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## CLASSIFICATION OF PRINCIPLES OF ADMINISTRATIVE LAW: A MODERN VIEW OF THE ADMINISTRATIVE-LEGAL DOCTRINE

## КЛАСИФІКАЦІЯ ПРИНЦИПІВ АДМІНІСТРАТИВНОГО ПРАВА: СУЧАСНИЙ ПОГЛЯД В АДМІНІСТРАТИВНО-ПРАВОВІЙ ДОКТРИНІ

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The article is devoted to analyzing the positions of the leading scientists of administrative law, on the classification of principles of administrative law, including, and in modern doctrine. Analysis of the content of such positions to trace the gradual change in approaches to the classification of, and determine how it happens in the modern administrative-legal doctrine. Attention was drawn to the relevance and importance of the study of the classification of the principles of administrative law in light of a major revision of the subject, the nature and contents of the latter.

**Key words:** administrative law, doctrine, principles, ideas, category, classification, classification of principles, principles, principles of administrative law.

Стаття присвячена аналізу наукових позицій провідних вчених-адміністративістів щодо класифікації принципів адміністративного права, в тому числі й у сучасній доктрині. Аналіз змісту таких позицій відстежити поетапну зміну підходів до класифікації, і визначити, яким чином це відбувається в сучасній адміністративно-правовій доктрині. Звернуто увагу на актуальність і важливість дослідження класифікації принципів адміністративного права з урахуванням кардинального перегляду предмету, сутності і змісту останнього.

**Ключові слова:** адміністративне право, доктрина, засади, ідеї, категорія, класифікація, класифікація принципів, принципи, принципи адміністративного права.

Статья посвящена анализу научных позиций ведущих ученых-административистов по поводу классификации принципов административного права, в том числе и в современной доктрине. Анализ содержания таких позиций отследит поэтапное изменение подходов к классификации, и определит, каким образом это происходит в современной административно-правовой доктрине. Обращено внимание на актуальность и важность исследования классификации принципов административного права с учетом кардинального пересмотра предмета, сущности и содержания последнего.

**Ключевые слова:** административное право, доктрина, принципы, идеи, категория, классификация, классификация принципов, принципы, принципы административного права.

Role and purpose of administrative law principles as basic guidelines and ideas that characterize the nature of administrative law, determine patterns of development and reflect areas of administrative and legal regulation of social relations, it is difficult to overestimate. After all, the principles are the basis on which there is construction and development of modern administrative law. Each principle is singled out by scientists, is characterized by its own autonomy and feature, but at the same time all the principles of administrative law are in close relationship and interaction, because they have a common purpose and direction. Therefore, the principles of administrative law should be considered comprehensively in the system by paying attention to their division into groups according to specific criteria. Question classification principles of administrative law is not a new trend in doctrine, they pay attention to many scientists administrativist, such as: V.B. Aver'yanov, J.P. Bytyak, V. Bogucki, V.M. Garashchuk, V. Halunko, V. Kovalenko, V. Kolpakov, T.A. Kolomoets, O. Kuz'menko, V.I. Olefir, M.P. Pykhtin, I.D. Shepherd, V. Sorokin, Y. Starlyov, V.D. Sushchenko, Y.A. Tikhomirov, V.A. Yusupov and others. Generally it is considered that classification (from Lat. Classis – rank and facer – to do) – this is a special case of the application of the concepts of separation, which represents a

set of partitions, which is designed for continuous use in any science or field of practice [1, 207]. In addition, under the classification is necessary to understand the specific number of the division of some set of objects or phenomena into classes, types or groups, where each object with certain characteristics related to the division, which could be called «native», «class», «view», etc.. [2, p. 54-55]. It helps to establish the properties of individual objects, events or institutions and patterns of development. Moreover, the classification recognizes one of the most important tools in the system of scientific knowledge, prediction, control in various areas of public relations. Thus, the analysis proposed in doctrinal sources approaches to classification principles of administrative law, including taking into account the achievements of modern administrative law doctrine will be represented in the expanded form of the nature, content and place in administrative law. In view of the classification of the principles of administrative law is of great importance not only for the development of administrative and legal doctrine, but also for rulemaking and enforcement, because the principles developed in the theory, become the basis of adopted regulations, are reflected in them. In addition, you should bear in mind that the principles of administrative law are not stable categories, uniform and straightforward

thing, which is why the question of their research should be approached from different angles, including from the point of view of classification.

A.M. Kolody, considering the classification of all principles of law, argues that we should single out: 1) the principles of justice, and 2) the principles creating the right 3) principles of legislative drafting, and among them – the legislative and rule-making, and 4) the principles of law: a) common law (Basic) b) cross c) branch d) principles of law institutions, and 5) the structure of law principles: a) the general social and legal, b) public and private, and c) regulatory and security, d) substantive and procedural e) objective and subjective, 6) the right of principles, among them – the principles of law; 7) law principles, including, in particular, the principles of justice and legal liability [3, p. 44]. This view of classification principles of law determines the effect on the classification principles of all branches of national law.

For a long time in the science of administrative law concept of «principles of administrative law» replaced the term «principles of governance», making it difficult to study their true nature and value, is difficult and their possible classification as usually is not performed. Later in the work of scientists presented a list of principles of administrative law, without classification distribution (V.A. Yusupov work [4] Y. Tikhomirov [5] V.D. Sorokin [6] and others). These positions, called «mono-classification» can be regarded as the initial step in trying to classification principles of administrative law, when the separation of individual criteria did not happen, but only transferred those terms and ideas that can be attributed to principles.

The next stage can be characterized by the appearance of «dualistic» view of classification principles of administrative law, in particular, there are proposals to divide the past into general and specific [7], and their general [8], general and functional management [9] and so on. General principles are those that have developed the general theory of law and of fundamental importance for the entire field of administrative law, as well as for its separate institutions. Special is an inherent individual components of administrative law.

The trend towards «dual» classification principles of administrative law in modern doctrinal sources. For example, in the textbook «Administrative Law» under the general editorship J.P. Bytyaka, V.M. Garashchuk, V. Zuy (2010) separates the principles of administrative law in the group, but not the specific and independent from each category, and only different aspects of reproduction executive of the state relating to different criteria approach to scientific analysis. In particular, singled out the internal (compliance with administrative rights provisions of the Constitution of Ukraine, the rule of administrative law in the legal system of regulations that include administrative law, having its own ground formation and development, specialization, administrative and legal compliance of certain provisions of the law of international legal agreements with of administrative law to which Ukraine is) and external principles of formation and functioning of administrative law, which, in turn, based on the theory of law is divided into general social (equality, freedom, humanity, justice) and special-sector (public administration public service and man limit interference by the executive in civil and personal life, the fullness of human rights and freedoms in the administrative and legal issues, mutual responsibility, the minimum necessary powers of state bodies of executive power, the optimal complement and balance the public authority of the executive powers government). [10] Thus, given the proposed classification can notice the tendency of the principles of administrative law division into general and special, which has been preserved from previous years, but with the further division of the latter on the societal and specially-branch.

The authors of the two-volume textbook «Administrative Law of Ukraine. Volume 1. General administrative law» for the general editorship of V. Halunka (2011) distinguish

the general and special-sectoral principles of administrative law. Common include: the principle of priority of rights and freedoms and civil rights, the rule of law, legality, equality of citizens before the law, democracy and the right of law-making, mutual responsibility and rights, humanism and justice between state and individual. Specially-sectoral proposed to subdivide the basic principles of administrative law sector (ministry of public administration and public man, the limited intervention of public administration in civil and personal life, the fullness of human rights and freedoms in the administrative and legal issues, connectivity of public administration law and accountability court the optimal complement and balance the public authority of the executive powers of local government, transparency, responsibility, independence of Public Administration) and the principles of individual institutions of administrative law (principles of public service, administrative responsibility, principles of administrative procedures, etc.) [11, pp. 63-70]. That is also a tendency to divide the principles of administrative law into general and special-sectoral, which, in turn, are divided into major sectoral policies and principles of administrative law individual institutions.

There are proposals in the circle of scholars scientists (including the textbook «Exchange Administrative Law of Ukraine», edited by V. Kovalenko, 2012) also single out general and specific principles of administrative law. General principles of administrative law are: scientific (objective), the rule of constitutional provisions on rules of administrative law, the rule of law norms concerning administrative law contained in other regulations, the priority of the rights and freedoms of man and citizen, consistent administrative law of natural law, administrative law compliance with international agreements, regulatory status of the completeness of administrative law, providing legal responsibility for violations of administrative law, public administration minimizing interference with privacy rights. Special laws principles characterize the functioning of the administrative and legal institutions (principles of public service, administrative process, administrative proceedings, administrative proceedings, local authorities, etc.) [12, p. 34]. Thus, on the basis of the analysis of approaches to classification principles of administrative law in the modern doctrine can be traced to the tendency to take account of changes in the components of administrative law, which leads to the emergence of new categories of administrative law principles (such as principles of cooperation between public administrations and private entities, the principles of administrative justice principles administrative procedures, etc.). You may notice that the definition and components of general principles of administrative law generally coincide, but on special positions often differ as a result of rapid development of administrative law and its components. In addition, analysis of classification principles of administrative law makes it possible to state the final «service» orientation state on behalf of the public administration, it «serve» the interests of the individual.

T.A. Kolomoets and P.A. Baranchik in the book «Principles of Administrative Law» (2012) conclude that in the modern doctrine of administrative law is the diversity and abundance of criteria for the classification of the principles of administrative law, so it is necessary to generalized separation of all the principles of administrative law, which would be described today recognized its component the subject of further consideration of the possibility of transforming the basis of administrative law. Separation principles of administrative law on general principles of its industries and institutions will determine the actual life of every principle of administrative law, and their systems, unification of their names, the order of their location [13, p. 169]. From this view we cannot agree, we should support it, because, really, the development of a unified approach to classification principles of administrative law in the administrative and legal doctrine will organize them, give them a complete look at all the updated system of administrative law.

I should add that V.B. Aver'yanov argued that we have a tradition that has developed in the Soviet period, the principles of law is not perceived as guidelines, regulations, and as something purely declarative and abstract [14, p. 20]. Before the science of administrative law is to deny this thesis contribute to the formation of the opposite situation where the principles are the basis, the foundation of relationships, rules of conduct of the law. Today, the principles of administrative law should

be considered a key category of administrative law, one of its central concepts, so a fundamental doctrinal view content, purpose, nature of administrative law, shall review the relevance of the content and some of its components, including the principles that underpin and in the study of the principles of administrative law to reflect changes in doctrine and law enforcement, and there is an urgent need to review the approach to their classification.

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