ISSN 1995-6134
2016-3

UDC 342.951
O.S. KOLIUSHEVA, National Academy of Internal Affairs

COMPARATIVE CHARACTERISTICS OF MAIN ADMINISTRATIVE LEGAL TERMS OF UKRAINE, CANADA AND GERMANY AS EUROPEAN COUNTRY

Keywords: *term, terminology, administrative act, administrative law, discourse*

Ukrainian foreign policy doctrine is focused on getting membership in international organizations. There are specific criteria and requirements that necessary to meet for becoming an equal member of the international and European communities. The beginning of this initiative was the initial membership of Ukraine in the United Nations.

According to Art.11 of the Law of Ukraine «On Domestic and Foreign Policy» from July 1, 2010, Ukraine as a European country pursues an open foreign policy and seeks equal and mutual beneficial cooperation with all interested partners, based primarily on the need to ensure the security, sovereignty and protection of territorial integrity of Ukraine [1].

I. Importance of accession into European union for Ukraine

Indeed, Ukraine has tried to become an equal member of the European community for a long time. The state is steadily moving toward the goal. Obviously, Ukraine accessed to the World Trade Organization in 2008. Today, the World Trade Organization serves as the multilateral trade agreements for the countries participating in it. In addition, it is the space where emerging trade relations between countries in the process of collective discussions, negotiations and resolve differences. After joining the World Trade Organization, Ukraine received the MFN and national treatment for goods exported and imported by Ukrainian side. Moreover, the state gets protection from the possible application of foreign states discriminatory taxes, excise taxes, customs duties. At the same time, Ukraine gets a number of benefits, including political, rating and raising the prestige of the country, and allows itself to influence on the development of international relations mechanism. Archived the membership in the World Trade Organization as one of the largest and most influential international economic organizations, Ukraine took the opportunity not only to engage in new forms of international trade relations, but also simultaneously affect their formation according to their national interests. Furthermore, the state can promote them through a full-fledged partner involved in the formation of international trade regime that covers all the new areas and may also extend to the relationship of trade and environment, social standards, electronic commerce in the future [2].

Ukraine as a European country shares a common history with Europe. The state adheres the common values together with members of European Union. In this respect, a new association agreement may be the result of creation the new cooperation institutions, extend political association and economic integration by establishing mutual rights and duties.

Among the principles of cooperation between the parties in the new form relations are: the respect for the common goal of achieving association; the special aim of facilitating and preparing the implementation of the Association Agreement; the ensuring of transparency; the sharing of mutual responsibility of the parties; the achieving significant results through the progressive implementation of practical measures; common assessment of implementation and monitoring progress [3].

The European Union is the main international organization where Ukraine tries to achieve a membership. Usually, when considering the candidate for membership in the European Union, European Commission, in addition to the information provided by the State, is studying the documents of other international organizations, especially the Council of Europe, which is a recognized authority with control over compliance with the standards of democracy, rule of law and

human rights. The European standards of democracy, rule of law and human rights are substantial issues of political priority and a key mechanism for Ukraine in achieving membership in the EU.

New democracy should widely used mechanisms of adoption a legal system to European standards. Thus, the whole history of Ukraine's participation in various international organizations is constant legal process. There were a lot of successive governments, changed national and international conditions for their functioning, changed their interests in relations with the above organizations, but the participation did not stop. As a result, Ukraine established a general mechanism for participation in these associations.

We believe that Ukrainian full participation in international organizations contributes to solving the problems of internal development. It extends the interstate communication; helps promote national interests in other countries and at the same time contribute to the achievement purposes of the international community.

II. Correct usage of administrative legal terminology plays an important role in international communication

As for the science of administrative law, there are the remains of the previous era, which influence on further development and understanding between foreign allies. English administrative and legal terminology of Ukraine has a number of disadvantages which are necessary to tackle. Among them are the following: the tracing of English terms, unsuitable translation, the translation without the context, improper use of acronyms, abbreviations and etc. All these drawbacks are undesirable and have a negative impact on communication at both the international and the national levels.

The European Union equally used and identified 24 official languages, including English; urgent question is why it necessary to use especially English in such language diversity does.

Language of international communication (as Latin), English is a channel in attraction Ukrainian people into civilization progress which takes place in different spheres of human wellbeing. The majority of Ukrainian people have to mastery English, it will stimulate the implementation in the Ukrainian society world achievements in economical, political, legal spheres and moral culture and it will modernize a public life in Ukraine. In particular, it certainly would improve the investment climate and enhancing the participation of Ukrainian economy on the world market.

Thus, the recognition of English as language of international communication, as remarked Alexander Kostenko is an important fact which needs especially attention in the language policy of Ukraine. This status may include, inter alia: defining the role of English as a tool for «education revolution» and study it as a mandatory standard component of all education programs in Ukraine; creating state sufficient conditions for all citizens of Ukraine mastering the English language within the limits defined by certain standards; priority in competitions for employment in government jobs for people who not only speak the state language, but also successfully passed the English language and its use at work as the basis for promotion. The scientist also points on necessity of Ukrainian cooperation with English media and propagation of the original English-language educational programs in Ukraine. It would allow studying the world achievements in different spheres of human wellbeing and supporting of civil society, initiating measures in mastering English [4].

As mentioned above, it is clear that English is the language of international communication. Indeed, there are a lot of gaps and tracing paper on English translation of administrative and legal terms in the administrative law of Ukraine.

As a result, it complicates the understanding between players on the international level and can lead to violation of rights and legitimate interests of man and citizen.

In addition, the Ukrainian scientists in administrative law have to work with legal sources of the EU member states. It will ensure proper and clear understanding of legal and administrative terms and enable most accurately convey the meaning and essence of the term in Ukrainian.

Moreover, it is important to mention on legal sources of Ukrainian administrative law. Gener-

ally, there is a definition of the source of law as an external expression of the law in jurisprudence. The sources of national administrative law include: the Constitution of Ukraine, the Code of Administrative Offences, the Code of Administrative Procedure, the laws, regulations and resolutions of the Verkhovna Rada of Ukraine (the Parliament of Ukraine), Decrees of the President of Ukraine, interdepartmental regulations containing the rules of administrative law. However, there is no Administrative Procedural Code in Ukraine, Ukrainian parliament refused to adopt it.

According to V.B. Aver`yanov there is an urgent need in adoption of The Code mentioned above. Unlike most democracies, there is no law which regulated common procedural rules of relationships and officials of executive bodies and local authorities (in the terminology of the bill - «administrative authorities «) with individuals. That is why authorities cannot act impartially and effectively, and citizens can to feel protected from abuse by officials [5].

III. Differences in administrative law of Canada and Germany

It is necessary to pay attention on the sources of administrative law of Canada, as a country which refers to Anglo-Saxson Legal Family. The sources of Canadian administrative law are the Constitution and Acts of Parliament, as well as Case Law. Unlike Canadian administrative law, the German Verwaltungsrecht is largely based on written statute, i.e. the constitution and other acts, and also features certain elements influenced by the laws of the European Union (EU).

The basic principles underlying the relationship between the federal government and the provinces are established in the Canadian Constitution. The provinces are accorded far-reaching self-governance rights, including extensive legislative powers. Federal Statutes and Provincial Statutes are an important source of law in Canada, which has a total of eleven legislative bodies [6]. The Canadian Parliament has the largest jurisdiction geographically, passing legislation to be enforced throughout Canada. Examples of important federal laws within the area of administrative law are the following: the Access to Information Act of 1985 (RS 1985, c. A-1); the Immigration and Refugee Protection Act (IRPA, 2001, C-11); the Federal Court Act (RS 1985, C-7), which sets out the procedure for judicial review of the actions and decisions of federal administrative tribunals.

The fact must be emphasized that, in Canada, all major parts of administrative law are shaped by the courts' leading cases. Common Law, also known as case law, is used by all of the Canadian provinces except Québec and by the federal government. Case law is based largely on legal traditions and precedents. The exact process by which case law is implemented is, in itself, not regulated by law. The principle of stare decisis, by which a precedent or decision of one court binds courts lower in the judicial hierarchy, is central. In decisions on cases characterized by similar fact situations, the relevant principles and grounds or reasons for deciding (called ratio dedicendi) in earlier cases are applied to subsequent cases on the basis of the doctrine of stare decisis. Accordingly, the resulting decisions have binding force. The aim is the realization of equality of rights, legal efficiency, and legal certainty, as well as guarantee of checks and balances with respect to legal powers [7]. In the stare decisis system, the judicial examination is conducted in two stages. First, the relevant standards and relevant legal principles are applied. Then, by being matched with similar decisions, the result is checked for consistency with previous similar cases.

There is a necessity to consider the sources of German administrative law, as a country which belongs to civil law. The Constitution is the highest legal standard in Germany. Each individual Bundesland has its own constitution, as does the federal government of Germany, which has the Grundgesetz. The Grundgesetz applies to all state power, which, of course, includes state administration. All three branches of government -- the legislative, judiciary and executive – are bound to respect fundamental rights, as set out in Article 1 III of the Grundgesetz. The judiciary and the executive branches are bound to comply with all existing laws, including the Grundgesetz.

ISSN 1995-6134

The Legislature, however, is only committed to the «constitutional order» (Article 20 III of the Grundgesetz). Administrative law and constitutional law are different. They work on fundamentally different levels of the law. Where rules of administrative law are applicable, those who apply the law must follow them and not simply rely on the Grundgesetz. The administration itself must apply the law as well. In German terminology, the administration has no Normverwerfungsrecht (right to not apply standards) in legislation passed by parliament.

The Bundesländer have their own constitutions, as they are independent states. The state constitutions apply only to the actions of the authorities of the Bundesländer. The Grundgesetz not only governs the actions of federal agencies, but also the authorities of the Bundesländer.

In addition to the Grundgesetz and the constitutions of the Bundesländer, several laws relate to the Verwaltungsrecht (federal or state administrative law). Laws that are enacted by Parliament in a form established by the Constitution are sometimes referred to as «laws in a formal sense« (formelle Gesetze). Even if they are not enacted by a parliament, written legal rules can be referred to as «laws in a material sense« (materielle Gesetze); this term covers all general rules concerning the relationship between the individual citizen and the government, and sometimes even between individuals [8].

The conduct of administrative proceedings, the various forms of administrative action, and other general questions are controlled by the Verwaltungsverfahrensgesetz («Administrative Procedure Act», abbreviated as VwVfG). This act exists in a form applicable to the federal government, and in a form applicable to each of the individual Bundesländer. With the exception of certain sections in which specific rules relevant to the individual Bundesländer are applied, the Verwaltungsverfahrensgesetz of the Bundesländer follows that of the federal government word for word. The Verwaltungsgerichtsordnung («Code of Administrative Procedure», abbreviated as VwGO), governs proceedings before the Verwaltungsgerichte («administrative courts«). This law applies to the judicial review of administrative decisions and actions of both federal and state authorities.

There are a variety of special administrative laws, which regulate specific matters such as police law, construction law, and the right of assembly. For matters such as police law, which are within the jurisdiction of the Bundesländer, each state has separate laws.

In addition to the constitutions and laws already discussed, there are some other sources of law. Rechtsverordnungen are legal standards that are set by the executive branch of government. They are not issued by parliament and therefore are not laws in the formal sense. If they explain rights and obligations of citizens, they are tantamount to laws in the material or practical sense [9]. In some cases, however, these regulations only concern internal issues of government administration and, thus, do not directly concern the citizens.

IV. Administrative proceedings in Canada and Germany

The biggest difference between the German and Canadian systems is that in Canadian law, both federal and provincial, there are no general laws governing administrative proceedings. Rather, these proceedings are governed by relevant provisions of special laws and by relevant court decisions. There is no single identifiable authority structure. Different authorities govern different administrative areas. A tribunal, board, commission or agency may have jurisdiction. There is no general rule; rather, the situation is somewhat different in each case. Many matters are decided by administrative tribunals. They make their decisions as part of the executive branch of government, because they were authorized to perform this task by the provincial or federal legislature.

In Germany, general rules govern the conduct of administrative proceedings, as set out in § 9 VwVfG. Under this act, administrative proceedings are defined as the activity led by relevant authorities aimed at examining the conditions, preparation and adoption of an administrative act or the conclusion of an agreement under public

ISSN 1995-6134

law, including the issue of an administrative act or conclusion of a public law contract. Administrative proceedings have two essential features. Firstly, the decisions made by relevant authorities must be relevant to bodies other than themselves; for example, internal instructions would be excluded. Secondly, activities of the relevant authorities must be directed toward the issue of a Verwaltungsakt (administrative act) or the conclusion of a public law contract. The Verwaltungsakt is the most important form of administrative decision. It has very special consequences. Only the two most important are mentioned here. Firstly, the authority must meet special procedural requirements. Secondly, citizens may seek specific legal remedies against a Verwaltungsakt. Examples of administrative acts include regulatory decisions (such as the granting of building, demolition or disposal permits, and the erection of road signs). The administrative act is legally defined (for example in § 35 VwVfG) as any direction, decision or other official act taken by a regulatory authority for any individual case in the field of public law and with legal effect for an entity outside of the issuing authority itself. It must meet certain legal requirements for effectiveness and legitimacy. And it has legal consequences as well: the government may enforce the orders of a Verwaltungsakt without the aid of the court.

In administrative proceedings, the parties involved have certain procedural rights that come into effect while an administrative decision is under consideration. For example, the parties involved have a right to make submissions to the authorities (§ 28 VwVfG) and to have access to relevant information (§ 29 VwVfG) [8].

The Germany administrative law term «dieBeschlagnahmeanordnen» has few equivalents in English – arrest (speaking of ships, in admiralty cases), seize (speaking of other property, especially in cases of execution of the judgment), attach (speaking of other property, especially in cases of mesne process), confiscate, embargo, impose custody, in Ukrainian it means «накласти арешт» (arrest), «конфіскувати» (confiscate) . Obviously, there are more equivalents of one Germany administrative legal term in English. It gives the possibility to choose the most appropriate one, according to the context and the language situation. However, a variety of translation can also be the reason of improper use of the term or its discrepancy context. Antonymous German term dieBeschlagnahmeaufheben is the English equivalent «remove an attachment», can be translated in Ukrainian as «зняти арешт», «скасувати конфіскацію».

There are some equivalents of German administrative term anrufungdesVerwaltungsgerichts and translate as: production before court; production in court; legal action; judicial recourse; legal recourse; impleading; reference to the court; recourse to a court; initiation of legal action; bringing the matter before the court; This term is translate into Ukrainian as: звернення до адміністративного суду.

We agree with V. Reznik`s opinion that German administrative law as separate sphere of scientific and practical activities characterized by certain inherent complex system of terms that relate to various ways and are structurally organized unit, consisting of core and periphery. The terms of administrative law in Germany can be as both individual words and word-combination with different number of components. The words-terms prevail on words combinations. Legal terms have general and specific concepts and form a hierarchy. Compounding is the dominant method of formation of the German legal vocabulary. Among the complex terms prevail two-components [10].

Apparently, there are some difficulties in translation administrative legal terms of Ukraine, Germany and Canada. Firstly, it is important, these states refer to different legal families, which will undoubtedly affect the formation, development and strengthening of administrative terminology. Secondly, there are a traditional pattern and sustainability in administrative terminology Ukraine and Germany, in comparison with administrative terminology of Canada where dominates the constant introduction and circulation of new terms, according to the specific legal fact.

ISSN 1995-6134

V. The problem of definition «administrative law» in Ukraine, Germany and Canada

Indeed, it is necessary to give the definition of administrative law in Ukraine, Germany and Canada, because there are certain features.

The subject of the branch of the administrative law of Ukraine is a system of broad social relations between the public administration and the objects of the public management, which arise in the sphere of authoritative and administrative activity, rendering of administrative services, with the purpose of public guaranteeing of rights and liberties of the person and the citizen and normal functioning of the civil society and the state, with the opportunity of applying of measures of administrative compulsion and administrative responsibility to disturbers of administrative-legal regulations.

To the public administration belong:

1) organs of executive power;

2) organs of local self-government;

3) the integration of citizens or the enterprises during realization of the delegated state functions;

4) officials of any of the mentioned collective subjects of the public administration.

To the objects of the public management belong:

1) the citizens of Ukraine

2) foreigners and persons without nationality;

3) private natural persons with a special status (ex. a natural person-entrepreneur);

4) nonpublic legal persons; 5) subjects of public administration, which are subordinate, lower by hierarchical status (ex. head of the Administration of Justice in the district will be considered an object of the public management relatively to the head of the Main Administration of Justice in the region) [11].

For the matter of the branch of the administrative law of Ukraine the following features are inherent:

1) a wide range of social relations between the public administration and the objects of the public management. Otherwise, one of the essential participants of administrative-legal relations is the subject of the public administration. The main aim of activity of the public administration consists in guaranteeing of rights and liberties of the person and the citizen and providing of normal functioning of the civil society and the state [12].

The leading feature of the matter of the administrative law is its public nature: public interest is the needs, which are important for the considerable quantity of natural and legal persons and which should be provided, according to legally established competence, by the public administration; the relations of the public management reflect the determinative component of the subject of the administrative law: the authoritative activity is the competence of organs and officials of the public administration as to guaranteeing of execution of the laws of Ukraine; the administrative activity is the issue by them on the basis of the laws of the by-laws, which have compulsory meaning; to the matter of the administrative law belong also the issues in rendering of administrative services by the public administration; one of the constituents of the matter of the administrative law is the internal activity of the public administration, but only that part of it, which is executed in a legal form; an integral constituent of the matter of the administrative law of the democratic lawful state is the means of responsibility of the public administration for illegitimate actions or inactivity; the important feature of the matter of the branch of the administrative law is the possibility of undertaking by the public administration of the measures of administrative compulsion and administrative responsibility.

It is irrational to include into the matter of the branch of the administrative law the clauses, which although correspond to the abovementioned features formally, have nevertheless become the matter of regulation of other branches of the law, for example the ecological law [12].

In comparison with Administrative law of Germany, which called «Verwaltungsrecht» de: Verwaltungsrecht (Deutschland), and determines as generally rules which regulate the relationship between authorities and the citizens and there-

fore, it establishes citizens' rights and obligations against the authorities. It is a part of the public law, which deals with the organization, the tasks and the acting of the public administration. It also contains rules, regulations; orders and decisions created by and related to administrative agencies, such as federal agencies, federal state authorities, urban administrations, but also admission offices and fiscal authorities etc. Administrative law in Germany follows three basic principles:

– principle of the legality of the authority, which means that there is no acting against the law and no acting without a law;

– principle of legal security, which includes a principle of legal certainty and the principle of non retroactivity;

– principle of proportionality, which says that an act of an authority has to be suitable, necessary and appropriate.

In addition, Canadian administrative law is the body of law that addresses the actions and operations of governments and governmental agencies in Canada [13]. That is, the law concerns the manner in which courts can review the decisions of administrative decision-makers (ADMs) such as a board, tribunal, commission, agency or minister.

The body of law is concerned primarily with issues of substantive review (the determination and application of a standard of review) and with issues of procedural fairness (the enforcement of participatory rights). Administrative law concerns the statutes and rules of government operations. Courts ensure that ADMs observe the limits on the authority. Also, declaration and equitable injunction remedies exist.

As a result, there are three different definitions of such important issue as Administrative law. On the one hand, Administrative Law of Ukraine is determines as a system of broad social relations. On the other hand, Administrative Law of Germany is determines as generally rules which regulate the relationship. Canadian administrative law is the body of law that addresses the actions and operations of governments and governmental agencies in Canada. Consequently, there are evidences of a great influence of Case Law on Administrative Law in Canada, and the influence of General (Traditional) Law on Administrative Law in Ukraine and Germany.

We agree with definition that Administrative law is a rules, because legislative organs enforces different laws, which are necessary to use in proper situation for guaranteeing of rights and liberties of the person and the citizen and normal functioning of the civil society and the state. In addition to this, Administrative Law is broad social relations, because every day there are unique situations between ordinary citizens, state, organs of executive power, self-government organs and etc. All these relations are necessary to regulate according to current legislation.

Thus, we can give the definition of Administrative Law as a complex of laws which regulates relationship between citizens and authorities as representatives of a state, which must guaranty of rights and liberties of the person and the citizen, with the opportunity of applying of measures of administrative compulsion and administrative responsibility to disturbers of administrative-legal regulations.

It is necessary to mention on some peculiarities in definition of administrative proceedings in Ukraine, Germany and Canada.

In Ukraine, general rules govern the conduct of administrative proceedings, as set out in Code of Administrative Legal Proceedings of Ukraine. Under this act, administrative legal proceedings are defined as activities of administrative courts for consideration and permission of administrative cases according to the procedure, established by this Code [14].

In Germany, general rules govern the conduct of administrative proceedings, as set out in § 9 VwVfG. Under this act, administrative proceedings are defined as the activity led by relevant authorities aimed at examining the conditions, preparation and adoption of an administrative act or the conclusion of an agreement under public law, including the issue of an administrative act or conclusion of a public law contract. Administrative proceedings have two essential features. Firstly, the decisions made by relevant authorities

must be relevant to bodies other than themselves; for example, internal instructions would be excluded. Secondly, activities of the relevant authorities must be directed toward the issue of a Verwaltungsakt (administrative act) or the conclusion of a public law contract [15].

The biggest difference between the German and Canadian systems is that in Canadian law, both federal and provincial, there are no general laws governing administrative proceedings. Rather, these proceedings are governed by relevant provisions of special laws and by relevant court decisions. There is no single identifiable authority structure. Different authorities govern different administrative areas. A tribunal, board, commission or agency may have jurisdiction. There is no general rule; rather, the situation is somewhat different in each case. Many matters are decided by administrative tribunals. They make their decisions as part of the executive branch of government, because they were authorized to perform this task by the provincial or federal legislature [15].

Consequently, there are three different definitions of administrative proceeding. On the one hand, if we are talking about the countries with traditional law system, we can consider administrative proceeding as an administrative court activity in accordance with current Code or special law. On the other hand, if there is a country with case law, administrative proceeding can define as activity governed by relevant provisions of special laws and by relevant court decisions.

In first case, there is more traditional meaning of administrative proceeding than in second one. Another similarity shared by the three countries is that the respective legislatures, through the sectoral laws, often have specified which authority is responsible for which administrative decision. Nevertheless, in particular cases, it is sometimes not easy to determine which authority has jurisdiction.

Another problem, which is needed to resolve is a definition of administrative act. The Resolution (77) 31 of the Committee of Ministers of the Council of Europe understands the term «administrative act» as «a decision» [16]. In our point of view, it is very general definition, which needs further interpretation. Noteworthy is a definition that was given in the dissenting opinion of the judge of the Constitutional Court of Ukraine M. Savenko, «act» (Latin actus – «action»; actum – «document») means action, deed and the document issued (adopted) by a public authority, local governments and their officials» [16]. Such determination can be quite a clear guide for understanding this definition of an administrative act in terms of the forms of its manifestations.

Another approach set out in the German law «About administrative procedure», according to which an administrative act appears in manifestations of the administrative activity related to the settlement of an individual issue in the public sphere.

There is no definition of «administrative act» in Ukrainian law, but this definition was used in the draft Code of Administrative Procedure of Ukraine, understanding this term as a decision (a legal act, document, mark in the document) of individual action taken by the administrative authority as a result of the review of administrative proceedings in accordance with this Code, aimed at the acquisition, modification or termination of the rights and obligations of individual or legal entity(s) [17].

Above we have noted the definition of administrative act that was suggested in the draft of Administrative Procedure Code of Ukraine. Now we can analyze its compliance with the outlined signs. We agreed with T.V. Yaschenko's standpoint, that this definition does not cover the content of such a multidimensional phenomenon as an administrative act. First, there was not taken into account the following forms of administrative act as an action of public administration, which greatly narrows the scope of the relevant provisions of law. Secondly, it does not indicate the fact that the relevant decision (action) should be motivated, unless otherwise provided by law, created with a guaranteed possibility for individuals and/or legal entities to participate in decision-making made public or brought to the attention of

the subjects in the manner provided by law or contracted parties and one that can be challenged in order internal administrative appeal or in court [18].

To sum it up, according to standpoints mention above, we can give the definition of administrative act as act under the law, with authority, compulsory, one-sided expression of solutions and officials which taken within their jurisdiction and provides law and regulations on individual tasks and implementation of these functions associated with the occurrence, change or termination of legal relations in order to rights, freedoms and legal interests of individuals.

Conclusion.

1. Ukraine as a European country shares a common history with Europe. The state adheres the common values together with members of European Union. In this respect, a new association agreement may be the result of creation the new cooperation institutions, extend political association and economic integration by establishing mutual rights and duties.

We believe that Ukrainian full participation in international organizations contributes to solving the problems of internal development. It extends the interstate communication; helps promote national interests in other countries and at the same time contribute to the achievement purposes of the international community.

2. The biggest difference between the German and Canadian systems is that in Canadian law, both federal and provincial, there are no general laws governing administrative proceedings. Rather, these proceedings are governed by relevant provisions of special laws and by relevant court decisions. There is no single identifiable authority structure. Different authorities govern different administrative areas. A tribunal, board, commission or agency may have jurisdiction. There is no general rule; rather, the situation is somewhat different in each case. Many matters are decided by administrative tribunals. They make their decisions as part of the executive branch of government, because they were authorized to perform this task by the provincial or federal legislature.

3. Apparently, there are some difficulties in translation administrative legal terms of Ukraine, Germany and Canada. Firstly, it is important, these states refer to different legal families, which will undoubtedly affect the formation, development and strengthening of administrative terminology. Secondly, there are a traditional pattern and sustainability in administrative terminology Ukraine and Germany, in comparison with administrative terminology of Canada where dominates the constant introduction and circulation of new terms, according to the specific legal fact.

4. Indeed, it is necessary to give the definition of administrative law in Ukraine Germany and Canada, because there are certain features.

The leading feature of the matter of the administrative law is its public nature: public interest is the needs, which are important for the considerable quantity of natural and legal persons and which should be provided, according to legally established competence, by the public administration; the relations of the public management reflect the determinative component of the subject of the administrative law: the authoritative activity is the competence of organs and officials of the public administration as to guaranteeing of execution of the laws of Ukraine; the administrative activity is the issue by them on the basis of the laws of the by-laws, which have compulsory meaning; to the matter of the administrative law belong also the issues in rendering of administrative services by the public administration; one of the constituents of the matter of the administrative law is the internal activity of the public administration, but only that part of it, which is executed in a legal form; an integral constituent of the matter of the administrative law of the democratic lawful state is the means of responsibility of the public administration for illegitimate actions or inactivity; the important feature of the matter of the branch of the administrative law is the possibility of undertaking by the public administration of the measures of administrative compulsion and administrative responsibility.

5. Thus, we can give the definition of Administrative Law as a complex of laws which regulates relationship between citizens and authorities as representatives of a state, which must guaranty of rights and liberties of the person and the citizen, with the opportunity of applying of measures of administrative compulsion and administrative responsibility to disturbers of administrative-legal regulations.

6. There are three different definitions of administrative proceeding. On the one hand, if we are talking about the countries with traditional law system, we can consider administrative proceeding as an administrative court activity in accordance with current Code or special law. On the other hand, if there is a country with case law, administrative proceeding can define as activity governed by relevant provisions of special laws and by relevant court decisions.

7. We can give the definition of administrative act as an act under the law, with authority, compulsory, one-sided expression of solutions and officials which taken within their jurisdiction and provides law and regulations on individual tasks and implementation of these functions associated with the occurrence, change or termination of legal relations in order to rights, freedoms and legal interests of individuals.

REFERENCES

1. Law of Ukraine 'On Domestic and Foreign Policy', Supreme Council of Ukraine, 2010, # 40, st. 527

2. Smirnova K. 'European Integration and Ukraine', Law of Ukraine, 2011, # 4, p. 153–158.

3. Murav'eva V. I., European Union Law, Inter Yurinkom, 2001. – P. 704.

4. A. Busol Prospects legislative consolidation of English as a language of international communication in Ukraine [electronic resource]: http://nbuviap.gov.ua/index.php?option=com_content&view=article&id=516:movi-mizhnarodnogo-spilkuvannya-v-ukrajini&catid=8&Itemid=350

5. Aver'yanov V. B. The role of administrative procedures in reformations of Administrative law / V. B. Aver'yanov // Chasopis Kiïvskogo universitetu law. – 2009. – № 3. – S. 8–14.

6. One is the federal parliament and the others are the 10 provincial parliaments.

7. Cf. Summers, in: MacCormick / Summers, Interpreting Precedents: A Comparative Study, 1997.). – S. 379 (certainty, stability, judicial, even-handedness and the rule of law).

8. Polten E. P. Canadian Administrative Law and German Verwaltungsrecht: Overview and Comparison, Polten and Associates, 2012. – PP. 1–26.

9. See the distinction at III.2.b. (2) above.

10. Rєznik V. G. Germany terminology as special terminological system (on materials of German administrative terms) / V. G. Rєznik // Lingvistika. – 2013. – № 1. – S. 42–50. - Access mode: http://nbuv.gov.ua/UJRN/ling _2013_1_8

11. Administrative Law of Ukraine/ edited by Vadym Averyanov – Kyiv, 2004. – Vol. 1. (in Ukrainian). – p. 73. (in Ukrainian).

12. Administrative law of Ukraine nowadays (the beginning of the 21st cent.): monograph/ edited by Valentyn Galunko. – Kherson, 2010. – p. 11–21. – Access: http://www.law-property.in.ua/images/books/apuvsu.pdf (in Ukrainian)

13. David Mullan in «Administrative Law» (Irwin Law: Toronto, 2000) defines it as «the body of law that establishes or describes the legal parameters of power that exist by virtue of Statute or residual Royal prerogative». (p.3)

14. Code of Administrative Legal Proceedings of Ukraine, July 6, 2005 of No. 2747-IV

15. Polten E. P. Canadian Administrative Law and German Verwaltungsrecht: Overview and Comparison, Polten and Associates, 2012, pp. 1–26.

16. Administrative procedure and administrative services. The Foreign experience for Ukraine / V. Tymoshchuk. – K. : The fact of 2003.

17. Project Administrative Procedural Code of Ukraine, Verkhovna Rada # ast-11472 od 3 2012 p. [Electron resource]. – Access mode: http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=44893.

ISSN 1995-6134

18. Yaschenko T. V. About Essential Features of the Notion of «Administrative Act». | Administrative Law and Procedure. 3(9). – 2014. – p. 23–30.

Koliusheva O. S. Comparative Characteristics of Main Administrative Legal Terms of Ukraine, Canada and Germany as European Country / O. S. Koliusheva // Форум права. – 2016. – № 3. – С. 136–146 [Електронний ресурс]. – Режим доступу: http://nbuv.gov.ua/j-pdf/FP_index.htm_2016_3_27.pdf

The article is devoted to the issues of the definition of some legal and administrative terms of Ukraine, Canada and Germany as European country. The analysis of research publications allowed the authors to select and systematize a number of concepts described in recent scientific research. They include the following expressions: «administrative act», «administrative law» and «administrative procedure». The paper analyses the most common ways in which these terms can enter research vocabulary. The article also examines the most disputable aspects of the usage of introduced concepts. A special feature of this paper is giving definitions of «administrative act», «administrative law» and «administrative procedure» and their interpretations that the authors compiled using recent research publications. Besides, they analyzed how the above-mentioned terms correspond to different law systems of Ukraine, Canada and Germany as European country.

***

Колюшева О.С. Порівняльна характеристика основних адміністративно-правових термінів України, Канади та Німеччини як європейської країни

Статтю присвячено питанням визначення деяких правових і адміністративних термінів України, Канади та Німеччини як європейської країни. Аналіз наукових публікацій дозволив авторам вибрати і систематизувати ряд концепцій, описаних в останніх наукових дослідженнях. Вони включають в себе такі терміни: «адміністративний акт», «адміністративне право» і «адміністративна процедура». У статті аналізуються найбільш поширені способи використання даних термінів у науковому словнику. У статті також розглядаються найбільш спірні аспекти використання даних понять. Особливістю даної статті є те, що автор дає визначення таким термінам як «адміністративний акт», «адміністративне право» і «адміністративна процедура». Крім того, проаналізовано, як вищезгадані терміни відповідають різним системам права України, Канади та Німеччини як європейської країни.

***

Колюшева О.С. Сравнительная характеристика основных административно-правовых терминов Украины, Канады и Германии как европейской страны

Статья посвящена вопросам определения некоторых правовых и административных терминов Украины, Канады и Германии как европейской страны. Анализ научных публикаций позволил авторам выбрать и систематизировать ряд концепций, описанных в последних научных исследованиях. Они включают в себя такие термины: «административный акт», «административное право» и «административная процедура». В статье анализируются наиболее распространенные способы использования данных терминов в научном словаре. В статье также рассматриваются наиболее спорные аспекты использования данных понятий. Особенностью данной статьи является то, что автор дает определение таким терминам как «административный акт», «административное право» и «административная процедура». Кроме того, проанализировано, как вышеупомянутые термины соответствуют разным системам права Украины, Канады и Германии как европейской страны.