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**SUBJECTIVE COMPOSITION OF ADMINISTRATIVE LAW  
AND PLACE OF LEGAL ENTITIES IN IT: ANALYSIS OF ADMINISTRATIVE LEGAL  
LITERATURE IN PERIOD: 90 YEARS OF XX CENTURY – 10 YEARS OF XXI CENTURY**

**СУБ'ЄКТНИЙ СКЛАД АДМІНІСТРАТИВНОГО ПРАВА  
ТА МІСЦЕ У НЬОМУ ЮРИДИЧНИХ ОСІБ: АНАЛІЗ АДМІНІСТРАТИВНО-ПРАВОВОЇ  
ЛІТЕРАТУРИ ПЕРІОДУ 90 рр. XX ст. – 10 рр. XXI ст.**

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In the article analysis of existing administrative and legal literature views of domestic and Russian scientists to system of administrative law subjects is summarized. Based on this research author determined place of legal entities in the system of subjects. In particular, it is noted that the separation as subjects of administrative law with legal entities is not dominant, and this time, although recently some copyright classifications subjects of administrative law entities singles out as separate entities.

**Key words:** administrative law, individual entities, collective entities, subject, entity.

У статті подається узагальнений аналіз існуючих в адміністративно-правовій літературі поглядів вітчизняних та російських вчених-адміністративістів на систему суб'єктів адміністративного права. На підставі проведеного дослідження автором визначається місце юридичних осіб в цій системі суб'єктів. Зокрема, зазначається, що виокремлення в якості суб'єктів адміністративного права саме юридичних осіб не є домінуючим і до цього часу, хоча останнім часом в окремих авторських класифікаціях суб'єктів адміністративного права юридичні особи виокремлюються в якості самостійних суб'єктів.

**Ключові слова:** адміністративне право, індивідуальні суб'єкти, колективні суб'єкти, суб'єкт, юридична особа.

В статье подается обобщенный анализ существующих в административно-правовой литературе взглядов отечественных и российских ученых-административистов на систему субъектов административного права. На основании проведенного исследования автором определяется место юридических лиц в этой системе субъектов. В частности, отмечается, что выделение в качестве субъектов административного права именно юридических лиц не является доминирующим и до сих пор, хотя в последнее время в отдельных авторских классификациях субъектов административного права юридические лица выделяются в качестве самостоятельных субъектов.

**Ключевые слова:** административное право, индивидуальные субъекты, коллективные субъекты, субъект, юридическое лицо.

**Statement of the problem.** At the present stage of the administrative and legal science (after independence until today), the main objective of forming a new administrative and legal doctrine is to ensure its growth and development in line with European standards. This development and transformation processes in the administrative and legal science could not make an impact not only on the subjects of administrative law system, which therefore also has a tendency to increase the number of its elements, but also the principles and approaches to research this issue. In the context of this question it should be noted modifying role and place of business of administrative law in general and their individual species in a particular component of the revised administrative law.

The purpose of the article – analyze existing administrative and legal literature views on subjects of administrative law system and to determine the place of legal entities in the system.

**Analysis of recent research and publications.** With the proclamation of the independence of Ukraine in vector research legal entities as subjects of administrative law trend study these persons as real, indisputable subjects of administrative responsibility (e.g., of Dr. Kolpakov, D.M. Luk'yantsya, I. Fedorov, O. Winter, R. Miller, S. Vaschenko and others) as mem-

bers of the administrative proceedings (of VM Bevzenko, S.V. Kivalova, A.T. Komzyuka, V. Tymoshchuk, etc.), as active subjects of administrative and procedural relationships (O.V. Kuz'menko, T.A. Gurzhii, A.M. Shkolyk, Y.A. Dorokhin, A.I. Mykolenko and other).

**The main content of the work.** Furthermore, the current research focuses on a different kind of collective subjects of administrative law, which are legal entities, but directly the term is generally not used. For example, E.E. Dodin focuses on the study of the principles of participation as subjects of administrative law religious organizations, M.Y. Vihlyayev – Legal professional NGOs, A.A. Dovhopolyk – credit unions, N.V. Galitsin – commercial entities, P.D. Matvienko – local government, with E.V. Dodin in Soviet times studied administrative legal unions, S.T. Goncharuk and D.M. Bachrach general filed a generalized analysis of existing in certain periods of collective subjects of administrative law. Moreover, at theses, as noted above, also focuses somewhat fragmented (related institute legal entity as a whole) or on specific types of entities as subjects of administrative law or legal persons as subjects of certain varieties administrative-legal relations. Basically there is or entities involved in the administrative tort relationship, or highlight the specific involvement of certain

types of entities (elected on their own labels) in administrative and procedural relationships. Comprehensive studies focusing on legal entities in general, just as the subjects of administrative law and there to this day.

The exception to this thesis can be called a dissertation Y.A. Dorokhin «Ensuring the rights of legal persons in administrative proceedings», according to the defense of which, published a monograph of the same name co-authored with T. Kolomoets and V.G. Lukasiewicz, which, in fact, the first entity is being studied as an individual administrative proceedings (administrative tort, executive, control, registration, arbitrary, benchmark, etc.) [1]. Thus, the authors of the monograph come to the conclusion that the legal person is an independent subject of all kinds of administrative and legal relations in the long-term (project) legislation. And the draft Code of Ukraine on Administrative offenses in the draft Administrative Procedure Code of Ukraine legal entity – separate entities of administrative law. In addition, as noted by scholars, they (legal entities) are recognized in the following ways Administrative Justice (CAJ Ukraine), in relation organizational management (as before). Y.A. Dorokhin, T.A. Kolomoets and V.G. Lukashevich stressed that it was due to the given circumstances and complexity of importance shall monographic research phenomenon entity that could serve as a basis for further legislative activity in the relevant area relationship. However, legal scholars note them and we should support this thesis, it is necessary to consider a research bias phenomenon entity as the subject of administrative law aimed at deepening scientific research, a departure from the traditional, so-called «Soviet» postulates administrative legal doctrine in understanding collective entities, taking into account the achievements of the theory of law, private-sectoral achievements on common attributes entity and combination of them with a new outlook on doctrinal subjects of administrative law in the context of the review of the content and subject matter of administrative law, all of its components, including procedural relationship, procedural relations. It was formed under these conditions scientific basis can play the role of a reliable basis for rulemaking to regulate relations administrative procedure and administrative procedural content [1, p. 36, 37].

Although, in general, objectively talk about the fundamental «change views and traditional tenets of» scientific positions on the isolation and study of entities as the dominant subjects of administrative law is somewhat premature. This finding, in particular, it follows from the analysis and synthesis of textbooks, as any textbook or academic course of these disciplines contains mandatory provisions for the classification of subjects of administrative law in place which entities are usually revealed through isolating the so-called «collective subjects» or through a variety of public administration. In particular, Dr. And A.V. Kolpakov and Kuz'menko distinguish among the subjects of administrative law: government agencies, as well as the inside of their vehicle, local governments, citizens, stateless persons, foreign citizens, courts, prosecutors, civil servants, associations, entrepreneurs activity [2, p. 75-76], A.I. Ostapenko, Z.R. Kisil, N.V. Kovaliv, R.V. Kisil – executive bodies, local authorities, civil servants, public associations and citizens [3, p. 333-424], S.G. Stetsenko analyzing existing administrative and legal academic literature classification of subjects of administrative law, along with the individual, provides collective subjects who distinguished on quantitative indicators, and then internally differentiated according to the degree of belonging to the state and non-state to state [4, p. 91-92]. S.O. Mosondz distinguishes among the subjects of administrative law, who have the authority and those that do not have the appropriate authority [5, p. 42]. The same view is held by NV Alexandrov and I.B. Koliushko and offer distinguished subjects of administrative law, which: a) vested with public authority, and b) do not have the power of the [4, p. 31, 6, p. 251], supports researchers in this area and EV Area, offering a similar classification [7, p. 24]. In

turn A.M. Shkolyk provides a system of public administration bodies, public associations and citizens [8, p. 41-68], although constantly focuses on participation in administrative and legal relations of individuals, understanding not only these individuals. S.V. Kivalov subjects of administrative law is divided into two types: 1) individual (citizens of Ukraine, foreigners and stateless persons, refugees) and 2) the collective (executive authorities, local governments, enterprises, institutions and organizations regardless of ownership, public organizations, religious organizations, etc.) [9, p. 18]. The same criterion, although with a somewhat expanded range of elements used and V. Halunko that, in particular considers that the subjects of administrative law is the natural and legal persons who have subjective rights and legal obligations and legal endowed with specific properties for their implementation. According to V. Halunka such entities may include: individual actors (individuals, which are divided into: citizens (have a full set of rights and obligations in the country), foreigners and stateless persons (with restrictions on political rights, do not perform military duty), individuals with other special status (individuals – entrepreneurs or natural person – the driver of the vehicle) and collective entities (legal entities: State, public authorities and institutions, associations, administrative units and their populations, constituencies, religious organizations, industrial enterprises, foreign enterprises, etc.) [10, p. 121]. V. Thus Halunko executive authorities, local authorities, associations of citizens called public entities and emphasizes attention to the necessity of considering it as a subject of administrative law [11, p. 89]. Besides legal scholar, uses the term entity as a synonym for collective actors to include the following rather «unconventional» for a modern administrative and legal literary subjects as administrative units and population constituencies, religious organizations, industrial enterprises, foreign enterprises. Somewhat controversial in this system is to distinguish entities as political subdivisions, their people and constituencies, since the question firstly, the availability of all these signs entity, and, secondly, the availability of such entities all components of administrative personality actually necessary for its identification as a member of the administrative-legal relations. Though generally indicated classification V.V. Halunka with separation of legal persons as independent entities should identify progressive., in turn textbook authors, edited by J.P. Bytyaka, among others, distinguish among the subjects of administrative law businesses and institutions, however, again do not define them as legal persons [12, p. 112-118]. Within the academic course on administrative law under the general editorship of V.B. Averyanova as subjects of administrative law, along with individuals and collective actors (entities) without evidence of legal entity, isolated entities. Thus, even detailing individuals belonging to this variety of subjects, such as: government agencies, and any other state agencies, local governments, associations of citizens, businesses, institution or organization [13, p. 191].

T.A. Matselyk, thoroughly exploring the following issues, also provides a detailed, according to various criteria, classification of subjects of administrative law, the place in which found, and for legal entities. Scientists propose the following classification: 1) the legal entities form of administrative law can be divided into individual and collective, and 2) by an external separateness – individuals, legal entities, collective entities do not have legal status, and 3) the availability of power – the entities that have the power of the entities and not vested with public authority, the degree of participation in public administration: 1) entities whose interests and rights are the subject of protection and management in the public (citizens, foreigners, stateless persons, refugees, enterprises, institutions, organizations, associations), 2) entities that directly implementing powers provided to them to ensure the proper order management (executive authorities, local governments and their officials President of Ukraine), 3) entities that indirectly (through its own staff) involved in public adminis-

tration (Secretariat of the Parliament of Ukraine, Parliamentary Committees, the State Judicial Administration of Ukraine, heads of state enterprises, institutions, organizations) on the axiological criterion subjects of administrative law should be divided into primary (public administration bodies and individuals) and derivatives (enterprises, institutions and organizations of all patterns of ownership (including international and foreign), religious organizations, community groups) [6, p. 252]. This academic notes that despite the integrative quality of the subjects of administrative law, mandatory signs are public administration or administrative courts. Without them, says T.A. Matselyk is impossible existence of the subjects of administrative law [14, p. 444].

Quite similar is the situation with outlining the subjects of administrative law and the allocation among their circle of entities in the Russian administrative and legal literature. In particular Y.M. Starilov notes that in the literature different individual and collective subjects of administrative law. Collective subject of administrative law Y.M. Starilov refers to a group of people that are organizations (governmental, non-governmental, private, public, acting in external relations as separate entities, the order of their establishment and activities regulated by legal acts. Interestingly, an organization within the meaning scientist in administrative law area, – a set of people, the staff, it involves activities designed to achieve a particular purpose and carried out according to certain procedures (rules). signs of organization are: a set of people, the activities in accordance with established objectives, identifying goals and objectives of the organization, the presence of core business (its character and the main lines) appropriate procedures (rules) of the formation of structure (formed units), setting regulatory jurisdiction and powers of the relevant officials (civil servants, staff.) All organizations are divided into two groups: public and private. they differ in that their status, process establishment, reorganization and termination, the legal regime of administrative actions (decisions), the order of protection define the different regulations. [15] As can be seen from the foregoing, the term «entity» generally not used at U.M. Starilovym the classification of the subjects of administrative law, even in the subgroup of collective entities, but we can assume that proposed the concept of «organization» is actually a kind, representing the features of entity category. In contrast, V.E. Chirkin shared sub the objects of administrative law: a) individuals b) the legal entities of private law, c) entities of public law [16, p. 42].

K.S. Belsky believes that there are subjects that can be called basic in administrative law, communication between them is never interrupted, «through whatever social and political upheavals that took place society.» This executive and citizens [17, p. 57]. The executive branch, which is personified in public servants and citizens – are two basic, eternal subjects of administrative law, a continuous dialogue between them: it may take the form of harmony, can go into conflict, conflict and revolutionary drama [17, p. 57]. In a way similar view is held and O. Tikhomirov, who believes that the system of administrative law co-primary subjects and related subjects. However, in his opinion, the first group of subjects did not have to lock himself in terms of administrative law, since the relationship of areas of law requires full implementation as its own industry and related status of all subjects of [18, p. 153-154, 6, p. 251].

It should be noted, and basic research subjects of administrative law committed by Russian scientists in administrative law area. Thus, D.M. Bachrach said that the system of administrative law subjects is more complex than the system subjects of any other law, and the composition of its components does not coincide with the components of industrial systems. This increases the complexity of the process of social development. Thus, in recent years the subjects of administrative law system, says Russian scientist, added a large number of business law. If the civil law is only a legal entity, the administrative law distinguishes between banks, branches, etc. [19, p. 75].

However, special attention was given in the context of the study, it is paid to the fact that the D.M. Bahraha disagreed with the statement Y.M. Starilova that has traditionally been the subject of administrative law are physical and legal entity (organization). According to D.M. Bahraha, Y. Starilov clearly exceeds the capture of Representatives science of administrative law civil law designs that do not meet the administrative and legal realities [19, p. 77]. In a way, this approach is about being driven to in the previous section of this study, so we will not have time to dwell on this.

Returning to the analysis of the subjects of administrative law committed by D.M. Bahrahom, it should be pointed out that legal scholar believes that the huge diversity of members of the administrative and legal relations, which gave the rules of administrative law administrative legal personality, can be reduced to two types of actors: individual and collective. Science Administrative Law logical to develop this typology and, based on it, develop a classification of subjects of administrative law [19, p. 77]. Among the collective actors in their legal status, there are three main classes of subjects of administrative law – organizations, units of the organization, complex organizations (non-profit systems are closely interrelated organizations); simple organization [19, p. 82].

According to scientists, an organization formed in the legal sense, science – is organizationally and legally a team whose personality implement authorized persons as external and in-house relations on behalf of the organization. It is endowed with legal personality and most extensive among collective actors and other administrative law. Given the type of property belonging to a system of administrative and legal status of all organizations are divided into five kinds: state, municipal, private, foreign, and international.

Organizations also can be divided into public and private [19, p. 82-83]. The second class of collective actors – units of enterprises, organizations, institutions, government municipalities and other public organizations [19, p. 84]. Among the departments, given the nature of their work to distinguish between linear, functional and mixed [19, p. 85]. The third class of collective actors in the system D. Bahraha – complex organizations (administrative departments, departmental subdivision (HIBDR etc.), Political party, financial and industrial group, holding, Military District and other complex organizations) [19, p. 86]. In the simplest organizations scientist in administrative law area refers, firstly, labor groups, and secondly, public-public organizations, and including, the Youth Office and the protection of their rights, recruiting committee, state certification commission universities, judges, the Organizing Committees competitions, etc. [19, p. 88]

Finally, the D.M. Bachrach expresses its position on the relationship between the concepts of «legal person» and «collective entity». In his view, they have different meanings: one meaning primarily property, civil personality, and more – administrative, organizational personality. In addition, the concept of «collective subject», says scientist – a broader, it includes the large number of organized groups which are not legal persons, including a variety of complex organization [20, p. 24].

In this context, one cannot ignore the monograph Russian scientist A.A. Demin «Subjects Administrative Law of the Russian Federation.» Scholar at the subjects of administrative law understands individuals or organizations in accordance with the current legislation of the Russian Federation may participate (parties) settled administrative law administrative management relations [21, p. 21-22]. The specified view is controversial because essentially limits the range of relationships that are the subject of administrative law, and as a result, significantly narrows the range of actual or potential subjects. It is not logical and is using the term «organization», which also reveals the full range of collective actors (in the sense of A.A. Demin) administrative law. Further O.O. Demin gives reference to the relevant classification of Professor D.M. Bahraha that classifies entities of administrative law, similar to the



position of Y. Starilova – the criterion of internal structures on the collective and individual actors, and Professor A.P. Alekhine, which classifies the same subjects as natural and legal persons. This O.O. Demin said that the classification of O.P. Alekhine is basically civil law as the first classification, although it is difficult to call public law, but still it is the opinion of the scientist in administrative law area closer to the administrative law than the second [21, p. 22]. It appears that this view is O. Demin is not entirely straightforward, since the definition of «legal person», though borrowed from the civil law, but that does not mean it cannot be used in administrative and legal doctrine. Moreover, the Russian administrative and tort law is actively using the term «legal person» in determining the subjects of administrative misconduct. Therefore, it appears that there is no scientific and regulatory obstacle to the use of the term «legal person» as part of a number of terminologies within the administrative and legal science.

A.A. Demin said that the closest characteristics to the subjects of administrative law and by business classification is the division of administrative law on jurisdictional and ordinary. Thus, the individual subjects of administrative law, according to legal scholars include: citizens of the Russian Federation,

foreign citizens and persons without citizenship officials (civil servants). In turn, collective actors are: the executive power (government), public enterprises, institutions and organizations, non-state enterprises, institutions and organizations, local governments. A.A. Demin and whether the entity is a state administrative law. Thus, the scientist said that the state as an administrative law is the bearer of administrative capacity, and the administrative capacity accounted for by bodies representing it (the executive power or control) as opposed to people that combine both legal qualities. This conclusion, according to A.A. Demin, from the definition of the Trial of the Civil Division of the Supreme Court on August 15, 1997, when the plaintiff in Tatarstan produced losses from the Treasury of the Russian Federation, the Supreme Court decided that the proper defendant in the case is not the Russian Federation and the Ministry of Finance of [21, p. 23].

Conclusion. Thus, despite the variety of different sources of classification distribution of subjects of administrative law, distinguishing it as the last legal entities (using that term) is dominant to the present time, although in recent years in some classifications Author administrative entities legal personality distinguishes as separate entities.

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