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PLACE OF ADMINISTRATIVE AGREEMENT IN THE REFORM OF LOCAL SELF-GOVERNMENT AND TERRITORIAL ORGANIZATION OF POWER

**N.R. POLISCHUK, *graduate student*¹,
*National University of life and environmental sciences of Ukraine***

Annotation. *The article is devoted to the relevance of administrative contracts as part of the reform of local self-government and territorial organization of power.*

Keywords: *decentralization, local government, administrative agreement, agreement of cooperation*

It is necessary to use new, effective and flexible management during the economic and social crisis in the country. Under these conditions Ukraine need to deviate from the traditional principles of regulation, combining yet incompatible methods.

1 April 2014 Cabinet of Ministers of Ukraine approved a national concept document important in reforming local self-government and territorial organization of power - Concept of reforming the local self-government and territorial organization of power. This step laid the beginning of decentralization of power in Ukraine. The decentralization means delegating considerable authority and budgets from the state bodies to the bodies of local self-governance, to entrust as much authority as possible to the bodies operating closest to public, where this authority can be exercised most successfully [1].

In accordance with the European Charter of Local Self-Government 10.15.1985's local government is one of the main foundations of any democratic regime and the right of citizens to participate in public affairs, which most directly can be done just on the local level is one of the democratic principles. Local self-government denotes the right and ability of local governments within the law, to regulate and manage a substantial share of public affairs under their own responsibility in the interests of the local population [2].

According to scientists decentralization is a form of democracy that allows for the preservation of the state and its institutions, expand the local government to intensify people to address their own needs and interests, narrow the scope of the state's influence on society, replacing this impact mechanisms of self-produced by society, reduce costs of state and taxpayers for the maintenance of the state apparatus and its material appendages - the army, police, etc. [3].

Therefore, reforming of management systems and methods for cooperation between executive power and local self-government is a high priority for Ukraine.

The goal of the decentralization policy is a departure from the centralized model of governance in the country, ensuring the capacity of local government and

¹ Науковий керівник – кандидат юридичних наук, доцент О.С. Яра

an effective system of territorial organization of power in Ukraine, the implementation of the full provisions of the European Charter, the principles of subsidiarity, universality and financial sustainability of local government. As the result - the establishment and maintenance of complete living environment for citizens, providing high quality and accessible public services, the establishment of institutions of direct democracy, satisfying the interests of citizens in all spheres of life in the territory, reconciling the interests of the state and citizens [4].

The state authorities issued a number of normative acts during reforming. The leading role of this normative acts played a package of bills about increasing the authority of local governments to provide administrative services. The important role is assigned to such institute of administrative law as an administrative contract in the Law of Ukraine «On cooperation of local communities».

This normative act defined the type of contract, as predicted possible subjects of contractual relations. Paragraph of law 14 ch. 1, Art. 3 Code of Administrative Procedure of Ukraine determines that the administrative agreement - a bilateral or multilateral agreement, which contains the rights and obligations arising from the administrative functions of the subject of authority, which is one of the parties to the agreement [5]. Among lawyers, there are many opinions regarding the defining characteristics of administrative agreement, but they all share two main features:

- subject, which has the powers;
- objective conclusion.

As for the subject, researchers give the following definition of government agencies: they are public authorities, local governments and their officials or officials of other subjects in the exercise of their duties on the basis of legislation, including delegated powers endowed with a set of rights and responsibilities of state bodies and officials and other persons assigned to them in accordance with law to carry out their functions. shall cooperate through the village and city councils [6]. This definition includes, in addition to public authorities, and even local governments that are directly local communities of villages, towns and village, town councils and their executive bodies, district and regional councils, which represent the common interests of local communities of villages, towns, cities [7].

The Law of Ukraine «On cooperation of local communities» provides that municipalities shall cooperate through the village, town and city councils. [8] So it can be argued that subject endowed with powers is subject of cooperation agreement.

The purpose of the agreement is mainly administrative achieving the common good, socially significant results [9, p. 53]. This feature eliminates all other categories of treaties concluded public authorities to implement less significant public or individual interests (this are mostly civilian contracts). Regarding cooperation agreements, they are placed in areas of common interests of local communities within the competence of the relevant local authorities, unless otherwise provided by law [8]. Moreover, in determining the co legislator implies that a relationship between two or more local communities, carried out on a contractual basis in certain legal forms for the socio-economic and cultural

development of territories, improving the quality of public services based on shared interests and goals, effective implementation of local government authority by law.

A characteristic feature of administrative agreements is that they are placed in connection with the management functions primarily between members of so-called horizontal management relations, which, as bearers of authority, are legally equal and not subordinate to each other. It can be contracts on delegation of powers from one authority to another. This is a delegation, which also is possible only in cases stipulated by law, does not violate the legal equality of the parties [11]. Besides the classification of administrative contracts, scientists distinguish agreements on jurisdiction and enforcement of national and local functions. These are particularly distinguished:

- Agreements between local authorities on the reallocation of certain powers and budget funds (ch. 7, Art. 16 of the Law of Ukraine «On Local Government in Ukraine», Art. 93, 107 of the Budget Code of Ukraine);

- Contracts between territorial communities of villages, towns, cities, districts in cities or relevant local authorities to unite the right of joint ownership of objects of communal property and local budgets to implement joint projects or to jointly finance (maintain) public enterprises, institutions and organizations for creating this relevant agencies and institutions (ch. 3, Art. 60 of the Law of Ukraine «On Local Government in Ukraine», Art. 92, 106 of the Budget Code of Ukraine) [10].

Thus, we can follow that scientific opinion ahead of the legislators. Since this law was supposed right of state and local governments to contract, but the ambiguity of forms of realization of this right created difficulty in practical use and in accordance with the definition of jurisdiction of cases on appeal of such agreements. The law defines one type of such agreements and provides the basic conditions of the contract, making them a viable application in practice for village, town and city councils.

The law provides the cooperation agreement in terms of delegating specific tasks shall in particular include:

- 1) a list of the tasks delegated to local government as subject of cooperation;
- 2) the name of the local government as subject of cooperation, which other tasks are delegated to local government as subject of cooperation;
- 3) name of local government as subject of cooperation to delegate tasks relevant local authority of one of the subjects of cooperation;
- 4) requirements for the implementation of local government of one of the subjects of cooperation other subjects delegated cooperation objectives;
- 5) the amount of local budgets, local government passed a local government as subject of cooperation for delegated tasks;
- 6) the period for which tasks delegated;
- 7) the form and procedure for reporting on the implementation and financing of delegated tasks;
- 8) the procedure for termination and dispute resolution during its implementation [8].

According to scientist's research, the subject of the contract is an essential condition of the contract, which is its legal purpose by specifying certain actions to objects of civil rights [12]. It is clear that in this case the administrative contract is

about cooperation, which is a relationship between two or more local communities, carried out on a contractual basis in certain legal forms. That is, regardless of the form this relationship is contractual, so those arising from the contract. Therefore, cooperation is the only form detailing elements that define the scope of the subject contract. In addition, paragraph 2, Art. 9 of the Law of Ukraine «On cooperation of local communities» determined that the subject of the contract on cooperation is determined according to the chosen subjects of cooperation forms of cooperation. Referring to the provisions of the law, we can distinguish agreements with the following items:

- delegation of one of the subjects of cooperation other subjects co-performing one or more tasks to the transfer of relevant resources;
- implementation of joint projects, involving coordination of activities of cooperation and accumulating them for a specified period of joint resources to implement the appropriate measures;
- co-financing (maintain) the subjects of cooperation of enterprises, institutions and organizations of communal ownership - infrastructure projects;
- formation of joint cooperation actors communal enterprises, institutions and organizations - joint infrastructure projects;
- formation of subjects of cooperation a joint body for joint management of meeting statutory powers [8].

Administrative agreements become more important with the reforming of local self-government and territorial organization. Legislated cooperation agreements, which by their nature are administrative law, provide an opportunity to increase the competence of local authorities with the implementation of important public purposes. So important is the development of scientific thought on the practical application of such agreements. Fundamentally new research vector are contracts that delegated powers between public authorities. Their law definition makes accessible the conclusion of such agreements between local authorities.

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Анотація. Розглядається адміністративний договір в рамках заходів з реформування місцевого самоврядування та територіальної організації влади.

Ключові слова: децентралізація, місцеве самоврядування, адміністративний договір, договір співробітництва.

Аннотация. Рассматривается административный договор в рамках мероприятий по реформированию местного самоуправления и территориальной организации власти.

Ключевые слова: децентрализация, местное самоуправление, административный договор, договор сотрудничества.