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FEATURES AND FUNCTIONAL PURPOSE OF THE COMPONENTS MECHANISM OF ADMINISTRATIVE-LEGAL REGULATION

***Summary.** This article is devoted to highlighting of the features and functional purpose of the main constituent parts (elements) of the mechanism of administrative-legal regulation of social relations, namely administrative-legal norms, administrative-legal relations, acts of implementation of legal norms.*

It is emphasized that the main and necessary component of the mechanism of administrative and legal regulation are administrative and legal norms, which, performing their regulatory functions in the process of regulating social relations, act as a means of functioning of administrative and legal regulation of these relations.

In the mechanism of administrative-legal regulation, administrative legal relations have the following features: they are the main means of ensuring the functioning of administrative-legal norms; administrative legal relations, establishing the specific behavior of subjects in the form of rights and legal obligations in the process of state (public) management, the application of measures of administrative coercion, including administrative responsibility, act as an instrument of legal influence on social relations and a mandatory means of the mechanism administrative and legal regulation; their character is determined by the goal of administrative and legal regulation, which correlates

with the specific goal of legal regulation in a certain field.

An obligatory element (structural component) of the mechanism of administrative and legal regulation, which reflects the main content of the final stage of the process of this regulation, are the acts of realization of rights and obligations, which should be understood as the actual (real) effective behavior (active or passive) of the participants of these relations that correspond to the provisions established in the law (the will of law-making subjects). The implementation of administrative and legal norms that regulate social relations is manifested in three direct forms - compliance (observance), use and execution, which are manifested, respectively, in the implementation of «prohibitive», «authorizing» («permissive») and «obligatory» legal norms and in a special form - application, the specific features of which distinguish it from other forms of implementation.

Key words: *administrative-legal regulation, mechanism, administrative-legal norms, administrative-legal relations, acts of realization of rights and obligations.*

Statement of the problem. Interest in the issues of legal (administrative-legal) regulation at the current stage of the development of legal science does not decrease, since research in this area is taking into account the radical transformational processes taking place in the political-legal, socio-economic, spiritual-cultural and other spheres of social development need a rethinking of the conceptual foundations of legal understanding, the search for effective principles, methods and means of legal influence on social relations in order to establish the appropriate degree of guarantee of the rights and freedoms of a person and a citizen. In particular, the need to research a number of issues related to the use of legal tools, which are used to effectively influence social relations, taking into account the needs and interests of the individual, society and the state, is being updated.

Analysis of recent researches and publications. Theoretical and practical problems of the development of the doctrine of legal (administrative-legal) regulation of social relations, in particular, the definition of the concept, clarification of the internal structure (component parts, elements) of the mechanism of legal regulation were the subject of research by such Ukrainian scientists as S. Bobrovnyk, K. Volinka, V. Galunko, A. Golovin, I. Golosnichenko, Yu. Hrydasov, O. Yeschuk, V. Zavhorodniy, A. Ivanyshchuk, T. Kolomoets, O. Kravchuk, Yu. Kryvytskyi, V. Kurylo, V. Olefir, P. Rabinovych, S. Rudnytskyi, S. Stetsenko, T. Tarakhonych, V. Teremetskyi, I. Shopina, and others. However, it should be noted that scientists are not unanimous in their views regarding the understanding of the content (internal structure) of the mechanism of administrative and legal regulation. In addition, scientists have not paid enough attention to the question of the place and role of the components (structural components) of the mechanism of such regulation.

At the same time, this area occupies one of the main places in theoretical and legal science, since understanding the functional purpose of the components of the mechanism of legal regulation contributes to the disclosure of the essence of law in its dynamics.

Formulation purposes of article (problem) is to investigate the peculiarities and functional purpose of the main constituent parts (elements) of the mechanism of administrative-legal regulation of social relations based on the analysis of the theory of administrative law.

The main material. In the modern science of administrative law, the dominant approach is the approach according to which the mechanism of administrative-legal regulation is considered from a purely instrumental point of view, that is, through the prism of means (legal tools), thanks to which effective influence on social relations is ensured [1, p. 121-123; 2, p. 31-34; 3, p. 144-148].

In modern legal science, there is the existence of a number of debatable

issues that take place when understanding the mechanism of administrative and legal regulation, in particular regarding the expediency of: interpreting the mechanism as a narrow and a broad category; inclusion in the structure (internal structure) of the considered mechanism of certain elements (component parts), such as legal facts, acts of implementation of rights and obligations, acts of application of legal norms, acts of interpretation of legal norms, legal culture, legal awareness, etc.; analysis of the structure of the administrative-legal regulation mechanism through the prism of the stages of this mechanism or the stages of the administrative-legal regulation process; assignment of certain fragments of legal validity to legal (legal) means [4, p. 117-122; 5, p. 75-81].

A thorough analysis of the essence of administrative-legal regulation, including the mechanism of such regulation, carried out in previous studies, allowed us to come to the conclusion that the main and necessary structural components of its functioning are administrative-legal norms, administrative-legal relations, acts of implementation of legal norms [4, p. 120-121; 5, p. 84].

At first glance, the definition of the characteristics of an administrative-legal norm is not accompanied by special discussions and contradictions, since within the general administrative law there is a well-established understanding of the concept, features, features, structure and types of administrative-legal norms. At the same time, the main questions arise when revealing the content and essence of the legal norm in the context of its relationship with other regulators.

Administrative legal norms as a type of legal norms are characterized by the features (characteristics) of the latter, which include: general obligation (includes three aspects - impersonal character, focus on the protection of socially recognized values, external focus); formal certainty; provision of coercive force of the state, etc. At the same time, they will highlight the features inherent in the administrative and legal norms, in particular: the specificity of the subject of their regulation; orientation towards realization of public interests; mainly

imperative in nature (it is a tool for implementing the method of administrative law); specificity of functions (directions of action) of administrative and legal norms; are often established in the process of exercising the powers of public administration subjects; their structural components (hypothesis, disposition, sanction) have their own characteristics and are often contained in various legal norms. It should be noted that in the literature on administrative law, scientists single out other features, but the above, in our opinion, are the most significant [6]. The analysis of scientific works indicates the existence of two approaches to the classification of these norms: the first is characterized by the use of classification criteria established in the theory of administrative law, the second is the use of specific criteria chosen by the researcher taking into account the peculiarities of the subject of legal regulation.

It should be noted that administrative and legal norms as a means (instrument) with the help of which direct legal influence on social relations in one or another sphere is carried out are characterized by a focus on achieving a specific goal (goals), which should be considered in the context of compliance with the goal (goals) of administrative legal regulation. We paid considerable attention to the clarification of the latter in previous studies, in particular, by identifying the necessary problems of administrative-legal regulation of social relations, as well as the main needs of the subjects of these relations, which can and must be satisfied thanks to the legal tools of administrative-legal regulation. After all, the awareness of the corresponding need (interest) determines the formation of a certain goal (goals, tasks), the nature and content of which determine the peculiarities of legal means (including administrative and legal norms), with the help of which they are achieved and resolved [5, p. 53-54].

Thus, the main and necessary component of the mechanism of administrative-legal regulation are administrative-legal norms, which, performing their regulatory functions in the process of regulating social relations, act as a means of functioning of administrative-legal regulation of

these relations. The effectiveness of the latter depends on a number of factors, the leading one of which is the effectiveness of the administrative and legal norms themselves, their compliance with the real needs of society.

Given the multifaceted nature of the construction of legal relations, different approaches to their definition have been formed. At the same time, it should be emphasized that the approach to the definition of administrative legal relations through the prism of legal relations (interconnection, interaction) between parties (subjects) through their subjective rights and obligations, firstly, contributes to the understanding of the latter as legal phenomena and revealing the social nature of legal relations; secondly, it allows to reveal their functional purpose (to be considered from the point of view of means of legal influence, legal tools for solving social requests) in the process of legal (administrative-legal) regulation [7, p. 33].

By the question of finding out and description of signs (characteristics), that are inherent to the administrative legal relationships, spare their classifications considerable attention of V. Averyanov, N. Armash, Yu. Bityak, V. Galunko, V. Kolpakov, O. Kuzmenko, V. Kurylo, O. Nikanorova, S. Petkov, S. Stetsenko, F. Finochko, O. Kharitonova, E. Shevchenko and other. Most scientists distinguish the following signs of administrative legal relations: 1) they are inextricably linked with administrative and legal norms, arise and are implemented on their basis; 2) their parties are subjects of administrative law; 3) one of the parties must be a legal authority; 4) it is a special relationship between their participants, one of which under the given circumstances has the right to demand from the other such behavior as is provided for by administrative and legal norms; 5) are formed (composed) in the field of public administration, and first of all in connection with the implementation of executive powers by executive authorities; 6) may arise at the initiative of any of the parties, the consent of the other party is not a mandatory condition for their occurrence; 7) violation of one of the parties' obligations makes it liable not to

the other party, but to the state in the person of its competent bodies; 8) as a rule, measures of administrative coercion, administrative and disciplinary responsibility are applied for violation of one of the parties' obligations; 9) disputes arising between parties to administrative legal relations are resolved both in court and out-of-court (administrative) proceedings; 10) have a state-public character [7, p. 33; 8, p. 178-179; 9, p. 67; 10, p. 1118; 11, p. 103]. In the scientific (educational) literature, the vast majority uses an approach to the study of types of administrative legal relations, which is characterized by a plurality of classification criteria. It should be noted that the views of administrative scientists differ on the issues of identifying classification criteria that allow to distinguish certain types of administrative legal relations.

In the mechanism of administrative-legal regulation, administrative legal relations have the following features: 1) they are the main means of ensuring the functioning of administrative-legal norms; 2) administrative legal relations, establishing the specific behavior of subjects in the form of rights and legal obligations in the process of implementing state (public) management, applying measures of administrative coercion, including administrative responsibility, act as an instrument of legal influence on social relations and a mandatory as a means of the mechanism of administrative and legal regulation; 3) their nature is determined by the goal of administrative and legal regulation, which correlates with the specific goal of legal regulation in a certain field [5, p. 350-351; 7, p. 34].

In the process of administrative-legal regulation, the final stage is the realization of rights and obligations, which is characterized by the fact that the models of behavior which are laid down in administrative-legal norms and then expressed in specific measures of behavior of the relevant subjects (rights and obligations) are embodied in the actual behavior of participants in social relations [12, p. 44]. An obligatory element (structural component) of the mechanism of administrative and legal regulation, which reflects the main

content of the final stage of the process of this regulation, are the acts of realization of rights and obligations, which should be understood as the actual (real) effective behavior (active or passive) of the participants of these relations that correspond to the provisions established in the law (the will of law-making subjects).

Despite the significant attention of representatives of both the general theory of law and individual branches of science to the problem of the implementation of law (legal norms), various aspects of the latter have become the subject of scientific discussions and are characterized by ambiguous approaches to their understanding, in particular, the essence, concept, features, forms of implementation of law and mechanisms of their implementation.

Extrapolating the previously obtained theoretical ideas regarding the problem of the implementation of the right, we note that the implementation of administrative and legal norms that regulate social relations manifests itself in three direct forms - compliance (observance), use and implementation, which are manifested, respectively, in the implementation of «prohibitive», «authorizing» («permissive») and «obligatory» norms of law and in a special form - application, the specific features of which distinguish it from other forms of implementation, in particular: it is the prerogative of only a special subject; has an individualized, personified character; has a «secure nature» in relation to other forms of implementation; its procedural regulations are mandatory; results in the issuance of a law enforcement act; a special role in the mechanism of administrative and legal regulation [5, p. 353].

Insights from this study and perspectives for further research in this direction. The mobility of the modern socio-legal environment and the dynamic nature of the influence of objective and subjective factors on legal regulation determines the need for a thorough conceptual study of the problems of the peculiarities and functional purpose of the constituent parts (elements) of the mechanism of administrative and legal regulation, clarification of the ratio of

means (legal tools), thanks to which effective influence on social relations is ensured, which, in turn, is an extremely important task given the need to improve the effectiveness of legal regulation. In this regard, it is quite logical to activate the scientific discourse regarding the place and role of the constituent parts (elements) of the mechanism of administrative and legal regulation. At the same time, without denying the absolutely important role of using different methodological approaches to understanding of an administrative and legal regulation in general and its mechanism in particular, the instrumental approach to the study of certain phenomena of legal reality plays a significant role in clarifying the essence of the latter.

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