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MAIN CONCEPTUAL APPROACHES TO DETERMINATION OF NATURE AND CONCEPT OF ADMINISTRATIVE JUSTICE IN FOREIGN LEGAL LEGISLATION

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INTRODUCTION

Ukraine, as a state that is in the active phase of European integration processes, conducts reforms in virtually all branches of state activity. In conducting reforms in public administration, it is necessary to take into account international standards, theoretical positions, doctrines and positive practical world experience. That is why in this article the main doctrinal approaches of lawyers concerning the definition of the nature and concept of administrative justice in foreign legal law are analyzed and summarized; its main tasks, features, mechanisms, models and concepts. It was clarified that in foreign legal legislation, administrative justice is considered in a broad and narrow sense. It includes a set of legal and procedural tools to protect all private individuals (both physical and legal) from bodies that carry out public administration; should be considered as a special direction of the judicial authorities, aimed at resolving disputes in which one of the parties is the state, its bodies and officials. At the same time, administrative justice is always aimed at protecting the subjective rights and legitimate interests of citizens. Theoretically, it is substantiated that: the implementation of the principle of accessibility of administrative justice is closely linked to the right to a fair trial, enshrined in the basic international human rights instruments; the mechanisms of administrative justice apply to administrative decisions taken by various state bodies and other entities possessing public authority; in the foreign legal doctrine there is a unique position that the tasks of the system of administrative justice should include ensuring the adoption of appropriate (legitimate, substantiated and fair decisions by public authorities, ensuring the functioning of the mechanisms of compensation in cases when such bodies make incorrect decisions or incorrectly handle as well as reducing the likelihood of making such false decisions in the future.

Formulation of the problem. Integration of Ukraine into the European legal space requires a full-fledged reform of the legal system based on the principles and standards that have been developed at the pan-European level. In conducting reforms in public administration, it is necessary to take into account international standards, theoretical positions, doctrines and positive practical world experience. The administrative and judicial reform launched in Ukraine, the creation of a system of administrative courts in Ukraine, and the development of a regulatory framework for the regulation of administrative proceedings are taking place in line with international standards of administrative justice. Their compliance is a prerequisite for Ukraine's integration into the European legal space, as well as for the acquisition of the features of a law-governed state.

Adaptation of the Ukrainian legislation is the first stage of a long process of approximation of the national legal system, including legal culture, doctrine and judicial and administrative practice, to the system of law of the European Union in accordance with the criteria put forward by the European Union regarding the states which intend to join it.

The presence of various bodies that protect the rights and freedoms of citizens creates a mechanism without which the functioning of the rule of law is impossible. The judicial mechanism for the protection of human rights, which allows the elimination of arbitrariness on the part of the authorities, ensures the implementation of the principle of responsibility of the authorities for their activities before a person, called "administrative justice".

In most European countries, administrative justice is represented by specialized administrative courts or specialized departments within the courts of general jurisdiction.

It should be noted that administrative justice is one of the constituent parts of modern administrative law, an integral institution of the rule of law, designed to protect subjective rights and legitimate interests in the field of public administration, as well as to resolve administrative legal disputes. It acts as one of the important guarantees of the legality of administrative activities. Administrative justice serves as a prerequisite for the existence of administrative law, namely, administrative law is impossible to imagine without administrative proceedings. The establishment of a full-fledged institution of

administrative justice is a very important step in the context of the administrative and judicial reform that continues in our country.

On the eve of the introduction of the European model of administrative justice in Ukraine, theoretical and applied developments in this field, including comparative studies based on in-depth study of foreign experience, become especially relevant.

There are many reasons for the existence of the institute of administrative justice and the need for its further development. In the context of the objective conditionality of the growth of the regulatory weight of legislation, the need to improve the system of administrative justice and, more broadly, the system of resolving conflicts and disputes between private individuals (citizens and organizations), on the one hand, and state authorities and administrations, on the other hand, is growing significantly and progressively, as well as between various government agencies.

It should be noted that administrative justice is not a new legal phenomenon, but for several centuries there have been discussions about its concept and content. The ambiguity in its understanding, in the opinion of law-enforcers, is due to the presence of many models of administrative justice, as well as the difference in their application.

Very relevant, in the conditions of administrative reform, in our opinion, is the study of foreign experience in the formation of the institute of administrative justice. In the first place, this is necessary for the implementation of effective experience of the leading countries, a critical reassessment of its own legislative framework, regulating the resolution of public-law disputes.

In a modern democratic state, the system of administrative justice is, on the one hand, an essential component of proper public administration and, on the other, a key component of the justice system.

A generally acknowledged foreign legal doctrine is the position that the system of administrative justice exists, first of all, in order to facilitate the resolution of disputes between private individuals and public authorities, as well as to ensure control over the various types of decisions taken by these bodies. At the same time, attention is drawn to the fact that, ideally, it should consider the needs of individuals who seek protection of rights and legitimate interests as the main ones, to provide an opportunity to appeal against illegal decisions of public

authorities and to demand compensation for the damage, to carry out their activities openly and independently[1].

One of the key features of the system of administrative justice abroad is the fact that it simultaneously performs both functions of the judiciary and executive. There is even a kind of duplication in some states of the respective functions of the two branches of government mentioned above, since administrative courts are sometimes only formally part of the judicial system, but in fact they exercise their powers within the executive branch. This peculiar situation is reflected in typical examples of a number of administrative justice models: administrative courts have the right to issue administrative acts (for example, the State Council in France)[2].

Mechanisms of administrative justice, as a rule, apply to administrative decisions taken by various public authorities and other entities with public authority. The main object of its attention should be the degree and nature of the impact of the individuals concerned on the rights and legitimate interests.

In essence, according to R. Crack and J. McMillan, administrative justice is a philosophy in which within the framework of administrative decisions, the rights and interests of individuals should be adequately protected[3].

I.L. Borodin, L.A. Nikolaeva, G.E. Petukhov, P.P. Serkov, N.G. Salischeva, Y.N. Starilov, A.A. Soloviev, A.K. Solovyova, and N.Y. Hamaneva, M.A. Shtanina and other lawyers have devoted their works to studies of administrative justice, on the basis of foreign experience several dissertations were defended (N.S. Bocharova, O.V. Krivelskaya, E.V. Muratova, I.V. Shmelevova and others). However, the question of a comprehensive study of the basic conceptual approaches to the definition of the concept of administrative justice in foreign countries virtually left out of attention. That is why the purpose

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[1] Зеленцов А. Б. Административный иск как средство защиты нарушенного публичного права. *Роль административной юстиции в защите прав человека* : международный экспертный семинар, 14–15 декабря 2009 года. М.: Права человека, 2010. С. 2.

[2] Ершов В. В. Приветствие. *Роль административной юстиции в защите прав человека* : международный экспертный семинар, 14–15 декабря 2009 года. М.: Права человека, 2010. С. 6.

[3] Лапина М. А. Административная юрисдикция в системе административного процесса : монография. Финансовый университет, 2013. С. 35–38.

of the article is to study the main conceptual approaches to the definition of the nature and concept of administrative justice in foreign legal law.

1. The Concept, Features and Main Tasks of Administrative Justice in Foreign Law

In foreign legal law, administrative justice is considered in a broad and narrow sense.

In the narrow sense, administrative justice is considered as the organization of activities (a set of powers and procedures) of the judicial authorities, which exercise the basic control over the compliance of the implemented public management with legal standards[4].

In a broad sense, administrative justice, according to foreign authors, includes:

– the process of making administrative decisions (the notion of "decision" is interpreted widely and includes various legal acts, actions and omissions of state authorities and administrations, officials, as well as other entities, which have public authority) by public authorities that can influence the rights and interests of individuals (the term "private person" includes both private individuals and private individuals);

– procedural and substantive legal rules according to which such decisions are made;

– procedures after making decisions;

– a system for resolving disputes (consideration of complaints and appeals) regarding decisions[5].

However, the most common among foreign lawyers is the approach to understanding administrative justice in the narrow sense – both at the legislative level and in the scientific environment. In particular, R.S. Franch defines administrative justice as the application in specific legal situations of the basic postulates of a legitimate, just and rational behavior that citizens and legal entities can expect from all actors involved in public administration and possessing authority, including not only officials of executive bodies, but also judges. The mechanisms and

[4] Лапина М. А. Административная юрисдикция в системе административного процесса : монография. Финансовый университет, 2013. С. 35–38.

[5] Марку Ж. Структура административной юстиции: опыт применения различных моделей. *Роль административной юстиции в защите прав человека* : международный экспертный семинар, 14–15 декабря 2009 года. М.: Права человека, 2010. С. 2.

legal consequences of such behavior may vary, but the extent to which it is realized is a measure of the implementation of the principle of the rule of law in modern society[6].

It also deserves attention to the definition proposed by the professor of comparative administrative law at the University of Paris, Sorbonne J. Marc. In his opinion, administrative justice is a judicial procedure that is carried out by a judicial body that makes decisions on complaints against acts passed by administrative bodies or on the actions of administrative bodies, provided that such decisions are made on the basis of material and procedural rules, in whole or in part different from the norms commonly used by courts in resolving disputes between individuals. It is not excluded that separate disputes, which appear to involve the administrative authorities, are entirely in the field of general law[7].

The above definition is based on the statement that although the dualism of judicial institutions is officially established only in individual states, it is nevertheless to a certain extent also in other countries. This is due to the special nature of material and procedural rules applicable to disputes involving public authorities.

In all countries, the establishment of administrative justice in this sense took place gradually, which allowed to ensure compliance with the requirements of the law and the rights of persons under their authority. Models of administrative justice differ in organization, the nature of disputes and, in their combination, with other ways of securing rights[8].

Administrative justice includes a set of legal and procedural tools for protecting all individuals (both physical and legal) from bodies that carry out public administration. It should be considered, including as a special line of activity of the judiciary, aimed at resolving disputes in which one of the parties is the state, its bodies and officials. At the same time, administrative justice is always aimed at protecting the subjective rights and legitimate interests of citizens[9].

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[6] Соловьев А. А. Зарубежный опыт организации административной юстиции : монография. М., 2014. С. 25.

[7] Соловьева А. К. Административная юстиция в России: проблемы теории и практики : автореф. дис. … канд. юрид. наук. СПб., 1999. С. 37.

[8] Там же. С. 10.

[9] Старилов Ю. Н. Административная юстиция. Теория, история, перспективы : монография. М.: Норма, 2001. С. 156.

Particular attention should be paid to the fact that administrative justice is the most common manifestation of the rule of law, as well as one of the most effective ways of realizing basic human rights and freedoms[10].

Accordingly, key elements of the implementation of the rule of law principle apply also to the institution of administrative justice. These include, in particular, the transparency of the dispute settlement procedure, the opportunity to be heard and the availability of adequate remedies.

Thus, in a modern democratic state, the system of administrative justice is, on the one hand, an essential component of proper public administration and, on the other, a key component of the justice system.

Among the main characteristics of administrative justice, foreign authors also include the possibility of its implementation exclusively within the framework and with the help of appropriate specialized institutions.

Since the existence of administrative justice is a fundamental requirement for a society based on the rule of law, the state and its authorities must act within the limits of certain and limited powers of authority.

Administrative justice provides for the possibility of obtaining protection by private individuals in the event that their rights, freedoms and legitimate interests are negatively affected by public administration bodies in connection with the performance of their duties illegally or in an improper manner. Such legal protection by itself provides for the possibility of initiating administrative proceedings before the relevant court or tribunal.

The main features of administrative justice are the mandatory consideration of the interests of a wide range of people affected by administrative decisions taken, as well as society as a whole, the effectiveness and timeliness of decision-making, as well as its accessibility and acceptability to those seeking protection.

The implementation of the principle of availability of administrative justice is closely linked to the right to a fair trial, enshrined in the basic international human rights instruments, in particular the Council of

[10] Фулей Т. І. Сучасні загальнолюдські принципи права та проблеми їх впровадження в Україні : автореф. дис. ... канд. юрид. наук: 12.00.01. К., 2003. 18 с.; Хаманева Н. Ю. Административная юстиция и административно-правовые отношения: теоретические проблемы. *Административные правоотношения: вопросы теории и практики.* 2009. № 1. С. 49.

Europe's Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, 04.11.1950).

At the same time, special attention is paid to Art. 6 of the said Convention (the right to a fair trial), which includes the following provisions:

– Everyone in the event of a dispute over his civil rights and obligations or in establishing the validity of any criminal charge has the right to a fair and public hearing of the case within a reasonable time by an independent and impartial tribunal established by law. A judgment is pronounced publicly, but the press and the public may not be allowed to attend court hearings throughout the whole or part of a proceeding on grounds of morality, public order or national security in a democratic society, or when the interests of minors are required or to protect the private life of the parties, or (to the extent that, in the opinion of the court, it is strictly necessary) in special circumstances, when publicity would violate the interests of justice;

– Everyone charged with a crime is considered innocent until his or her guilt is established in a lawful manner;

– Everyone accused of committing a criminal offense has the right:

a) be immediately and fully informed in a language understandable to him about the nature and cause of the prosecution against him;

b) have enough time and opportunity to prepare their defense;

c) To defend himself or herself, or through a chosen defense counsel, or, in the event of insufficient funds to pay for a defense counsel, to use the services of a lawyer appointed by him free of charge, when required by the interests of justice;

d) interrogate witnesses who testify against him or have the right to have these witnesses interrogated and have the right to challenge and question witnesses who testify in his favor under the same conditions as witnesses against him;

e) to use the translator's free assistance if he does not understand the language used in court or does not speak the language[11].

The right to a fair trial also relates to the right to use effective remedies, in turn, also provided for in international human rights instruments, since it provides for the establishment of appropriate

[11] Adler M. A. Socio-legal approach to administrative justice. *Law and policy.* 2003. № 25. P. 323. Australian institute of administrative law annual conference. P. 15–16.

judicial and administrative mechanisms to deal with complaints in accordance with the requirements of national law.

In the foreign legal doctrine there is a unique position that the tasks of the system of administrative justice should include ensuring the adoption by the public authorities of appropriate (legitimate, justified and fair decisions, ensuring the functioning of harm compensation mechanisms in situations where such bodies make incorrect decisions or behave incorrectly as well as reducing the likelihood of making such false decisions. It should be noted that the system of administrative justice should be ruined, first of all, to meet the needs of its users.

Mechanisms of administrative justice are defined as legal procedures that ensure the implementation of the principle of justice in the form of restoration of violated rights or providing compensation when making illegal decisions by public authorities[12].

2. Principles and Models of Administrative Justice

Administrative justice must be ensured in accordance with the principles that society considers to be fair and legitimate in certain historical contexts.

Let's illustrate, for example, the principles of administrative justice that the Council of Administrative Tribunals of Canada established as the basis for ensuring proper public administration in this area and the effective functioning of the system of administrative justice bodies:

– independence of the administrative justice bodies in matters of management and decision-making;

– impartiality and freedom of the administrative justice bodies from any outside influence or interference;

– prevention of conflict of interests in the process of functioning of administrative justice bodies;

– high level of qualification and professionalism of judges and other employees of administrative justice bodies;

– dignity, respect, courtesy;

– accessibility of administrative justice, including financial, intelligibility and correspondence to the capabilities and needs of its users;

[12] Administrative justice in Scotland – the way forward : A Summary of the final report of the administrative justice steering group. *Consumer Focus Scotland*. 2009. P. 7.

– transparency and accountability;

– implementation of administrative justice on the principles of natural law and justice;

– -prompt consideration of disputes and decisions;
- availability of opportunities for informal peaceful settlement of disputes;

– minimizing risks for process participants who do not have professional representatives;

– ensuring the uniformity of law enforcement practice[13].

In our view, these principles are universal and can be applied to any system of administrative justice.

Interestingly in foreign countries there is also a conceptual approach to questions about the models of administrative justice and the concept of its understanding. In particular, if we talk about real models of administrative justice, which are implemented in practice, then, first of all, it is necessary to turn to the experience of European states.

As for administrative justice in European countries, foreign researchers often distinguish three main models:

– English, in which the powers of the public authorities within the administrative justice system are part of the functions of courts of general jurisdiction, and at the same time there is a significant number of different quasi-judicial bodies dealing with such disputes;

– French, which provides for the existence and functioning of a multilevel system of independent administrative courts;

– German, which also has a multi-level system of special administrative courts, but the control over their activities is much more rigorous and more detailed than in France.

Almost all other European states, despite the cultural, political and legal differences, have implemented the above three models of administrative justice [14].

G. Marc referred to earlier, points out that, depending on the status of the highest judicial instance in administrative cases, three models can be distinguished. There are also systems of mixed nature. The general

[13] Discussion paper reform of civil and administrative justice. URL: http://www.justice.qld.gov. P. 7.; Fenton H. N. How administrative justice and security are related. URL: http://parlamericas. P. 1–4.

[14] Fix-Zamudio H. Concepto y contenido de la justicia administrativa. URL: http://biblio.juridicas.unam.mx/libros/4/1624/9.pdf. P. 5.

property of different models is that they guarantee the independence of the judiciary.

The first model is the United Supreme Court. Such a model is the most ancient since its emergence. It originates from the history of English law. Within such a system, in particular in the UK, there is a more pronounced differentiation between judicial administrative authorities. This model operates in most states, the judiciary of which is based on common law, as well as in many countries where there is an independent notion of administrative law (Spain, most Latin American countries).

The second model is the State Council. Such an administrative justice body is the successor to the Roman Princeps Council. In its modern form, the State Council appeared in France with the adoption of the Republican Constitution VIII of 1799. It represents a body that brings together the functions of an advisory council in the executive and higher administrative courts. The State Council operates, in particular, in the Netherlands, Belgium, Italy, Greece, Turkey, Colombia. The existence of such a system has been challenged several times by the European Court of Human Rights, but the court has confirmed its legitimacy.

The third model is the Supreme Administrative Court. It means an administrative court, not linked organisationally with civil courts or with the executive. Such a court was first established in Austria at the end of the XIX century. Today, such courts are included in the judicial system of some countries. Fourth – a mixed system In mixed systems, the first instance dealing with administrative disputes is ordinary courts of general jurisdiction, and the next instance is the specialized administrative court (the Netherlands, the Czech Republic). In some countries, on the contrary, there are administrative courts of first instance whose decisions can be appealed to a higher court of general jurisdiction (Australia, Switzerland)[15].

Speaking about European models of administrative justice, one can not turn to this institution in the European Union. The legislation of the European Union does not contain detailed norms (both material and procedural) concerning administrative justice. For the relevant authorities, only the general provisions applicable to the functioning of the judicial system as a whole are applicable. That is, the main issue of

[15] Соловьева А. К. Административная юстиция в России: проблемы теории и практики : автореф. дис. … канд. юрид. наук. СПб., 1999. С. 10.

the implementation of administrative justice is the responsibility of the states that are members of the European Union.

In many European countries, administrative justice (or administrative justice) is a prevailing institution (for example, France, Germany, Spain, Switzerland); active use of administrative justice opportunities in developing countries; In many states, discussions are underway, the subject of which is the formation of national institutes of administrative justice. In countries with a traditionally high level of legal regulation, attention to administrative justice is so significant that, even on formal grounds, it is a constitutional justice contender. So, in particular, in special research, constitutional justice is analyzed only after administrative justice.

Significant interest for lawyers is the organization of administrative justice of the French Republic. Firstly, the French model was recognized by classical lawyers, as well as that which had a significant impact on the development of the relevant legal institutions of a number of European states. Some scholars identify it as an independent model of organization of administrative justice (along with German and Anglo-Saxon). Secondly, the existence in France of the Code of Administrative Justice as a basic codified normative legal act with a sufficiently successful conceptual design and the existence of substantial law-making practice is essential.

An important role in the formation of the institute of administrative justice in France played the principle of the division of power, developed by Montesquieu. Proceeding from this theory, state officials came to the conclusion that general courts, acting as organs of a completely outsider administration, should not interfere in its activities. Today administrative justice of France is an independent branch of justice, separated from the system of courts of general jurisdiction and executive authorities. Its essence lies in the so-called French concept of separation of powers, which prohibits courts of general jurisdiction to interfere, except in cases provided for by law, in the activities of the executive. As a result, the double judicial system – the system of courts of general jurisdiction, headed by the French Court of Cassation and the system of administrative courts, headed by the State Council of France.

Administrative justice in France is different and specific, reflecting the duality of the judicial system in the country:

– in France there are two types of courts – general and administrative, with the delimitation of jurisdiction between them

sometimes causes difficulties, that is, there is a problem: in which court to sue the lawsuit. For its solution, in 1848, the Court on Disputes on Jurisdiction was established;

– by virtue of the principle of separation of powers, the activity of the administration is regulated mainly by the norms of administrative law. At the same time, only administrative courts had the right to consider cases, one of the parties in which the administration acted. On the other hand, administrative justice has so far been integrated into the administration itself and inextricably linked with it. This position is called by scientists as a kind of compromise between political power and administration.

3. Concepts of Administrative Justice

As far as the concepts of administrative justice are concerned, there is also no single approach in this area.

Some scholars, such as J. Marshau, distinguish the following concepts of administrative justice:

– a model of bureaucratic rationality, in which the main attention is paid to the efficiency, accuracy of the functioning of the administrative justice system, as well as the effectiveness of the corresponding costs;

– a professional model that provides the most qualified provision of services to users of the system of administrative justice and to meet the needs of individuals;

– a model of moral judgment, based on traditional representations on the content and the adoption of court decisions (characteristic of countries with the Anglo-Saxon system of law)[16]. From the point of view of this model, administrative justice, its main objective is to ensure the right to social welfare.

Another approach to the classification considered, proposed by M. Edler, includes the following theoretical models of administrative justice:

– management – a model within which public authorities are empowered to achieve certain standards of service for persons applying

[16] French R. Administrative justice in Australian administrative law. *Administrative justice – the core and the fringe* : Papers presented at the 1999 National administrative law forum. URL: http://150.203.86.5/aial/Publications/webdocuments. 2000. P. 12.

to the administrative justice system, as well as the freedom to identify ways to achieve such standards;

– consumerism – a model in which administrative justice is considered as a certain administrative process in which a citizen is involved as a consumer of public services;

– a market model in which administrative justice is identified with a system that obeys the laws of the market in which a citizen acting as a consumer has the opportunity to choose another service provider if he is not satisfied with the previous one[17].

S. Halliday considers such concepts of administrative justice as hierarchical, egalitarian, individualistic and fatalistic. At the same time, he considers administrative justice in the broad sense of decision-making by public authorities as a whole and classifies it depending on the degree of involvement of citizens in the process of making such decisions.

In the hierarchical concept of administrative justice, essential importance is attached to power and experience, and the state acts on behalf of the entire society due to the high trust in it; while officials exercise their powers in order to fulfill public interests.

The egalitarian concept of administrative justice implies decision-making by consensus between public authorities and the public in which citizens and officials are equal partners.

The individualistic concept of administrative justice implies, as well as the egalitarian concept, the achievement of consensus, but not between the state and society, but between the state and individual individuals. In the framework of the individualistic concept of administrative justice, the essential importance is given, first of all, to the satisfaction of consumers' demand for services within the framework of administrative justice.

The fatalistic concept of administrative justice involves consideration of the decision-making process by public authorities as a sort of "lottery", which is not connected with any laws with the relations of society and the state[18].

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[17] French R. Administrative justice – words in search of meaning. Australian institute of administrative law annual conference. P. 15–16.

[18] Convention for the protection of human rights and fundamental freedoms as amended by protocols № 11 and № 14, Rome, 4 November 1950. URL: http://ajtc.justice.gov.uk/docs/principles_web.pdf.

In addition, we note that the domestic legal science in no way left the study of the problem discussed in this section.

Thus, for example, A.B. Zelentsov distinguishes four main approaches to the understanding of administrative justice. The first approach, which is extremely broad, proceeds from the fact that administrative justice is a set of institutions of different legal nature, which ensure the activities of public administration in the framework established by law. And in this sense, administrative justice is understood as the use of different forms of control:

- parliamentary;
- administrative;
- jurisdictional.

The second approach is to understand administrative justice as part of the judicial system, as a purely judicial activity. In this aspect, general courts, chambers in general courts, as well as specialized administrative courts are considered as subjects of administrative jurisdiction.

The third approach is the administrative justice "stricto sensu" (in the "narrow" sense). According to him, administrative justice is the activity of specialized administrative tribunals, independent bodies, which decide exclusively the issue of public law, that is, it is the courts of public law.

The fourth approach is the Anglo-Saxon, which considers administrative justice only as a pre-judicial activity of quasi-judicial institutions, which resolve administrative disputes in extrajudicial order[19]. N. Y. Khamaneva, in turn, emphasizes that administrative justice is a special judicial procedure for challenging acts of public administration related to the protection of subjective public rights and the maintenance of the rule of law in the field of public administration. This type of justice should be regarded as a legal (judicial) form of resolution of conflicts that arise in connection with the legal assessment of the legality of acts and actions of a public authority[20].According to M.A. Lapin, administrative justice is, along with administrative

[19] Creyke R., McMillan J. Administrative Justice – the concept emerges. *Administrative justice – the core and the fringe* : Papers presented at the 1999 National Administrative Law Forum. Australian institute of administrative law inc., 2000. P. 91–92.

[20] Mashaw J. Bureaucratic justice: managing social security disability claims. Yale university press, 1983. Australian institute of administrative law annual conference. URL: http://www.hcourt.gov.au/assets/publications/speeches. P. 49.

procedures and administrative jurisdiction, one of the components of the administrative process. In this case, administrative justice is necessary for the consideration of legal disputes arising from administrative and administrative-procedural legal relations, courts (possibly quasi-judicial bodies) within the framework of conducting in each case judicial administrative and jurisdictional process[21].

V.V. Ershov claims that in the world several basic administrative justice systems and a lot of their modifications were formed. Studying the experience of functioning of the administrative justice bodies in foreign countries will help to identify the best approaches to the formation of their own model of administrative justice, the implementation of which the main role played by the judicial system[22].

CONCLUSIONS

Summing up the above, we came to the conclusion that:

– the phenomenon of "administrative justice" has no unambiguous interpretation both in domestic and in foreign legal literature, this term is interpreted differently, therefore, in different states there are its various modifications, oriented to a specific national legal system. But, as the research showed, the existing types of administrative justice in the world are united by the fact that this is a form of control over the observance of the rule of law in the field of public administration;

– in a modern democratic state, the system of administrative justice is, on the one hand, an essential component of proper public administration, and on the other hand, a key component of the justice system;

– the system of administrative justice exists, first of all, in order to facilitate the resolution of disputes between individuals and public authorities, as well as control over the various types of decisions taken by these authorities;

– from the organizational and formal (procedural) side, administrative justice is carried out in two main forms (in the form of administrative legal proceedings (judicial administrative process) and in the form of a quasi-judicial administrative process of jurisdiction;

[21] Principles for administrative justice. Administrative justice and tribunals council. URL: http://ajtc.justice.gov.uk/docs/principles_web.pdf. P. 35-38.

[22] Rhinow R., Roller H., Kiss C. Off entliches Prozessrecht und Justizverfassungsrecht des Bundes. URL: https://www.ncjrs.gov/pdffiles/tcps.pdf.

– administrative justice is the most common manifestation of the rule of law principle, as well as one of the effective ways of realizing basic human rights and freedoms;

– administrative justice in foreign countries – this is a judicial procedure, which is carried out by the judicial body, which makes decisions on complaints about acts taken by administrative bodies or on the actions of administrative bodies, with the fact that such decisions are made on the basis of material and procedural rules, in whole or in part different from the norms commonly used by courts in resolving disputes between individuals.

It is not excluded that separate disputes, which appear to involve the administrative authorities, are entirely in the field of general law. It is the most common manifestation of the rule of law, as well as one of the most effective ways of realizing basic human rights and freedoms;

– one of the key features of the system of administrative justice abroad is the fact that it simultaneously performs both functions of the judiciary and executive;

– the mechanisms of administrative justice apply to administrative decisions taken by various state bodies and other entities possessing public authority;

– in the foreign legal doctrine there is a unique position that the tasks of the system of administrative justice should include ensuring the adoption by the public authorities of appropriate (legitimate, reasonable and fair decisions, ensuring the functioning of the mechanisms of compensation in situations in which such bodies take the wrong solutions or incorrectly deal with private individuals, as well as reducing the likelihood of making such false decisions in the future.

SUMMARY

The article analyzes and generalizes the main doctrinal approaches of lawyers concerning the definition of the nature and concept of administrative justice in foreign legal law; the main tasks, features, mechanisms, models and concepts of administrative justice are determined.

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