

ADMINISTRATIVE AND BUSINESS LAW AS PART OF ADMINISTRATIVE LAW

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INTRODUCTION

Administrative and business law (administratyvno-hospodarske pravo) as a scientific issue is theoretically justified and developed in the articles, textbooks and monographs of the Ukrainian researchers published in recent years, but its origins are found in German administrative law. The effectiveness of legal regulation largely depends on the extent, to which the content of legal impact meets the needs of public relations, plans and trends of the development of the state and society. The role, scope and ratio of the main components of law, namely its institutions, branches and legitimate associations, change, allowing for these needs. This process may result in the differentiation of a set of legal instruments that leads to the emergence of new branches, the formation of new legal entities and institutions. Accordingly, the bodies of rules of law that determine the legal status of public administration entities and regulate the instruments they use in their activities, morphs into a new form. The current level of the development of relations in the field of public administration, as well as the task of forming a democratic, social and legal state, which is enshrined in the Constitution of Ukraine, necessitate further improvement of the legal status and organization of public administration, and hence the clarification of scientific ideas about its meaning and content.

At present, the issue of administrative and business law as part of administrative law, which regulates the activities of public administration entities involved in the implementation of state policy in the field of economic management, is of particular relevance.

1. Social purpose of administrative and business law

Administrative and business law is a relatively new part of administrative law, which is on the rise. The external manifestation and legal arrangements of public interest in the sphere of economic management is carried out by means of administrative law (rules, relations, legislation, competence of subjects, methods of implementing rules).

Public interest is the interest of social community that is recognized and satisfied by the state. The recognition of publicity of interest is made by means of its legal support (enshrinement in rules and implementation arrangements). The population of Ukraine at large may be considered as such community. The most striking example of recognition of publicity of their interests is the provisions of the Constitution of Ukraine. Thus, the Constitution contains a number of regulatory concepts covered by the general concept “public interest”. Although this concept is not explicitly used, it is based on the preamble provisions. This, for example, in consolidating “the sovereign will of the people”, on the basis of the exercise of the right to self-determination, ensuring human rights and freedoms and dignified human existence, intensifying social harmony and consensus in Ukraine, develops and strengthens the democratic, social, legal state. These formulas of public interest lay the foundations of the constitutionally established state order enshrined in Articles 1-20, which are inviolable and basic for all state and legal institutions.

The Constitution of Ukraine has legally enshrined the rights and obligations of the state to actively influence the life of society, including the economic sphere. The implementation of this task is directly assigned to the public administration, which by means of power and administrative activities (public administration) exercises control over business relations. The ultimate goal of such activities is to ensure human rights and freedoms in the implementation of business activities. Public administration reconciles the selfish interests of individual members of society, the contradictions of private, individual and general, using legal means in carrying out business activities. Through public administration, public interests in the sphere of economic management are optimally taken into consideration and ensured in order to develop a socially-oriented market economy. “The main goal of this transformation is... to ensure an optimal balance between freedom, in particular, economic one, on the one hand, and legal equality and social justice, on the other¹”.

Public administration in a market economy is objective in nature, conditioned upon the needs of society in the market. Market is never all-powerful in addressing many vital issues, in particular, relating to the environment, social justice, full development of the human personality².

¹ Кубко Є.Б., Селиванов В.М. Культурно-правовий вимір вітчизняного підприємництва // Правова культура і підприємництво. Київ, Донецьк, 1999. С. 3–4.

² Economic Growth with Equity? World Bank Discussion Paper 407. 1999. P. 123.

Focus only on the market is likely to be detrimental and may lead to negative results. Although the market mechanism operates on the principle of equivalence, people have different opportunities and, as a result, their income varies notably. Unrestricted market mechanisms inevitably lead to social polarization, unemployment and social tension. In addition, each enterprise, industry and region operate under the principle of self-interest, whereby their activities are somewhat spontaneous and self-oriented, and focused on quick win. Along with this, enterprises have competitive relations, and there are contradictions in the interests of the whole and the parts between an enterprise and the state³.

In such circumstances, it is the influence of public administration on business entities that enables to make the operation of the market economy more conscious, coordinated and coherent, to ensure its long-term accelerated development and the adherence to the constitutional principle of social justice, according to which a person, his or her life and health, honor and dignity, inviolability and security are recognized as the highest social values (Article 3 of the Constitution of Ukraine).

Proceeding that the fundamental importance of business activities for the existence, welfare and progressive development of the population, is now universally recognized, no state refuses to create public and business administration. This fact is evidence of the state's responsibility for the economy and underlines the paramount importance of this sphere among other state and legal functions.⁴

Even liberal states establish a framework of legal conditions, thus providing an opportunity for business activities and expressing their attitude to these activities. This requires public and business administration established to a greater or lesser extent. Therefore, administrative and business law is an integral part of the legal system of European states. This does not mean, however, that it is a separate legal matter. The solution to this issue depends on neither the specific legal rules relating to administrative and business law, nor the degree of their development. A decisive factor is the theoretical and practical need to systematize and develop the basic structure and features of this sphere of law. The dynamics of development are heterogeneous. For the Anglo-American legal system, such matter as administrative and business law is

³ Ходов Л.Г. Основы государственной экономической политики: Учебник. М.: БЕК, 1997. С. 12–13.

⁴ Cane Peter. An Introduction to Administrative Law. 1992. 422 p.

alien. In this case, the main directions of business regulation are contained in the administrative common law. In addition, certain aspects of administrative and business law are covered by some regulatory legal acts, which govern the activities of the nationalized industry, consumer protection, competition support, property issues, trading, etc. In Austria, Switzerland and Germany, as well as in the Asian legal system, administrative and business law, on the contrary, is developing as an independent branch of law⁵.

As for Ukraine, we believe that it is too early to talk about administrative and business law as an independent branch of law, but the process of its formation is certainly going on, and it is possible that over time its independent subject matter will take a definite shape. As things stand now, administrative and business law is a system of rules, in which heterogeneous legal material, related to the implementation of the state policy in the field of economic management by the public administration entities to a greater or lesser extent, is combined by the subjective and purpose-oriented features. The subjective feature of such combination is the nature of regulated social relations that arise, change and cease in the process of public administration, the application of its specific tools in the field of economic management, the provision of guarantees in respect of its legitimate implementation. The main feature of combining legal material is the need for legal protection of the rights of business entities from arbitrariness on the part of public administration, the legal regulation of its activities in order to ensure the stability and efficiency of power and administrative impact, to create optimal conditions for its implementation and participation of business entities in this process⁶.

Researchers are unanimous that a key and determinative element of the mechanism of enforcement of the rights and freedoms of citizens is, for sure, the rule of law. The rule of law is a general mandatory rule (pattern) of behavior, which establishes for an entity both the possible mode of behavior – subjective legal rights, and the required mode of behavior – subjective legal obligations. The specific task of the rule of law in the mechanism of legal support is to determine the common circle of people it covers; to define the content of social relations (the content of the subject's behavior), as well as objects of legal relations; to specify

⁵ Хольцер М. Производительность, государственное управление, демократия. М.: Юрид. лит., 1999. С. 5.

⁶ Кравцова Т.М. Державне регулювання господарської діяльності: адміністративно-правові аспекти: Монографія. Суми: ВВП «Мрія», 2006. 184 с. С. 59.

the circumstances, in which a person must follow the rule of conduct; to disclose the rule of conduct specifying the rights and obligations of participants in the relations being regulated, the nature of their relationships with each other, as well as the enforcement measures applied by the government to persons in the event of their failure to fulfill legal obligations. The rule of law acquires external expression, as a rule, in a regulatory legal act that ensures its effectiveness. Regulatory legal acts serve the regulatory framework of the legal support mechanism. The clarity and effectiveness of the legal support mechanism depend on the correct interpretation of the rules of law.⁷ Thus, the mechanism of ensuring the rights and legitimate interests of business entities in the field of public administration predetermines, first of all, the regulation of social relations with the participation of the rules of administrative and business law.

2. The essence and content of administrative and business law

Discussions about the essence of a particular body of legal rules (branches of law) in the system of domestic law are traditionally entered into by defining its subject and method of legal regulation. However, we support the opinion of the professor R. S. Melnyk⁸ that the named criteria may not be the basis for allocation of separate constituent elements in the system of law as it is impossible to make a distinction between the branches of law on their basis. Against this background, the branches of public law may be distinguished on the basis of the functions performed by public administration. Each such function requires separate legal support since, as follows from part 2 of Article 19 of the Constitution of Ukraine, public authorities, local self-government authorities and their officials shall act only under, within the powers of and in the manner provided for by the Constitution and laws of Ukraine. The performance of one or another public function is carried out by certain entities that are part of public administration, so the latter should have at their disposal, so to say, the relevant rules of conduct, which form separate branches of public law.

⁷ Цвік М. В. Загальна теорія держави і права: підр. для студ. юрид. спец. вищ. навч. закладів освіти / М. В. Цвік, В. Д. Ткаченко, Л. Л. Богачова, О. В. Петришин, С. М. Олейников; М. В. Цвік (ред.) / Національна юридична академія України ім. Ярослава Мудрого. Х.: Право, 2002. С. 331.

⁸ Мельник Р. С. Система адміністративного права України : дис. ... д-ра юрид. наук : 12.00.07 / Мельник Роман Сергійович; Харк. нац. ун-т внутр. справ. Х., 2010. 415 с. С. 329–332.

Public functions in the sphere of economic management are performed by the public administration entities, which in their activities are governed by the rules of administrative and business law. The criteria for the operation of administrative and business law as part of administrative law include the need for an independent and separate legal regulation of the activities of public administration entities related to the implementation of the state economic policy. The goal of this separation is to ensure the rights and legitimate interests of business entities in the implementation of public administration in the field of economic management.

In the legal literature⁹, the rules of administrative and business law are fairly divided into two groups:

1) rules that determine the legal status and arrangement of activities of public administration entities involved in the implementation of the economic function of the state;

2) rules that define the procedure for interaction between public administration and business entities.

The first group of rules defines the content of activities and the scope of powers (competence) of public administration entities in the field of economic management. It is the competence that distinguishes the latter from other parties to public relations in the sphere of economic management. At the same time, the implementation of power and administration functions depends on the level of authority of the public administration entity that determines the selection of forms and methods of its activities.

The legal status of public administration entities in the sphere of economic management is not the same, and is determined by those, who bear the status: legal entities (government and non-government authorities, enterprises, organizations, institutions), the state and its structural units, the people, social communities, etc. The legal statuses of collective legal actors are formed and take a definite form with the development of the state, civil society, the formation of the needs and interests of persons, uniting in groups. However, they may not be considered as the sum of individual legal statuses. They have qualitatively different properties determined by the tasks and functions of the state

⁹ Мельник Р.С., Мосьондз С.О. Адміністративне право України (у схемах та коментарях): навчальний посібник. /за ред.. Р.С. Мельника. Київ: Хрінком Інтер, 2019. 344 с. С. 193.

(legal status of government authorities, state enterprises, organizations, institutions), the goals and interests of collective entities (political parties, public associations, commercial organizations, etc.)¹⁰.

This group includes the rules that establish the rule-making competence of public administration in the sphere of economic management, as well as the rules that provide for the responsibility for its activities both to the top-ranking officials and the court under the complaint lodged by business entities.

This group may include the rules that determine the procedure for implementing the regulatory activities in the field of economic management, namely regulate the procedure for the initiation, preparation, analysis, examination, adoption, monitoring of the effectiveness and review of regulatory acts, as well as the control over the implementation of the state regulatory policy.

The second group of rules of administrative and business law establishes the organizational and legal regulation of business activities, which is associated with the implementation of both direct administrative influence on a business entity (control, bringing to legal responsibility) and indirect – in the form of public service activities (registration, licensing, granting, etc.).

By performing the control function, public administration applies a mechanism for ensuring the conditions, when business activities are carried out legally, and do not endanger the health and safety of citizens, the rights of employees or the environment. When properly applied, the control function supports the relatively unhampered development of entrepreneurship and at the same time ensures that violators either have the opportunity to remedy the violation or are fairly punished for their wrongful acts. With the transition to market relations, the granting of independence to economic agents, the very content of the concept “control” and possible forms of its implementation are broadened. To control means not only to check, to count, but also to be aware and informed of the matter in question. Therefore, it is essential to widely use such forms of control as: awareness; continuous analysis of data received; examination of materials on individual issues, industry, scope of activities. The difference between these new forms of control is that the consequence of their application is the adoption of specific decisions.

¹⁰ Скакун О.Ф. Теорія держави і права (Енциклопедичний курс): підручник. 2-е видання, перероблене і доповнене. Харків: Еспада, 2009. 752 с. С. 551.

Proposals are prepared on them, conclusions of a recommendatory nature are grouped by specific issues and types of control¹¹. Control should be a method of improving the efficiency of the economy, ensuring the turnover of resources in accordance with restrictive (according to legislation) parameters, full payment of taxes and mandatory payments, blocking any activities that threaten national security, monopolize markets, gear at organizing the production of goods and services prohibited by the state, pose significant social risks to the interests of large groups of citizens, violate the legitimate interests of the state, economic agents and society as a whole¹².

The indirect organizational and legal regulation of business activities is made through the implementation of public service activities. The provision of Article 4 of the Constitution of Ukraine, which provides that the goal of the state is to ensure personal rights and freedoms of citizens, quite logically develops in the Concept of Administrative Reform in Ukraine, which declares the rendering of administrative services as a means of realizing such rights and freedoms. That is, the “state’s serving” interests of a person involves the provision of various types of services by its bodies and employees. And this makes perfect sense as we should finally agree that the state power itself is not only the exercise of powers that oblige the citizen, but also the performance of certain duties of the state to the citizen, for which it is fully responsible to him or her¹³. Therefore, by rendering administrative services, the state performs a duty to business entities aimed at legal arrangements of the conditions required to ensure the proper exercise of their rights and interests protected by law during the implementation of their business activities.

Administrative services are provided to business entities subject to such pre-conditions:

- they are provided on the initiative (application) of business entities in order to meet their legitimate requirements, needs and interests;
- the necessity for and, accordingly, the possibility of obtaining a specific administrative service are expressly provided for by law;

¹¹ Вітвіцький С.С. Форми та методи державного контролю у сфері підприємницької діяльності // Вісник Національного університету внутрішніх справ. 2002. № 20. С. 188–192.

¹² Горшнев В.М., Шахов И.Б. Контроль как правовая форма деятельности. М.: Юрид.лит., 1987. С. 65.

¹³ Державне управління: проблеми адміністративно-правової теорії та практики / За загальною ред. проф. В.Б. Авер'янова. К.: Факт, 2003. С. 38.

- the law vests relevant public administration entity with the authority to render each administrative service;

- provision of such services is aimed at creating (observing) statutory conditions for business entities to realize in full the rights belonging to them and to perform their duties. Therefore, in order to obtain administrative services, business entities shall meet certain requirements set forth by law;

- administrative service has the final form of an individual administrative act, in which its addressee that is “service consumer” is specified;

- business entities are entitled to use, at their own discretion, deliverables of the services rendered to them.

In the current legislation, the following groups of administrative services aimed at implementing the rights and legitimate interests of business entities may be distinguished by the content-related features:

- issuance of permits (for example, to engage in certain types of business activity; patenting, standardization and certification of goods, works and services);

- registration with the maintenance of registers (for example, registration of business entities, licensing);

- verification (validating certificates of origin of goods from Ukraine).

Therefore, both groups of the characterized legal rules form in the aggregate the most important part of administrative law – administrative and business law. For such allocation, there are all necessary conditions.

Firstly, there is a specific subject of regulation – public relations in the field of economic management, which are a specific kind of relations of public administration. Such relations require a kind of legal regulation, which is carried out by means of the rules of administrative and business law.

Secondly, the peculiarity of administrative and business law is expressed in the fact that it is formed within the framework of the system of administrative law, incorporates all the features and peculiarities of the latter. The process of forming administrative and business law has become a logical consequence of, on the one hand, the recognition of the theory of division of law into private and public by the Ukrainian scholars as a fundamental principle of formation of system of national law, and, on the other, further differentiation of the rules of administrative law related to the formation of new branches of law, one of which is administrative and business law, within the system of administrative law¹⁴.

¹⁴ Мельник Р.С., Мосьондз С.О. Адміністративне право України (у схемах та коментарях): навчальний посібник. /за ред. Р.С. Мельника. Київ: Хрінком Інтер, 2019. 344 с. С. 193.

Thirdly, administrative and business law as a part of administrative law characterizes such a feature as legislative separateness. The rules of administrative and business law are enshrined in legislative and regulatory acts. At present, the structure of administrative and business law includes a list of basic laws and regulations. These include: the Constitution of Ukraine, the Economic Procedural Code, laws and regulations.

The constitutional framework of public administration in the field of economic management is enshrined by determining by the Constitution of Ukraine the organization of power (Article 6), the specific objectives of building a democratic society and legal state (Article 1), social life, which is based on the principles of political, economic and ideological diversity (Article 15). In this regard, the constitutional framework of activity of public administration entities in the field of economic management should be considered as the rule of law, legitimacy, democracy, separation of powers, publicity, free speech, namely, the rigid principles of the constitutionally established state order enshrined in Chapter 1 of the Constitution of Ukraine. It is expedient to refer to the above the provisions of the Constitution, defining the fundamental principles of state policy in the sphere of economy, which obliges the Cabinet of Ministers of Ukraine to ensure the implementation of financial, pricing, investment and tax policy (paragraph 3 of Article 116), the determination of the legal bases and guarantees of entrepreneurship, competition and fair trade rules and antimonopoly regulations exclusively by laws (paragraph 8 of Article 92), etc.

The starting point of the constitutional framework of public relations in the field of economic management is the principle that public authorities, local self-government authorities and their officials shall act only under and within the powers of and in the manner provided by for the Constitution and the current laws of Ukraine (part 2 of Article 19). Such powers stem from the very essence of the constitutional state and the principle of the rule of law: the law shall dominate the government authorities, prevent possible arbitrariness on the part of the latter, provide the possibility of civil society's control over the state activity, including the exercise of governmental authority in the field of economic management.

The provisions of the Code of Commercial Procedure of Ukraine (hereinafter – CCPU) establish the legal basis for the state participation in business activities (Article 8) and relations of business entities with local self-government authorities (Article 23), define the basic means of government control over business activities and the general principles of

their application (Article 12), as well as the legal basis of individual means of state regulation: government order and government assignment (Article 13); licensing, patenting and quota allocation (Article 14); standardization and certification (Article 15); grants, subventions and other means of state support (Article 16). In addition, the provisions of the Code of Commercial Procedure of Ukraine establish the principles of application of taxes in the mechanism of state regulation of business activities (Article 17) and the principles and scope of government control over business activities (Article 19). Defining the limits of intervention of public authorities and local self-government authorities, the Code of Commercial Procedure of Ukraine states that they are authorized to exercise government control and supervision over business activities in the areas specified in the Code, which are fully listed in Article 19 of the Code of Commercial Procedure of Ukraine.

The laws of Ukraine authorize the public administration to exercise public authority in the sphere of economic management (for example, the right to license, state registration, standardization, patenting, government control over business activities, etc.), thereby determining their legal status and capacity in public relations in the sphere of economic management.

The regulations governing public administration in the field of economic management include: decrees of the President of Ukraine, decrees and orders of the Cabinet of Ministers of Ukraine, orders of State Regulatory Service of Ukraine as the central executive authority that ensures the formation and implementation of the unified state regulatory policy in the sphere of business activities, orders of ministries and other central executive authorities, which are sectoral oriented, decisions and orders of local executive authorities and local self-government authorities.

Thus, the above examples of the current regulations, governing the activities of public administration in the field of economic management, indicate the formation of administrative and business legislation as a separate institution of legislation. This is an objective process, which is generated by the development of public relations arising from the exercise of public authority in the field of economic management.

3. The system of administrative and business law

The system of administrative and business law is a set of rules and institutions of administrative and business law, brought together for a common purpose and objectives of legal regulation and applied in a certain logical sequence.

Public administration performs a vast number of tasks in the field of economic management, which are the continuation of the economic function of the state. In view of this, it should have at its disposal a sufficient list of tools, by means of which it will actually perform the assigned duties. We support the opinion of administrative law scholars¹⁵, that the tools or mechanisms of public administration may not be exclusively coercive or based only on force or persuasion, as this will inevitably lead to the blocking of its activities. In modern conditions of development of the state and law, as well as the formation of civil society in Ukraine, it is rather difficult to answer a question, what instruments of activity (coercive or non-coercive) public administration entities should have more. Only one thing is clear. They should exist in all their diversity, provided that their application is based on the rule of law, as well as other principles of good governance (appropriate legislation, legality, transparency in decision-making, access to information, etc.).

Therefore, proceeding from the diversity of public influence on business relations, the system of rules of administrative and business law may include a fairly broad combination of legal rules divided into groups, each of which regulates a separate instrument of public administration in the field of economic management and represents a legal institution. Thus, the elements of administrative and business law include:

- institute of state registration of business entities;
- antimonopoly regulation institute;
- state order institute;
- licensing institute;
- patenting institute;
- quota allocation institute;
- certification and standardization institute;
- standard and limit application institute;
- price and tariff regulation institute;
- investment, tax and other allowance institute;
- institute of granting subsidies, compensation, dedicated innovation and grants;
- institute of control measures, etc.

¹⁵ Державне управління: європейські стандарти, досвід та адміністративне право / В.Б. Авер'янов, В.А. Дерещ, А.М. Школик та ін. ; за заг. ред. В.Б. Авер'янова. – К., 2007. – С. 276.

The institute of state registration of business entities combines the rules of administrative and business law that regulate the activities of public administration entities associated with the certification of the fact of creation or termination of a business entity, as well as the commission of other registration actions by making appropriate entries in the Unified State Register.

The antimonopoly regulation institute is a set of rules of administrative and business law that establish legal support for administrative measures of public administration aimed at restricting monopoly in the economy. Such restriction implies direct state regulation in specific monopolized markets or the activities of specific monopolistic entities through the centralized establishment of quantitative and qualitative indicators.

On the basis of the rules of the *state order institute*, public administration forms, on a contractual basis, the composition and volumes of products (works, services) required for state needs, placement of government contracts for the supply (purchase) of these products (performance of works, provision of services) among business entities, regardless of their form of ownership.

The licensing institute is the institute of administrative and business law, the rules of which regulate the activities of public administration entities related to the consideration of the application of a business entity for the issuance (renewal) of a license and the adoption of a decision on the results of such consideration.

The rules of the *patenting institute* regulate the public administration activities for the issuance of trade and special patents for certain types of business activities in areas related to trade for cash (cash, checks, as well as using other payment methods and payment cards in Ukraine), the exchange of cash currency values (including transactions with cash denominated in foreign currency and payment cards), in the field of gambling and consumer services, and other areas defined by law.

The quota allocation institute defines the rules, by which public administration entities act, protecting the economic and social interests of the state, society and individual consumers by setting limits (quotas) of production or turnover of certain goods and services. The legal rules of this institution establish a regime for the issuance of individual licenses, and the total volume of export (import) under these licenses shall not exceed the established quota.

Standardization and certification as an institution of administrative and business law bring together the rules regulating a special type of

activity of authorized entities of public administration, which involves the establishment of provisions for common and repeated use in relation to existing or potential problems and is aimed at achieving an optimal degree of order in a certain area, the result of which is to increase the degree of conformity of products, processes and services to their functional purpose, promotion of scientific and technical production.

The rules of *the price and tariff regulation institute* establish the procedure for forming, determining and using prices by the Cabinet of Ministers of Ukraine, executive authorities, bodies engaged in the state regulation of activities of natural monopoly entities, local self-government authorities and business entities that operate on the territory of Ukraine, as well as the implementation of state control (supervision) and monitoring in the field of pricing.

The institute of granting subsidies, compensation, dedicated innovation and grants regulates the activities of public administration entities related to the allocation of funds from public budgets to business entities for the satisfaction of public interests, for example, to support the manufacture of vital food products, the production of vital medical drugs and assistive devices, etc. Moreover, the rules of this institute of administrative and business law determine the procedure for the provision of financial or other support by public administration entities to stimulate the development of certain types of business activities.

The institute of control measures is a set of rules of administrative and business law, which regulate the activities of legally authorized entities of public administration aimed at identifying and preventing violations of applicable legal requirements by business entities and ensuring the interests of society, in particular the proper quality of products, works and services, the permissible level of danger to the population, the environment, etc.

Thus, having analyzed separate legal institutions, it is possible to formulate the concept of the system of administrative and business law: the system of administrative and business law is a set of regulatory documents logically and consistently posted by legal institutions, the rules of which taken together enshrine the basic principles, tools and procedure of public administration in the field of economic management. The rules of this part of administrative law in a certain sequence and interrelation are grouped into various legal institutions that regulate the relevant relations associated with the use of certain instruments of public administration in business activities. Each type of such relations is

relatively independent in public administration and regulated by the same relatively independent group of legal rules, which in aggregate form the institutions of administrative and business law.

CONCLUSIONS

Summarizing the above, it should be noted that administrative and business law is a system of rules, in which heterogeneous legal material, related to the implementation of the state policy in the field of economic management by the subjects of public administration, is combined by the subjective and purpose-oriented features.

Administrative and business law is a relatively new part of administrative law, which is on the rise. The external manifestation and legal arrangements of public interest in the sphere of economic management is carried out by means of administrative law (rules, relations, legislation, competence of subjects, methods of implementing rules).

The criteria for the operation of administrative and business law as part of administrative law include the need for independent and separate legal regulation of the activities of public administration entities related to the implementation of the state economic policy. The goal of this separation is to ensure the rights and legitimate interests of business entities in the implementation of public administration in the field of economic management.

The necessary conditions for the allocation of administrative and business law as part of administrative law are as follows:

- a specific subject of regulation – public relations in the field of economic management, which are a specific kind of relations of public administration;
- the peculiarity of administrative and business law, expressed in the fact that it is formed within the framework of the system of administrative law, incorporates all the features and peculiarities of the latter.
- legislative separateness – the rules of administrative and business law are enshrined in legislative and regulatory acts.

The system of administrative and business law is a set of regulatory documents logically and consistently posted by legal institutions, the rules of which taken together enshrine the basic principles, tools and procedure of public administration in the field of economic management. The elements of administrative and business law include: institute of state registration of business entities; antimonopoly regulation institute; state

order institute; licensing institute; patenting institute; quota allocation institute; certification and standardization institute; standard and limit application institute; price and tariff regulation institute; investment, tax and other allowance institute; institute of granting subsidies, compensation, dedicated innovation and grants; institute of control measures, etc.

SUMMARY

The scientific and theoretical study of administrative and business law as part of administrative law is made in the scientific article. Administrative and business law is a system of rules, in which heterogeneous legal material, related to the implementation of the state policy in the field of economic management by the subjects of public administration, is combined by the subjective and purpose-oriented features. The article analyzes the social purpose, essence and content, as well as the system of administrative and business law. It also focuses on the definition of the conditions necessary for the allocation of administrative and business law as part of administrative law, namely: a specific subject; the peculiarity of administrative and business law; legislative separateness.

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