnoii Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine], no.30, 1996. P. 141.

² On Approval of the National Human Rights Strategy of Ukraine (Decree of the President of Ukraine No 501/2015 of 25 August 2015). Офіційний вісник Президента України. 2015. № 20. Стр. 80. Ст. 1203.

unlawful infringements³. In addition, the current legislation that regulates the activities of law enforcement bodies needs to be improved, in particular, the terminology («law enforcement bodies», «law enforcement system», «law enforcement», etc.), currently used in legal regulations, should be defined clearly.

The issues of administrative and jurisdictional activity of law enforcement bodies have not been studied enough by legal scholars. Whereas in scientific works, some of its aspects have been covered by scholars, such as V. Averianov, O. Ahieiev, O. Anpilohov, O. Bandurka, Yu. Bytiak, I. Holosnichenko, Yu. Hroshevyi, S. Husarov, V. Daiev, Ye. Dodin, O. Dzhafarova, O. Ishchuk, D. Kalaiyanov, R. Kysil, S. Kivalov, A. Komziuk, T. Korniakova, O. Kuzmenko, V. Panov, O. Paseniuk, Yu. Pedko, V. Perepeliuk, M. Rudenko, O. Riabchenko, D. Saienko, A. Selivanov, V. Stefaniuk, V. Sukhonos, V. Tatsii, M. Tyshchenko, Yu. Shemchushenko, V. Shylnyk, M. Yakymchuk, O. Yarmysh and others, many issues of the topic under consideration are still episodic, incomplete and require further research. Therefore, a comprehensive theoretical and methodological approach to assessing the effectiveness of the administrative and jurisdictional activity of law enforcement bodies of Ukraine in modern conditions should be applied; the concept and content of this activity, its organizational and procedural principles should be determined, its features should be distinguished, as well as proposals on the improvement of certain provisions of the current legislation in this area should be formulated.

14.1. The concept and features of the administrative and jurisdictional activity of law enforcement bodies of Ukraine

In order to reveal the content of the administrative and jurisdictional activities of Ukrainian law enforcement bodies, the essence and specificities of concepts such as «jurisdiction», «administrative jurisdiction», «administrative and jurisdictional activity» should be established.

³ Pro Stratehiiu staloho rozvytku “Ukrayina – 2020” Strategy for Sustainable Development “Ukraine 2020” (Decree of the President of Ukraine No 5/2015 of 12 January 2015). Ofitsiynyi visnyk Ukrainy [Official Bulletin of Ukraine], no. 4, 2015. P. 8. Art. 67.

The word «jurisdiction» [lat. *jurisdictio*, from ‘jus’ (juris) – law and ‘dico’ – proclaim] means the authority to give a legal assessment of the facts, to resolve legal issues⁴.

The Great Explanatory dictionary of modern Ukrainian language explains this term as: 1) the right to hold court, consider and resolve legal issues, 2) the authority to give a legal assessment of the facts, to resolve legal issues, 3) the scope to which this right is applied⁵.

In legal literature, jurisdiction is considered as court proceedings, cognisance, subject-matter jurisdiction⁶; the set of powers that enables the relevant State bodies to resolve legal disputes and offenses and apply legal sanctions⁷; the activities of the competent bodies authorized to consider legal cases (specific life cases in relation to which the law is applied) and to adopt legally binding decisions on them⁸; the range of powers of the court or administrative body for the legal assessment of specific facts, including the resolution of disputes and application of sanctions provided for by law⁹; the competence of judicial authorities to consider civil, criminal and other cases and matters in relation to the State or State agency’s issues¹⁰.

On the basis of existing theoretical developments study regarding the establishment of the essence and content of the term «jurisdiction,» H. Tymchenko argues that, first, jurisdiction is determined through law application activities; second, through the right (authority) to carry out such activities; third, through the body that carries out such activities. However, the author himself criticizes these approaches and emphasizes that jurisdiction should be determined through the activities of the

⁴ Slovnyk inshomovnykh sliv Melnychuka ‘Slovopediia’ [Melnychuk Dictionary of foreign language words “Wordspedia.” Retrieved from <http://slovopedia.org.ua/42/53422/293089.html>. (in Ukrainian)

⁵ Velykyi tumachnyi slovnyk suchasnoi ukrainskoi movy [Great explanatory dictionary of modern Ukrainian language]. V. T. Busel (Ed.). K., Irpin: PTF Perun, 2004. P. 1420. (in Ukrainian)

⁶ Karinskii S. S. Yurisdiktsiia [Jurisdiction]. Slovar inostrannykh slov [Dictionary of Foreign Words] / S. S. Karinskii. I.V. Lekhin, S.M. Lokshina, F.N. Petrov (Eds.). Moscow: State publishing house of foreign and national dictionaries, 1954. P. 827. (in Russian)

⁷ Pigolkin A. S. Yurisdiktsiia [Jurisdiction]. Yuridicheskii entsiklopedicheskii slovar [Legal Encyclopedic Dictionary] / A.Ya. Sukharev, M. M. Boguslavskii et al. (Eds.). (2nd ed., Ext.). Moscow: Sov. encyclop., 1987. P. 526. (in Russian)

⁸ Alekseev S. S. Pravo: azbuka – teoriia – filosofii: Opyt kompleksnogo issledovaniia [Law: Alphabet – Theory – Philosophy: Experience of complex research] / S. S. Alekseev. Moscow: Statute, 1999. P. 116. (in Russian)

⁹ Borodiin I. L. Administratyvno-yurysdyktsiinyi protses [Administrative and jurisdictional procedure] (Monography). Kyiv, 2007. P. 504. (in Ukrainian)

¹⁰ Populiarna yurydychna entsyklopediia [Popular legal encyclopedia] / V. K. Hizhevskiy, V. V. Holovchenko, V. S. Kovalskiy et al. Kyiv: Yurinkom Inter, 2002. P. 525. (in Ukrainian)

competent authorities in resolving issues that arise in the application of law¹¹.

Obligatory conditions for the exercise of jurisdiction are the presence of an offense, the specific procedure rules of the case resolution, as well as the adoption of a jurisdictional act in the form and order established by law. The basis of the content of any jurisdictional activity is to collect, investigate and estimate the circumstances of an offense committed, as well as to adopt a decision on the case. Jurisdiction specificities are, namely: public authority specifics (jurisdictional protection of public relations is primarily the prerogative of competent State bodies), subjection to law (jurisdictional activity is always strictly regulated by law), law application and law enforcement (in carrying out jurisdictional activities no new provisions of law are established, but only the relevant applicable law enforcement provisions are used and applied)¹².

In the Code of Administrative Legal Proceedings of Ukraine and the Civil Procedure Code of Ukraine, the category «jurisdiction» is used to determine the scope of cases subject to courts, that is, as a synonym of subject-matter jurisdiction. At the same time, the provisions of Article 124 of the Constitution of Ukraine give reasons to argue that jurisdiction of courts extends to all legal relations that arise in the State, that is, it arises in connection with a dispute over law. Moreover, the concept of subject-matter jurisdiction is broader than the contiguous concept of cognisance, since subject-matter jurisdiction is the basis for the practical implementation of jurisdiction. In accordance with the current national legislation, law enforcement bodies are subjects of jurisdictional authority in cases that fall within their subject-matter jurisdiction.

Therefore, according to N. Petrenko, in the procedure law of Ukraine, in description and legal regulation of subject matter jurisdiction and cognisance of disputes, inappropriate use of the term «jurisdiction» should be emphasised because it has a broader semantic content and is used not only in relation to the activities of the court proceeding bodies, but also in relation to other State bodies. In the chapter titles and in the provisions of economic, civil and administrative procedure legislation, the term «subject-matter jurisdiction» should be used to define a range of cases to be

¹¹ Tymchenko H. P. *Pryntsypy tsyvilnoi yurysdyksii: Teoriia, istoriia, perspektyvy rozvytku* (Monography). Kyiv: Publishing House 'Yurydychna dumka', 2006. Pp. 12–18. (in Ukrainian)

¹² Husarov S. M. *Administratyvno-yurysdyksiyna diialnist orhaniv vnutrishnikh sprav* [Administrative and jurisdictional activities of the Internal Affairs bodies] (Dissertation of Doctor in Law in speciality 12.00.07). Institute of Legislation of the Verkhovna Rada of Ukraine. Kyiv, 2009. P. 20. (in Ukrainian)

considered by the courts of a particular court level, in its turn, “cognisance” should be used in relation to the rules for determining a specific court to consider the case. In addition, it is necessary to develop and legislatively establish a uniform for all procedure legal regulations definition of concepts such as “subject-matter jurisdiction of disputes,” “cognisance of disputes,” “jurisdiction”¹³.

Therefore, jurisdiction cannot be related to court proceedings only, since it covers the powers of bodies carrying out law application and law enforcement aimed at implementing the provisions of the current legislation. For that reason, the jurisdiction should be considered as total organizational and procedural powers of State authorities, local authorities, judicial authorities and law enforcement bodies to protect the rights and interests of the participants in legal relations. The subject of jurisdiction is social relations that arise in connection with the resolution of a dispute over law.

It should be emphasized that in legal literature, jurisdiction is divided into subject matter, personal, territorial, time, full and limited, compulsory, basic and optional. According to branches of law, the jurisdiction is classified into constitutional, criminal, administrative, civil, economic. Meanwhile, in various branches of law, the concept of «jurisdiction» has its own genesis of theoretical research and practical application. Constant use of this category can be observed only in international and administrative law. In particular, this term is in international instruments such as the Universal Declaration of Human Rights, the Convention for the Protection of Human Rights and Fundamental Freedoms, the International Covenant on Civil and Political Rights, etc.

With regard to the definition of the concept of «administrative jurisdiction,» it is used both in a broader and narrower senses in the theory of administrative law. In particular, in a broad sense, «administrative jurisdiction» means any specific case resolution in case of a dispute over law, that is, conflict situations¹⁴.

According to Yu. Rusnak, administrative jurisdiction is one of the main and effective means of protecting the rights of citizens; in addition,

¹³ Petrenko N.O. Shchodo vykorystannia terminiv «pidvidomchist», «kompetentsiia», «yurysdyktsiia» ta «pidsudnist sporiv» u hospodarskomu protsesualnomu zakonodavstvi [On the use of the terms "subordination", "competence", "jurisdiction" and "jurisdiction of disputes" in economic procedural law]. *Pidpriemnytstvo, hospodarstvo i pravo* [Entrepreneurship, economy and law], no. 5, 2012. P. 71. (in Ukrainian)

¹⁴ *Administrativna diialnist orhaniv vnutrishnikh sprav. Zahalna chastyna : pidruchnyk* [Administrative activity of the bodies of internal affairs. General part: Teaching manual] / I. P. Holosnichenko, Ya. Yu. Kondratiev (Eds.). Kyiv: Ukrainian Academy of Internal Affairs, 1995. P. 132. (in Ukrainian)

the jurisdictional activity of State bodies itself has different types. On the one hand, it is a dispute resolution over law during which the circumstances of the case are established, the legitimacy and validity of claims and objections of persons concerned are checked, and, on the other hand, it is the acts of the special bodies of punitive administrative jurisdiction. In a broad sense, in his opinion, administrative jurisdiction covers specific cases of the issues of rights, duties or legal interests of individuals and legal entities considered by the governing bodies, and for each legal dispute there should be the «judge» (institution) which can be referred to, and which can resolve independently the issue of the lawfulness or unlawfulness of the relevant requirement application of the appropriate legal regulation of the current legislation to the case circumstances in a particular case¹⁵.

V. Bevzenko argues that administrative jurisdiction is an interdisciplinary legal institution (in particular, the institution of administrative and administrative procedure law), through which administrative courts identify (define) public legal disputes that are within their competence¹⁶. Moreover, administrative jurisdiction provides for considering both disputes that fall under competence of administrative courts according to the CALP of Ukraine and cases of administrative offenses, regardless of whether they are considered by the court of general jurisdiction or by a specially authorized executive body (the body of extrajudicial administrative jurisdiction). In addition, the consideration of disputes carried out by administrative courts is determined by administrative justice and correlates with administrative jurisdiction as part of the whole. In turn, the consideration of cases of administrative offenses is defined as judicial and extrajudicial administrative jurisdiction¹⁷. V. Stefaniuk argues that the administrative jurisdiction of State executive bodies does not substitute actions of the court even partially, but only

¹⁵ Rusnak Yu. I. Administratyvno-yurysdyksiina diialnist orhaniv derzhavnoi podatkovoi sluzhby Ukrainy [Administrative and jurisdictional activities of the State Tax Service of Ukraine] (Dissertation for the degree of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07). National Academy of the State Taxes Service of Ukraine. Irpin, 2004. P. 19. (in Ukrainian)

¹⁶ Bevzenko V. M. Administratyvna yurysdyksiia: poniattia, sutnist, problemy vidmezhuvannia [Administrative jurisdiction: concept, essence, problems of delimitation]. Administratyvne pravo i protses [Administrative law and process], no. 2 (4), 2013. P. 193. (in Ukrainian)

¹⁷ Kurylo V. Do poniattia administratyvnoi yurysdyksii u silskomu hospodarstvi [On the notion of administrative jurisdiction in agriculture]. Visnyk Prokuratury [Bulletin of the Prosecutors Office], no. 7 (73), 2007. P. 117. (in Ukrainian)

precedes the trial. The decisions of these bodies do not affect the independence of the court¹⁸.

According to Yu. Kozlov, administrative jurisdiction is, on the one hand, an administrative-procedural activity of authorized executive bodies, carried out in extrajudicial manner with the purpose of consideration and resolution of disputes that arise in implementation of executive power, legal assessment of its participants' behaviour and application of legal responsibility to the guilty party if necessary, and, on the other hand, the scientist interprets it as administrative and procedural activities, carried out in extrajudicial or judicial proceedings for the purpose of consideration and resolution of administrative-legal disputes and application of administrative punitive measures¹⁹.

Furthermore, in legal literature, frequently administrative jurisdiction is reflected in a narrow sense as the consideration of cases of administrative offenses according to the administrative procedure, prescribed by law, by specially authorized bodies and their officials authorized to consider them and impose administrative penalties²⁰. For example, O. Shergin²¹ substantiates the interpretation of administrative jurisdiction as an activity of an authorized body, an official regarding the consideration of cases of administrative offenses and the application of administrative liability measures, that is, administrative penalties. Some authors propose to understand administrative jurisdiction as the activity of an authorized State body, an official regarding the resolution of individual administrative cases (disputes) related to administrative-legal relations of a citizen or a non-governmental organization with a public authority (its official) in the exercise of public authorities by this body, as a rule, executive authority²². From the perspective of A. Horoshko, administrative jurisdiction is the activity of State authorities and local self-government bodies regarding decision-making aimed at realization of the statutory competence, which is State power by nature, for protecting the rights and freedoms of citizens, lawful interests of legal entities, as well as

¹⁸ Stefaniuk V. S. *Pravova obumovlenist zaprovadzhennia administratyvnoi yustytisii v Ukraini* [The legal conditionality of the introduction of administrative justice in Ukraine] (Dissertation Abstract of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07), Taras Shevchenko Kyiv National University. Kyiv, 2000. Pp. 7–8. (in Ukrainian)

¹⁹ *Administrativnoe parvo: uchebnyk* [Administrative law: Teaching manual] / Yu. M. Kozlov and L. L. Popov (Eds.). Moscow, 2001. P. 413. (in Russian)

²⁰ Ishchuk O. S. *Poniattia administratyvnoi yurysdyktsii: problemy definitisii* [Concept of administrative jurisdiction: Problems of definition]. *Forum prava* [Law Forum], no. 1, 2011. P. 424. Retrieved from <http://www.nbuv.gov.ua/e-journals/FP/2011-1/11iocjpd.pdf>. (in Ukrainian)

²¹ Shergin A.P. *Admynystratyvnaia yurysdyktsiia* [Administrative jurisdiction] (Monography). Moscow: Legal Lit., 1979. P. 9. (in Russian)

²² *Slovar administrativnogo prava* [Dictionary of Administrative Law] / I. L. Bachilo, T. M. Gandilov, A. A. Grishkov et al. (Eds.). Moscow: Legal Culture Foundation, 1999. P. 10. (in Russian)

public interests in protecting public order, public safety²³. In turn, O. Mykolenko and V. Berdnyk define the concept of “administrative jurisdiction” as the competence of the State authority or local self-government body (their officials), provided for by administrative legal regulations, to consider administrative cases and to adopt legally binding decisions on them. This definition enables to argue that three types of administrative jurisdiction exist, and each has its specificities: a) administrative and regulatory jurisdiction, that is, the competence of administrative case resolution that arise on other grounds, except for a dispute over law and an administrative offense (cases of licenses, State registration of legal entities, etc.); b) administrative and legal proceedings jurisdiction, that is, the competence of administrative courts to pass judgements on relevant cases; c) administrative tort jurisdiction, that is, the competence to pass judgements on cases of administrative offenses that entail imposition of administrative penalties. Due to connection with legal conflicts (legal collisions) resolution, the scientists unite the last two types of administrative jurisdiction into one group, that is, administrative conflict jurisdiction²⁴.

Therefore, most scientists include in administrative jurisdiction activities of legal case resolution, legal protection of violated or disputed interests, legally powerful decision regarding the application of the corresponding legal sanction, restoration of law violated²⁵, since from their perspective, administrative jurisdiction is consideration of administrative legal disputes, cases of administrative offenses according to the administrative procedure, established by law, by the bodies (officials) specifically authorized to consider disputes and impose administrative penalties²⁶.

According to the academic course “Administrative Law of Ukraine,” the presence of an administrative dispute is a determining criterion for clarifying the content of administrative jurisdiction implemented in public administration or in local self-government by the relevant public authorities (including administrative courts). The stage of collision between parties’ legal

²³ Horoshko A. A. Orhany derzhavnoi podatkovoi sluzhby Ukrainy yak subiekty administratyvnoi yurysdyktsii [Bodies of the State Tax Service of Ukraine as subjects of administrative jurisdiction] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07), National Aviation University, Kyiv, 2013. P. 29. (in Ukrainian)

²⁴ Administratyvno-pravove rehuliuвання yurysdyktsiinoi diialnosti administratyvnykh komisii v Ukraini [Administrative and legal regulation of the jurisdictional activities of administrative commissions in Ukraine] (Monography) / O.I. Mykolenko, V.S. Berdnyk. Odesa: Feniks, 2013. Pp. 16–17. (in Ukrainian)

²⁵ Administratyvne pravo Ukrainy. Akademychnyi kurs [Administrative Law of Ukraine. Academic course] (Teaching manual in 2 Vols., Vol. 1: General part) / V. B. Averianov (Ed.). Kyiv: Yuryd. dumka, 2007. P. 506. (in Ukrainian)

²⁶ Administratyvne pravo Ukrainy: pidruchnyk dlia stud. yuryd. spets. vyshchykh navch. zakl. [Administrative law of Ukraine: Teaching manual for the students of special Law HEI] / Bytiak Yu.P., Bohutskiy V. V., Harashchuk V. M., et al. (Eds.). Kharkiv: Pravo, 2001. P. 196. (in Ukrainian)

positions under consideration is only the beginning of a conflict situation. It is accomplished with the awareness of a citizen that his/her rights are violated or obstacles are created for their implementation, in contrast, the persistent reluctance of the public authority to recognize the citizen's requirements or misunderstanding of unlawfulness of administrative actions or inactivity. Therefore, administrative jurisdiction can be considered from two perspectives: «punitive» administrative jurisdiction, that is, the activity of public authorities regarding the consideration and resolution of an administrative legal dispute, based on the presence in the actions of citizens and legal entities of administrative (or disciplinary) misdemeanour elements and imposition of the relevant penalty; «human rights» administrative jurisdiction, that is, the activity of public authorities (including administrative courts) in connection with the resolution of an administrative legal dispute, the content of which is the requirement of an individual or legal entity to restore rights violated with regard to unlawfulness of actions or inactivity of the relevant public authorities²⁷.

Therefore, the analysis of different scientific perspectives regarding the essence and the content of the concept of «administrative jurisdiction» enables to conclude that now no uniform definition of the concept exists, moreover, it is considered both in broader and narrower senses. In particular, in a broad sense, administrative jurisdiction involves the total set of social relations that arise between state authorities and citizens or their associations regarding various issues in their activities. That is, administrative jurisdiction is connected not only with issues that require legal regulation and dispute resolution on its merits, but also problems arising in the course of their direct activities in interaction with citizens²⁸. In a narrow sense, administrative jurisdiction is defined as consideration of administrative legal disputes, cases of administrative offenses according to the administrative procedure, established by law, by the bodies (officials) specifically authorized to consider disputes and impose administrative penalties

Therefore, this work advocates the perspective of those scholars who interpret administrative jurisdiction as procedure activities of the subjects of administrative jurisdiction, carried out in the established (judicial or

²⁷ Administratyvne pravo Ukrainy. Akademichnyi kurs [Administrative Law of Ukraine. Academic course] (Teaching manual in 2 Vols. Vol. 1: General part) / V. B. Averianov et al. (Eds.). Kyiv: Yuryd. dumka, 2009. P. 492–493. (in Ukrainian)

²⁸ Burbyka M. M. Administratyvno-yurysdyktsiyna diialnist sudu u spravakh pro porushennia mytnykh pravyl [Administrative and jurisdictional activities of the court in cases of violation of customs rules] (Monography) / M.M. Burbyka, O.M. Rieznik, O.I. Chernobai. Sumy: Sumy State University, 2016. P. 11. (in Ukrainian)

extrajudicial) manner for the purpose of consideration, legal assessment of the behaviour (actions) of the parties and resolution of disputes over law or cases on administrative offenses.

In addition, V. Averianov argues reasonably that the content of «administrative jurisdiction» institution requires to be consolidated legally in the relevant regulatory act, accordingly, to unify jurisdiction of: a) the executive authorities, empowered to consider complaints of citizens and legal entities for illegally taken decisions of both lower bodies and subordinates, that is, the scope of administrative appeals (administrative «quasi-justice»); b) the executive authorities, empowered to apply measures of administrative responsibility (administrative extrajudicial justice); c) administrative courts (administrative justice)²⁹. Therefore, nowadays, the legal consolidation of the content of “administrative jurisdiction,” as well as the concept of administrative and jurisdictional activity, is crucial, moreover, for the sake of convenience, it would be better to reveal the procedure for exercising the jurisdiction of different bodies in a uniform legal regulation.

It should be noted that at present the legal literature does not consider the concept and specificities of administrative and jurisdictional activity from a uniform perspective, furthermore, the majority of scholars do not distinguish between administrative jurisdiction and administrative and jurisdictional activity.

Some scholars define administrative and jurisdictional activities as respective entities' activities regulated by the administrative and legal regulations in relation to consideration and resolution of administrative offense cases and imposition of administrative penalties³⁰. According to S. Shoptenko, primarily, administrative and jurisdictional activities include consideration and resolution of administrative offense cases, as well as other administrative and jurisdictional actions by subjects within the powers granted to them by the current legislation. The researcher claims that these actions include any activity related to the occurrence of a particular legal dispute³¹. S. Komissarov argues that administrative and

²⁹ Averianov V. B. Pytannia administratyvnoi reformy u zmisti Zahalnoi kontseptsii derzhavno-pravovoi reformy [Issues of administrative reform in the content of the general concept of state and legal reform]. State-Legal Reform in Ukraine: Proceedings from International Scientific and Practical Conference. Kyiv: UAUP, 1997. Pp. 193–195. (in Ukrainian)

³⁰ Anokhina L. S. Subiekty administratyvnoi yurysdyktsii v Ukraini [Subjects of administrative jurisdiction in Ukraine] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07). National University of Internal Affairs of the Ministry of Internal Affairs of Ukraine, Kharkiv, 2001. Pp. 37–38. (in Ukrainian)

³¹ Shoptenko S. S. Shchodo zmistu administratyvno-yurysdyktsiynoi diialnosti pravookhoronnykh orhaniv [On the content of administrative and jurisdictional activity of law enforcement bodies]. Yurydychnyi naukovi elektronnyi zhurnal [Legal Scientific Electronic Journal], no. 4, 2014. Pp. 167–170. (in Ukrainian)

jurisdictional activity is the statutory activity of State authorities and local self-government bodies, their officials and public servants, authorized to conduct proceedings in cases of administrative offenses, execution of decisions on imposition of administrative penalties, as well as application of measures of administrative prevention and restraint of such offenses with the purpose of protecting the rights and freedoms of citizens, property, the constitutional system of Ukraine, the rights and legitimate interests of enterprises, institutions and organizations, law and order established, strengthening of law, prevention of offenses, education of citizens for accurate and strict compliance with the Constitution and the laws of Ukraine, respect for human rights, honour and dignity, for the rules of cohabitation, diligent performance of duties, responsibility to society³².

Furthermore, with regards to the essence of the administrative and jurisdictional activity of the Public Security Police, S. Alforov, T. Minka and R. Mironiuk state that it is the result of practical implementation of a certain part of powers that together with the subjects of jurisdiction constitute competence of the relevant executive authorities, and suggest that the Public Security Police's administrative and jurisdictional activities should be viewed from narrow and broad perspectives. In particular, in a narrow sense, this is activity, regulated mainly by the provisions of administrative law, of the relevant units (officials) competent to consider, to resolve administrative offense cases, and to impose administrative penalties on persons who have committed this offense. In a broad sense, the administrative and jurisdictional activity of the Public Security Police is the activities, regulated mainly by the provisions of administrative law, of the relevant units (officials) on the consideration and resolution of individual conflictual administrative cases, namely cases of administrative offenses, disciplinary cases and cases on complaints of citizens, as well as related administrative procedure measures³³.

Therefore, the analysis of different scientific approaches the concept of «administrative and jurisdictional activity» reveals that most scientists disclose the content of this concept through the categories such as «the system of legal relations», «a set of procedure actions», «the exercise of a

³² Komissarov S. Sutnist administratyvno-yurysdyktsiynoi diialnosti [The essence of administrative and jurisdictional activity]. *Naukovyi chasopys Natsionalnoi akad. prokuratury Ukrainy* [Scientific Journal of National Academy of Prosecutors Office of Ukraine], no. 3, 2015. Pp. 100–107. Retrieved from <http://www.chasopysnapu.gp.gov.ua/chasopys/ua/pdf/7-2015/komisarov.pdf>. (in Ukrainian)

³³ *Administratyvno-yurysdyksiina diialnist militsii hromadskoi bezpeky: navch. posib* [Administrative and Jurisdictional Activities of the Public Security Police: Teaching manual] / S.M. Alforov, T.P. Minka, R.V. Myroniuk (Eds.). Kharkiv: Pravo, 2014. 304 p. (in Ukrainian)

competent subject's powers», «implementation of legal regulations that provide for the rights and obligations of a particular subject for consideration and resolution of legal conflicts». L. Ivanova argues that currently the content of the concepts of administrative and jurisdictional activity, administrative jurisdiction, administrative and jurisdictional procedure, administrative and jurisdictional proceedings, administrative justice and even law enforcement activities are confused frequently. Therefore, it is necessary to identify the specificities of this activity, characterizing it as administrative and jurisdictional, distinguishing from a series of externally similar (State management, jurisdictional, procedure and others) types of activities³⁴.

According to most scientists, the specificities of administrative and jurisdictional activity are: 1) a large scope of social relations, protected in an administrative and jurisdictional manner; 2) significant amount of rights regarding imposition of administrative penalties, in comparison with other subjects of jurisdiction; 3) a wide range of officials empowered to apply administrative legal sanctions; 4) the specialization specified in legal regulations concerning the consideration of administrative and jurisdictional cases; 5) the right to impose administrative penalties at the scene of the offense³⁵.

I. Probko argues that administrative and jurisdictional activity specificities are its public authority specifics (jurisdictional protection of public relations is primarily the prerogative of competent State bodies), subjection to law (it is always strictly regulated by law), law application and law enforcement (in its implementation no new provisions of law are established, but only the relevant applicable law enforcement-directed provisions are used and applied)³⁶.

The analysis of administrative and jurisdictional activity enables O. Jafarova plausibly distinguishes the specificities of this activity, such as: 1) implementation by specially authorized officials of the relevant bodies;

³⁴ Ivanova L. Yu. *Formy administratyvno-yurysdyktsiynoi diialnosti orhaniv vnutrishnikh sprav Ukrainy* [Forms of administrative and jurisdictional activity of the internal affairs bodies of Ukraine] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07) Kharkiv National University of Internal Affairs. Kharkiv, 2001. 206 p. (in Ukrainian)

³⁵ Kalaianov D. P. *Administrativno-yurisdiktsionnaia deiatelnost orhanov vnutrennikh del Ukrainy : ucheb. posob.* [Administrative-jurisdictional activity of the bodies of internal affairs of Ukraine: Teaching manual] / D. P. Kalaianov. Odessa, 2000. 187 p. (in Russian)

³⁶ Probko I. B. *Administratyvno-yurysdyksiina diialnist orhaniv vykonavchoi vlady* [Administrative and jurisdictional activities of executive bodies]. *Visnyk Dnipropetrovskoho un-tu imeni Alfreda Nobelia. Seriiia 'Yurydychni nauky'* [Bulletin of Alfred Nobel Dnipropetrovsk University. Series "Legal Sciences"], no. 1 (4), 2013. Pp. 23–27. (in Ukrainian)

2) an objective to ensure human and civil rights and freedoms, to protect public order and safety, the established order of governance; 3) an obligatory presence of a legal dispute; 4) appropriate procedure regulation; 5) mandatory passing of a decision in the form of a legal act; 6) in the system of law enforcement bodies, not all services and their officials have jurisdictional powers; 7) an official of the law-enforcement body considers each administrative case individually; 8) consideration of individual administrative cases is carried out according to the relevant legal regulations, which provide for the procedure for consideration of complaints on unlawful actions or inactivity of law enforcement bodies and their officials that violate the rights and legitimate interests of citizens³⁷.

Therefore, the perspective of O. Selivanov, who takes into account the universal understanding of «jurisdiction» and claims that it is a set of powers, established by law (or other legal regulation), of the relevant State bodies, executive bodies and government bodies that determine the legal personality (functions, competence, issues of jurisdiction) regarding the application of their punitive powers in resolving issues (disputes, conflicts, the provision of administrative services, etc.), as well as in resolving disputes in court in compliance with proceeding regulations and administrative procedures³⁸, enables to formulate the definition of the concept «administrative and jurisdictional activity of law enforcement bodies of Ukraine,» which is the activity of law enforcement bodies (officials), regulated by the provisions of administrative and administrative procedure law, regarding the consideration and resolution of legal disputes, offenses, establishment of facts, providing a legal assessment of the behaviour of parties to a conflict situation, making a decision within the limits of a statutory competence, which is State power by nature and is aimed at protecting rights, freedoms of citizens, legitimate interests of society and the State.

The features of the administrative and jurisdictional activity of law enforcement bodies of Ukraine are: 1) its dependence on tasks, functions and nature of the activity of each law enforcement body related to the

³⁷ Dzhafarova O. V. Do pytannia pro vyznachennia sutnosti administratyvno-yurysdyktsiynoi diialnosti pravookhoronnykh orhaniv Ukrainy [On the issue of determining the essence of administrative and jurisdictional activity of law enforcement bodies of Ukraine]. *Visnyk Kharkivskoho natsionalnoho un-tu vnutr. sprav*[Bulletin of Kharkiv National University of Internal Affairs], no. 44, 2009. Pp. 152-157. (in Ukrainian)

³⁸ Selivanov A. O. Doktryna administratyvnoi yurysdyktsii v teorii ta praktytsi realizatsii vladnykh povnovazhen [Doctrine of administrative jurisdiction in the theory and practice of realization of power] (Chapter 2.9). In *Pravova doktryna Ukrainy* [The legal doctrine of Ukraine]. In 5 Vols. / V. Ya. Tatsii (Ed.). National Academy of Legal Sciences of Ukraine. Kharkiv: Pravo, 2013. Pp. 348–360. (in Ukrainian)

consideration and resolution of a dispute over law arising from provisions of administrative law, or the possibility of applying administrative coercive measures to the subject of administrative law; 2) the content of this activity is legal assessment of the totality of facts, the behaviour of the parties to a conflict situation, enabling to take a corresponding decision, which may contain legal sanctions etc.; 3) it is human-rights, law-enforcement, and preventive; 4) it is carried out in a form and procedure strictly regulated by law; 5) the official procedure for these activities implementation by specially authorized officials of law enforcement bodies; 6) it is aimed at protecting the rights and freedoms of citizens, the legitimate interests of society and the State.

14.2. Functions and principles of the administrative and jurisdictional activity of law enforcement bodies of Ukraine

To form a comprehensive view of the administrative and jurisdictional activity of the law enforcement bodies of Ukraine, it is logical and appropriate to determine the functions and principles of such activities.

Primarily, it should be noted that the word «function» comes from the Latin *functio* («implementation, execution») and means the role that a particular social institution performs in relation to the needs of the social system, the dependence, which is traced between different social processes³⁹.

According to the explanatory dictionary of the modern Ukrainian language, the term «function» means: 1) a phenomenon which depends on another phenomenon, a form of its discovery that changes in accordance with its changes; 2) the work of someone, something; duty; the scope of activity of someone, something; 3) the appointment, role of something⁴⁰.

In scientific literature, the term «function» is used frequently to name and/or characterise area of activity, to characterise in general the essence of the tasks and goals of the activity of someone or the purpose of something.⁴¹

³⁹ Filosofskii entsyklopedycheskii slovar [Philosophical Encyclopedic Dictionary] / L. F. Ilychev, P. N. Fedoseev, S. M. Kovalev, V. H. Panov (Eds.). Moscow: Sov. Encycl., 1983. P. 751. (in Russian)

⁴⁰ Velykyi tлумachnyi slovnyk suchasnoi ukrainskoi movy [Great explanatory dictionary of modern Ukrainian language]. / V. T. Busel (Ed.). K., Irpin: PTF Perun, 2004. P. 1335. (in Ukrainian)

⁴¹ Derzhavne upravlinnia : problemy administratyvno-pravovoi teorii ta praktyky [Public administration: Problems of administrative-legal theory and practice] / V. B. Averianov, O. F. Andriiko, Yu. P. Bytiak et al. (Eds.). Kyiv: Fakt, 2003. P. 101. (in Ukrainian)

Administrative and jurisdictional activity functions are specific, have a special content and can be carried out both independently and interrelated, integrating with each other. In other words, in the course of administrative and jurisdictional activity, all functions should be merged into a uniform, holistic process and reflect the main stages of this activity.

The main characteristics of the functions of the administrative and jurisdictional activity of law enforcement bodies are: homogeneity of the content of actions within a single function; their target orientation; a separate set of tasks accomplished. It means that the functions as the main interrelated areas of administrative and jurisdictional activity are implemented both by the law enforcement body as a whole and by its officials and represent relatively independent and homogeneous areas of administrative and jurisdictional activity, carried out by them in accordance with tasks provided and powers granted to them, and are aimed at protecting the rights and freedoms of citizens, the interests of society and the State.

Moreover, the concept of administrative and jurisdictional activity should be distinguished from its forms and methods. This is because methods are ways and means of this activity, and forms are external expression of individual actions, carried out by law enforcement bodies (officials) in order to implement tasks assigned to them.

The functions of law enforcement bodies and the functions of the administrative and jurisdictional activity of these bodies are not identical, since the functions of law enforcement bodies are manifested and implemented in the daily activities of each particular body in general, of its separate units (officials) during their tasks execution. The main functions of law enforcement bodies are preventive, protective, resocialization function, operative-detective, the function of crime investigation, consideration and decision on applications and reports on crimes and events, consideration of cases of administrative offenses, execution of sentences, decisions, rulings and decisions of courts, decisions of prosecutors, intelligence, as well as control, permissive, analytical, informational, regulatory, coordinating, etc.

For example, the functions of the prosecutor's office defined in Article 2 of the Law of Ukraine «On Prosecutor's Office,» are not identical with the functions of the administrative and jurisdictional activity of these bodies, in particular, in accordance with the article of this Law, the

following functions are assigned to the prosecutor's office: 1) providing State accusation in court; 2) representing the interests of a citizen or the State in court; 3) supervision over compliance with laws by the bodies conducting operative-detective activities, inquiry, pre-trial investigation; 4) supervision over compliance with laws during the execution of judicial decisions on criminal cases, as well as in the application of other coercive measures related to the restriction of personal freedom of citizens⁴², while jurisdiction as a form of legal activity performs primarily protective, educational and, in part, regulatory functions.

According to S. Husarov, administrative-jurisdictional activity has the following functions: protective, educational, regulatory and preventive⁴³, therefore, they reflect fully and comprehensively the essence and content of the administrative and jurisdictional activity of law enforcement bodies. For example, the protective function of the administrative and jurisdictional activity of law enforcement bodies is implemented in the course of resolutions of offense cases, legal sanctions application, and the restoration of the infringed or disputed rights of citizens, officials, enterprises and the State. It is determined by the tasks of the Law of Ukraine on Administrative Offenses. In particular, Article 1 of the CAO of Ukraine states that the task of the CAO of Ukraine is the protection of the rights and freedoms of citizens, property, the constitutional system of Ukraine, the rights and legitimate interests of enterprises, institutions and organizations, law and order established, strengthening of the rule of law, preventing offenses, education of citizens for accurate and strict compliance with the Constitution and the laws of Ukraine, respect for the rights, honour and dignity of other citizens, for the rules of cohabitation, diligent performance of their duties, responsibility to society⁴⁴.

In turn, the educational function of the administrative and jurisdictional activity of law enforcement bodies is to apply measures aimed at communicating a proper appreciation of law to persons who have committed a violation of law. According to Article 1 of the CAO of Ukraine, it provides education of citizens for accurate and strict

⁴² Pro prokuraturu [On the Prosecutors Office] (Law of Ukraine no. 1697-VII of October 14, 2014). *Holos Ukrainy* [Voice of Ukraine], no. 206, 25 October 2014. (in Ukrainian)

⁴³ Husarov S. M. *Administrativno-yurysdyksiyna diialnist orhaniv vnutrishnikh sprav* [Administrative and jurisdictional activities of the Internal Affairs bodies] (Dissertation of Doctor in Law in speciality 12.00.07). Institute of Legislation of the Verkhovna Rada of Ukraine. Kyiv, 2009. P. 462. (in Ukrainian)

⁴⁴ *Kodeks Ukrainy pro administrativni pravoporushennia* [Code of Ukraine on Administrative Offenses] (Amended, no. 8073-X of December 07, 1984). Retrieved from <http://zakon3.rada.gov.ua/laws/show/80731-10>. (in Ukrainian)

compliance with the Constitution and the laws of Ukraine, respect for the rights, honour and dignity of other citizens, for the rules of cohabitation, diligent performance of their duties, responsibility to society.

I. Horodetska argues that correctness and concise organization of the jurisdictional procedure determine the conformity of the decision with the legal provision and the validity of the jurisdictional act, which affects significantly emotional elements of legal psychology. The entire proceeding in a case is subordinated to the formation of moral guidelines in society due to openness, publicity of the procedure and adoption of individual rulings on eliminating causes that contributed to offense commission⁴⁵.

The regulatory function of the administrative and jurisdictional activity of law enforcement bodies is derived from the corresponding function of law. This function is implemented in transformation of regulatory provisions into the actions of subjects of law, into legal relations. Since, to a certain extent, regulation means management, then the regulatory function reflects the managerial aspect of jurisdictional proceedings. Management by means of legal provisions is the managerial system with a corrective element, if the primary signal (provision) does not work, the corrective signal (the act of jurisdiction) is activated, which forces the subject under management to fulfil duties⁴⁶. In this way, the rule of law is ensured and violations of legal provisions are eliminated. This function is ensured due to its assistance in assessing the compliance of the behaviour of certain legal entities with the requirements of legal provisions by law enforcement bodies and, in necessary cases, carry out a corrective action in the form of warning, administrative fine imposition, etc. if necessary. In such cases, the administrative and jurisdictional activity is related to compulsory enforcement, when the parties to legal relations are given corresponding rights and obligations on grounds of an official law-enforcement managerial act, which is an integral part of this activity.

Article 6 of the CAO of Ukraine provides for the preventive function of the administrative and jurisdictional activity of law enforcement bodies in connection with measures aimed at preventing administrative offenses,

⁴⁵ Horodetska I. A. Pidstavy ta zmist administratyvno-yurysdyktsiynoi diyalnosti derzhavnoho inspektora z kontroliu za vykorystanniam ta okhoronoiu zemel [Grounds and the content of the administrative and jurisdictional activity of a State inspector for control over the use and protection of lands]. *Universytetski naukovi zapysky* [University Scientific Notes], no. 2 (30), 2009. Pp. 190–195. (in Ukrainian)

⁴⁶ Kurylo V. I. *Administratyvna yurysdyktsiia v APK Ukrainy: navch. posib. dlia stud. vyshch. navch. zakl.* [Administrative jurisdiction in the AIC of Ukraine: Teaching manual for the students of higher educational institutions] / V. I. Kurylo, V. K. Shkarupa, O. Yu. Piddubnyi (Eds.). Kyiv: Master – XXI centuries, 2008. 688 p. (in Ukrainian)

identifying and eliminating the causes and conditions conducive to their commission, the education of citizens for high consciousness and discipline, strict adherence to the laws of Ukraine. This function implementation is one of the main tasks of proceedings in cases on administrative offenses, since the application of the imposed administrative penalty is related to achieving the objectives of general and individual prevention of administrative offenses. In addition, Article 23 of the CAO of Ukraine provides for application of the administrative penalty with the purpose of education of a person, who has committed an offense, for compliance with the laws of Ukraine, respect for the rules of cohabitation, diligent performance of their duties, responsibility to society, as well as preventing new offenses commission both by the perpetrator and by other persons⁴⁷.

Moreover, the preventive function of the administrative and jurisdictional activity should be implemented not only by choosing the type and amount of administrative penalty in accordance with the principles of legality and individualization, but also by the entire consideration of the case. According to S. Husarov, it is imperative to explain to the perpetrator the legal consequences of his/her misconduct. This is especially important in cases of administrative offenses because their commission borders on a criminal offense. Unfortunately, bodies of administrative jurisdiction do not always use such an opportunity to prevent offenses⁴⁸.

It should be emphasized that any activity requires moral foundations, in particular on the principles, norms and values of society. Accordingly, the administrative and jurisdictional activity of law enforcement bodies should also be guided by social standards and principles.

Considering the general concept of «principle,» which means the initial guiding idea, the basic starting point, as well as the general concept of the principles of law, V. Shylnyk argues that the principles of the administrative and jurisdictional activity are fundamental ideas, enshrined in the Constitution of Ukraine and the current administrative legislation, which determine the essence, organization and area of the specified activity, its goals, tasks, functions, methods and forms of implementation,

⁴⁷ Kodeks Ukrainy pro administratyvni pravoporushennia [Code of Ukraine on Administrative Offenses] (Amended, no. 8073-X of December 07, 1984). Retrieved from <http://zakon3.rada.gov.ua/laws/show/80731-10>.

⁴⁸ Husarov S. M. Administratyvno-yurysdyktsiyna diialnist orhaniv vnutrishnikh sprav [Administrative and jurisdictional activities of the Internal Affairs bodies] (Dissertation of Doctor in Law in speciality 12.00.07). Institute of Legislation of the Verkhovna Rada of Ukraine. Kyiv, 2009. P. 462. (in Ukrainian)

as well as the procedural status of the subjects of this activity⁴⁹. K. Serhienko's definition is similar as she argues that the principles of the administrative and jurisdictional activity are the basic ideas, enshrined in the Basic Law of the State, the Constitution, and in the current administrative legislation, aimed at determining the essence and area of this type of activity, its tasks and functions, methods and forms of implementation, as well as the procedural status of the subjects of the administrative and jurisdictional activity⁵⁰. Therefore, in the most general manner, they define the framework of proper, reasonably required and legal conduct in law, that is, outlines limits of rights, duties and responsibilities. In this sense, the principles are a legal «bridgehead» for legal guarantees to act⁵¹.

Therefore, the principles of the administrative and jurisdictional activity of law enforcement bodies determine its essence and nature, reflect the leading ideas of the administrative law and procedure, and constitute the general foundations of legal regulation of the activities of law enforcement bodies as subjects of the administrative and jurisdictional activity for protection and defence of the rights and freedoms of citizens, the interests of society and the State. They are extremely important, since they summarize the basic trends, reveal the genesis of legal norms and standards.

Therefore, the principles of the administrative and jurisdictional activity of law enforcement bodies are the fundamental principles of the activity of law enforcement bodies for the consideration and resolution of relevant cases on violation of the rights, freedoms or legitimate interests of citizens or the State that arise in the course of their State power activities. In practice, the principles are legally fixed in the form of legal provisions, which are the general statements that constitute the basis for the administrative-jurisdictional activity of law enforcement bodies. For that reason, they become important legal requirements mandatory for execution and compliance with by all law enforcement agencies.

⁴⁹ Shylnyk V. Yu. *Administratyvni yurysdyktsiyni provadzhennia ta yikh zdiisnennia orhanamy vnutrishnikh sprav* [Administrative jurisdictional proceedings and their implementation by internal affairs bodies] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07), National University of Internal Affairs. Kharkiv, 2004. 196 p. (in Ukrainian)

⁵⁰ Serhienko K. A. *Pryntsypy administratyvno-yurysdyktsiynoi diialnosti orhaniv vykonavchoi vlady* [Principles of administrative and jurisdictional activity of executive authorities] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07), Classic Private University. Zaporizhzhia, 2011. 197 p. (in Ukrainian)

⁵¹ Opryshko V. F. *Konstytutsiini osnovy rozvytku zakonodavstva* [Constitutional basis of legislation development] (Scientific Issue). Kyiv: Institute of Legislation of the Verkhovna Rada of Ukraine, 2001. 212 p. (in Ukrainian)

An analysis of the principles of the administrative and jurisdictional activity of law enforcement bodies reveals that this activity is based on general principles that are specific to any executive and regulatory activity of public authorities and on the special principles that determine the underlying foundations precisely for the administrative and jurisdictional activity of law enforcement bodies. The general principles include: the rule of law; legality; ensuring the compliance with human and civil rights and freedoms; humanism; democracy; publicity; openness and transparency; the equality of the parties before law; presumption of innocence; responsibility. The special principles of the administrative and jurisdictional activity of law enforcement bodies include: comprehensive and complete consideration of the case; timeliness; confidentiality; efficiency; objective truth; autonomy and independence in decision-making; provision of the right to protection; consideration of the case within a reasonable time.

These principles are enshrined in numerous legal regulations of a various legal effect, which in the end does not allow ensuring at the proper level the observance of the rights and freedoms of citizens during the implementation of the administrative and jurisdictional activity by law enforcement bodies. Therefore, this should be fixed in one legal regulation, in particular in the Administrative Procedure Code of Ukraine.

CONCLUSIONS

The administrative and jurisdictional activity of law enforcement bodies of Ukraine is the activity of law enforcement bodies (officials), regulated by the provisions of administrative and administrative procedure law, regarding the consideration and resolution of legal disputes, offenses, establishment of facts, providing a legal assessment of the behaviour of parties to a conflict situation, making a decision within the limits of a statutory competence, which is State power by nature and is aimed at protecting rights, freedoms of citizens, legitimate interests of society and the State.

The features of the administrative and jurisdictional activity of law enforcement bodies of Ukraine are: 1) dependence on tasks, functions and nature of the activity of each law enforcement body related to the consideration and resolution of a dispute over law arising from provisions of administrative law, or the possibility of applying administrative coercive

measures to the subject of administrative law; 2) the content of this activity is legal assessment of the totality of facts, the behaviour of the parties to a conflict situation, on the basis of which a corresponding decision, which may contain legal sanctions, is taken, etc.; 3) it is human-rights, law-enforcement, and preventive; 4) it is carried out in a form and procedure strictly regulated by law; 5) the official procedure for these activities implementation by specially authorized officials of law enforcement bodies; 6) it is aimed at protecting the rights and freedoms of citizens, the legitimate interests of society and the State.

As the subject of the administrative and jurisdictional activity, a law enforcement body is a State body, created to maintain law and order in the State and authorized to protect, defend and restore the rights and freedoms of citizens, as well as interests of society and the State through fair, impartial, timely consideration and resolution of administrative offense cases or legal disputes and taking decisions, which may contain legal sanctions.

The functions of the administrative and jurisdictional activity of law enforcement bodies are specific, relatively independent, qualitatively homogeneous components of the administrative and jurisdictional activity that are characterized by a target orientation for achieving the objectives and tasks of law enforcement bodies in the course of administrative and jurisdictional proceedings implementation.

The principles of the administrative and jurisdictional activity of law enforcement bodies determine its essence and nature, reflect the leading ideas of the administrative law and procedure, and constitute the general foundations of legal regulation of the activities of law enforcement bodies as subjects of the administrative and jurisdictional activity regarding consideration and resolution of cases within their competence for protection and defence of the rights and freedoms of citizens, the interests of society and the State. In practice, the principles are legally enshrined in the form of legal provisions, which are the general statements that constitute the basis for the administrative-jurisdictional activity of law enforcement bodies. They are extremely important, since they summarize the basic trends, reveal the genesis of legal norms and standards, ensure finding out and comprehensive investigation of the circumstances of the case and testify to the legality of decisions taken by the law-enforcement body as the subject of administrative and jurisdictional activity, provide

implementation of mandatory legitimacy and fairness in law application activities.

SUMMARY

The issues of the administrative and jurisdictional activity of law enforcement bodies have not been studied enough by legal scholars. Whereas in their studies, Ukrainian scholars have covered some of its aspects, many issues of the topic under consideration are still episodic, incomplete and require further research. Therefore, a comprehensive theoretical and methodological approach to assessing the effectiveness of the administrative and jurisdictional activity of law enforcement bodies of Ukraine in modern conditions should be applied; the concept and content of this activity, its organizational and procedural principles should be determined, its features should be distinguished, as well as proposals on the improvement of certain provisions of the current legislation in this area should be formulated.

In the article, the essence and specificities of the administrative and jurisdictional activity of law enforcement bodies of Ukraine are determined, in particular, the administrative and jurisdictional activity of law enforcement bodies of Ukraine is proposed to consider as the activity of law enforcement bodies (officials), regulated by the provisions of administrative and administrative procedure law, regarding the consideration and resolution of legal disputes, offenses, establishment of facts, providing a legal assessment of the behaviour of parties to a conflict situation, making a decision within the limits of a statutory competence, which is State power by nature and is aimed at protecting rights, freedoms of citizens, legitimate interests of society and the State.

The functions of the administrative and jurisdictional activity of law enforcement bodies are described, their specifics, a special content are indicated and their ability to be carried out both independently and interrelated, integrating with each other is underlined.

The principles of the administrative and jurisdictional activity of law enforcement bodies of Ukraine are characterised in the main.

REFERENCES

1. Administrativnoe parvo: uchebnyk [Administrative law: Teaching manual] / Yu. M. Kozlov and L. L. Popov (Eds.). Moscow, 2001. P. 413.
2. Administratyvna diialnist orhaniv vnutrishnikh sprav. Zahalna chastyna: pidruchnyk [Administrative activity of the bodies of internal affairs. General part: Teaching manual] / I. P. Holosnichenko, Ya. Yu. Kondratiev (Eds.). Kyiv: Ukrainian Academy of Internal Affairs, 1995. P. 132.
3. Administratyvne pravo Ukrainy. Akademichnyi kurs [Administrative Law of Ukraine. Academic course] (Teaching manual in 2 Vols., Vol. 1: General part) / V. B. Averianov (Ed.). Kyiv: Yuryd. dumka, 2007. P. 506.
4. Administratyvne pravo Ukrainy. Akademichnyi kurs [Administrative Law of Ukraine. Academic course] (Teaching manual in 2 Vols. Vol. 1: General part) / V. B. Averianov et al. (Eds.). Kyiv: Yuryd. dumka, 2009. P. 492–493.
5. Administratyvne pravo Ukrainy: pidruchnyk dlia stud. yuryd. spets. vyshchych navch. zakl. [Administrative law of Ukraine: Teaching manual for the students of special Law HEI] / Bytiak Yu.P., Bohutskyi V. V., Harashchuk V. M., et al. (Eds.). Kharkiv: Pravo, 2001. P. 196.
6. Administratyvno-pravove rehuliuвання yurysdyktsiinoi diialnosti administratyvnykh komisii v Ukraini [Administrative and legal regulation of the jurisdictional activities of administrative commissions in Ukraine] (Monography) / O.I. Mykolenko, V.S. Berdnyk. Odesa: Feniks, 2013. Pp. 16–17.
7. Administratyvno-yurysdyktsiina diialnist militsii hromadskoi bezpeky: navch. posib [Administrative and Jurisdictional Activities of the Public Security Police: Teaching manual] / S.M. Alforov, T.P. Minka, R.V. Myroniuk (Eds.). Kharkiv: Pravo, 2014. 304 p.
8. Alekseev S. S. Pravo: azbuka – teoriia – filosofii: Opyt kompleksnogo issledovaniia [Law: Alphabet – Theory – Philosophy: Experience of complex research] / S. S. Alekseev. Moscow: Statute, 1999. P. 116.
9. Anokhina L. S. Subiekty administratyvnoi yurysdyktsii v Ukraini [Subjects of administrative jurisdiction in Ukraine] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07). National University of Internal Affairs of the Ministry of Internal Affairs of Ukraine, Kharkiv, 2001. Pp. 37–38.

10. Averianov V. B. Pytannia administratyvnoi reformy u zmisti Zahalnoi kontseptsii derzhavno-pravovoi reformy [Issues of administrative reform in the content of the general concept of state and legal reform]. State-Legal Reform in Ukraine: Proceedings from International Scientific and Practical Conference. Kyiv: UAUP, 1997. Pp. 193–195.

11. Bevzenko V. M. Administratyvna yurysdyktsiia: poniattia, sutnist, problemy vidmezhuвання [Administrative jurisdiction: concept, essence, problems of delimitation]. Administratyvne pravo i protses [Administrative law and process], no. 2 (4), 2013. P. 193.

12. Borodiin Í. L. Admínistratyvno-yurysdyktsiinyi protses [Administrative and jurisdictional procedure] (Monography). Kyiv, 2007. P. 504.

13. Burbyka M. M. Administratyvno-yurysdyktsiyna diialnist sudu u spravakh pro porushennia mytnykh pravyl [Administrative and jurisdictional activities of the court in cases of violation of customs rules] (Monography) / M. M. Burbyka, O. M. Rieznik, O. I. Chernobai. Sumy: Sumy State University, 2016. P. 11.

14. Derzhavne upravlinnia : problemy administratyvno-pravovoi teorii ta praktyky [Public administration: Problems of administrative-legal theory and practice] / V. B. Averianov, O. F. Andriiko, Yu. P. Bytiak et al. (Eds.). Kyiv: Fakt, 2003. P. 101.

15. Dzhafarova O. V. Do pytannia pro vyznachennia sutnosti administratyvno-yurysdyktsiynoi diialnosti pravookhoronnykh orhaniv Ukrainy [On the issue of determining the essence of administrative and jurisdictional activity of law enforcement bodies of Ukraine]. Visnyk Kharkivskoho natsionalnoho un-tu vnutr. sprav [Bulletin of Kharkiv National University of Internal Affairs], no. 44, 2009. Pp. 152-157.

16. Filosofskii entsyklopedycheskii slovar [Philosophical Encyclopedic Dictionary] / L. F. Ilychev, P. N. Fedoseev, S. M. Kovalev, V. H. Panov (Eds.). Moscow: Sov. Encycl., 1983. P. 751.

17. Horodetska I. A. Pidstavy ta zmist administratyvno-yurysdyktsiynoi diyalnosti derzhavnoho inspektora z kontroliu za vykorystanniam ta okhoroniu zemel [Grounds and the content of the administrative and jurisdictional activity of a State inspector for control over the use and protection of lands]. Universytetski naukovi zapysky [University Scientific Notes], no. 2 (30), 2009. Pp. 190–195.

18. Horoshko A. A. Orhany derzhavnoi podatkovoi sluzhby Ukrainy yak subiekty administratyvnoi yurysdyktsii [Bodies of the State Tax Service of Ukraine as subjects of administrative jurisdiction] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07), National Aviation University. Kyiv, 2013. P. 29.

19. Husarov S. M. Administratyvno-yurysdyktsiyna diialnist orhaniv vnutrishnikh sprav [Administrative and jurisdictional activities of the Internal Affairs bodies] (Dissertation of Doctor in Law in speciality 12.00.07). Institute of Legislation of the Verkhovna Rada of Ukraine. Kyiv, 2009. P. 20.

20. Husarov S. M. Administratyvno-yurysdyktsiyna diialnist orhaniv vnutrishnikh sprav [Administrative and jurisdictional activities of the Internal Affairs bodies] (Dissertation of Doctor in Law in speciality 12.00.07). Institute of Legislation of the Verkhovna Rada of Ukraine. Kyiv, 2009. P. 462.

21. Ishchuk O. S. Poniattia administratyvnoi yurysdyktsii: problemy definitsii [Concept of administrative jurisdiction: Problems of definition]. Forum prava [Law Forum], no. 1, 2011. P. 424. Retrieved from <http://www.nbu.gov.ua/e-journals/FP/2011-1/11iocjpd.pdf>.

22. Ivanova L. Yu. Formy administratyvno-yurysdyktsiynoi diialnosti orhaniv vnutrishnikh sprav Ukrainy [Forms of administrative and jurisdictional activity of the internal affairs bodies of Ukraine] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07) Kharkiv National University of Internal Affairs. Kharkiv, 2001. 206 p.

23. Kalaianov D. P. Administrativno-yurisdiktsionnaia deiatelnost orhanov vnutrennikh del Ukrainy : ucheb. posob. [Administrative-jurisdictional activity of the bodies of internal affairs of Ukraine: Teaching manual]. Odessa, 2000. 187 p.

24. Karinskii S. S. Yurisdiksiia [Jurisdiction]. Slovar inostrannykh slov [Dictionary of Foreign Words] / S. S. Karinskii. I.V. Lekhin, S.M. Lokshina, F.N. Petrov (Eds.). Moscow: State publishing house of foreign and national dictionaries, 1954. P. 827.

25. Kodeks Ukrainy pro administratyvni pravoporushennia [Code of Ukraine on Administrative Offenses] (Amended, no. 8073-X of December 07, 1984). Retrieved from <http://zakon3.rada.gov.ua/laws/show/80731-10>.

26. Komissarov S. Sutnist administratyvno-yurysdyktsiynoi diialnosti [The essence of administrative and jurisdictional activity]. Naukovyi chasopys Natsionalnoi akad. prokuratury Ukrainy [Scientific Journal of

National Academy of Prosecutors Office of Ukraine], no. 3, 2015. Pp. 100–107. Retrieved from <http://www.chasopysnapu.gp.gov.ua/chasopys/ua/pdf/7-2015/komisarov.pdf>.

27. Konstytutsiia Ukrainy [The Constitution of Ukraine] (No. 254k/96-VR of 28 June 1996). Vidomosti Verkhovnoii Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine], no.30, 1996. P. 141.

28. Kurylo V. Do poniattia administratyvnoi yurysdyktsii u silskomu hospodarstvi [On the notion of administrative jurisdiction in agriculture]. Visnyk Prokuratury [Bulletin of the Prosecutors Office], no. 7 (73), 2007. P. 117.

29. Kurylo V. I. Administratyvna yurysdyktsiia v APK Ukrainy: navch. posib. dlia stud. vyshch. navch. zakl. [Administrative jurisdiction in the AIC of Ukraine: Teaching manual for the students of higher educational institutions] / V. I. Kurylo, V. K. Shkarupa, O. Yu. Piddubnyi (Eds.). Kyiv: Master – XXI centuries, 2008. 688 p.

30. On Approval of the National Human Rights Strategy of Ukraine (Decree of the President of Ukraine No 501/2015 of 25 August 2015). Офіційний вісник Президента України. 2015. № 20. Стр. 80. Ст. 1203.

31. Opryshko V. F. Konstytutsiini osnovy rozvytku zakonodavstva [Constitutional basis of legislation development] (Scientific Issue). Kyiv: Institute of Legislation of the Verkhovna Rada of Ukraine, 2001. 212 p.

32. Petrenko N.O. Shchodo vykorystannia terminiv «pidvidomchist», «kompetentsiia», «yurysdyktsiia» ta «pidsudnist sporiv» u hospodarskomu protsesualnomu zakonodavstvi [On the use of the terms «subordination», «competence», «jurisdiction» and «jurisdiction of disputes» in economic procedural law]. Pidpriemnytstvo, hospodarstvo i pravo [Entrepreneurship, economy and law], no. 5, 2012. P. 71.

33. Pigolkin A. S. Yurisdiktsiia [Jurisdiction]. Yuridicheskii entsiklopedicheskii slovar [Legal Encyclopedic Dictionary] / A.Ya. Sukharev, M. M. Boguslavskii et al. (Eds.). (2nd ed., Ext.). Moscow: Sov. encyclop., 1987. P. 526.

34. Populiarna yurydychna entsyklopediia [Popular legal encyclopedia] / V. K. Hizhevskiy, V. V. Holovchenko, V. S. Kovalskiy et al. Kyiv: Yurinkom Inter, 2002. P. 525.

35. Pro prokuraturu [On the Prosecutors Office] (Law of Ukraine no. 1697-VII of October 14, 2014). Holos Ukrainy [Voice of Ukraine], no. 206, 25 October 2014.

36. Pro Stratehiiu staloho rozvytku “Ukrayina – 2020” Strategy for Sustainable Development “Ukraine 2020” (Decree of the President of Ukraine No 5/2015 of 12 January 2015). Ofitsiynyi visnyk Ukrainy [Official Bulletin of Ukraine], no. 4, 2015. P. 8. Art. 67.

37. Probko I. B. Administratyvno-yurysdyktsiina diialnist orhaniv vykonavchoi vlady [Administrative and jurisdictional activities of executive bodies]. Visnyk Dnipropetrovskoho un-tu imeni Alfreda Nobelia. Seriia ‘Yurydychni nauky’ [Bulletin of Alfred Nobel Dnipropetrovsk University. Series «Legal Sciences»], no. 1 (4), 2013. Pp. 23–27.

38. Rusnak Yu. I. Administratyvno-yurysdyktsiina diialnist orhaniv derzhavnoi podatkovoi sluzhby Ukrainy [Administrative and jurisdictional activities of the State Tax Service of Ukraine] (Dissertation for the degree of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07). National Academy of the State Taxes Service of Ukraine. Irpin, 2004. P. 19.

39. Selivanov A. O. Doktryna administratyvnoi yurysdyktsii v teorii ta praktytsi realizatsii vladnykh povnovazhen [Doctrine of administrative jurisdiction in the theory and practice of realization of power] (Chapter 2.9). In Pravova doktryna Ukrainy [The legal doctrine of Ukraine]. In 5 Vols. / V. Ya. Tatsii (Ed.). National Academy of Legal Sciences of Ukraine. Kharkiv: Pravo, 2013. Pp. 348–360.

40. Serhiienko K. A. Pryntsypy administratyvno-yurysdyktsiynoi diialnosti orhaniv vykonavchoi vlady [Principles of administrative and jurisdictional activity of executive authorities] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07), Classic Private University. Zaporizhzhia, 2011. 197 p.

41. Shergin A.P. Admynstratyvnaia yurysdyktsiia [Administrative jurisdiction] (Monography). Moscow: Legal Lit., 1979. P. 9.

42. Shoptenko S. S. Shchodo zmistu administratyvno-yurysdyktsiynoi diialnosti pravookhoronnykh orhaniv [On the content of administrative and jurisdictional activity of law enforcement bodies]. Yurydychnyi naukovi elektronnyi zhurnal [Legal Scientific Electronic Journal], no. 4, 2014. Pp. 167–170.

43. Shylnyk V. Yu. Administratyvni yurysdyktsiyni provadzhennia ta yikh zdiisnennia orhanamy vnutrishnikh sprav [Administrative jurisdictional

proceedings and their implementation by internal affairs bodies] (Dissertation of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07), National University of Internal Affairs. Kharkiv, 2004. 196 p.

44. Slovar administrativnogo prava [Dictionary of Administrative Law] / I. L. Bachilo, T. M. Gandilov, A. A. Grishkov et al. (Eds.). Moscow: Legal Culture Foundation, 1999. P. 10.

45. Slovnyk inshomovnykh sliv Melnychuka 'Slovopediia' [Melnichuk Dictionary of foreign language words «Wordspedia.» Retrieved from <http://slovopedia.org.ua/42/53422/293089.html>.

46. Stefaniuk V. S. Pravova obumovlenist zaprovadzhennia administratyvnoi yustytsii v Ukraini [The legal conditionality of the introduction of administrative justice in Ukraine] (Dissertation Abstract of Candidate of Juridical Sciences (Ph.D.) in speciality 12.00.07), Taras Shevchenko Kyiv National University. Kyiv, 2000. Pp. 7–8.

47. Tymchenko H. P. Pryntsypy tsyvilnoi yurysdyksii: Teoriia, istoriia, perspektyvy rozvytku (Monography). Kyiv: Publishing House 'Yurydychna dumka', 2006. Pp. 12–18.

48. Velykyi tлумachnyi slovnyk suchasnoi ukrainskoi movy [Great explanatory dictionary of modern Ukrainian language]. V. T. Busel (Ed.). K., Irpin: PTF Perun, 2004. P. 1420.

Information about author:

Pluhatar T. A.

Candidate of Juridical Sciences, Senior Researcher,
Academic Secretary of the Academic Council,
State Research Institute of the Ministry of Internal Affairs of Ukraine,
4a Ye. Gutsala Lane, Kyiv, Ukraine