

Chapter 11

Forms of the indirect regulation of the economy: modern approaches to the determination and application

The public-service character of the activity of state bodies reflects the ideology of a human centralism, corresponds to the constitutionally fixed content and direction of the state's activity, which is defined by human rights and freedoms and their guarantees. The specified determines the need to define the forms of indirect regulation of economic relations, which contributes to the development of the system of state guarantees for the implementation of the constitutional right to entrepreneurial activity, effective protection of the economic interests of the state, establishing the legal possibility of alternative choices of participants in these relations of behavior within the law. Such a legal possibility is realized, in particular, in permits, administrative agreements, administrative services that ensure social freedom and human activity, the implementation of the principle of «everything which is not *forbidden* is *allowed*».

The above theoretical positions serve as a model for using forms of indirect regulation of economic relations. The practice of their use indicates that there are, at least, such problems as:

- the presence of the considerable body of normative legal acts of various legal force, regulating the permit activity on various subjects of implementation;
- the necessity of the development of the legislation on administrative services, the current state of which is characterized by the validity of the Law of Ukraine «On administrative services», which envisages adaptation to its norms of legislation in the field of permitting activities and the requirements of regulatory legal acts regulating related relations, in particular, administrative liability, procedures provision of administrative services and others;
- the need to justify the legal basis for the application of administrative agreements, including the procedures for concluding, termination.

1. Problems of the definition of the subject of permit activities

Permit activity is carried out in many directions and provides for the issuance of permit documents in various forms. Among the directions of the mentioned activity in the field of economy, the following can be noted:

- 1) compliance with sanitary norms and regulations (provision of conclusions, permits, certificates, sanitary passports [1]);
- 2) trade (granting of a commercial patent [2]);
- 3) observance of customs legislation (granting of permits [3]);

4) confirmation of the quality of food and non-food products, including determination of radiation quality (conclusions, permits, approvals, certificates [4, 5, 6, etc.] are given);

5) observance of environmental legislation by economic entities (provision of permits, conclusions, limits, approvals, licenses [7, 8 and others]);

6) observance of legislation in the field of energy saving, operation of power grids (documents of permissive character, conclusions of the state expert examination on energy conservation [9]);

7) provision of housing and communal services (confirmation of conformity, certification, licensing [10]);

8) construction (conclusions, permissions, passports [11] are given) and others.

In spite of the effect of the Framework Law of Ukraine «On the Permit System in the Sphere of Economic Activity» [12], which defines the legal and organizational framework for the functioning of the permit system in this area, it should be noted that the subject of the so-called «permissions» is extremely wide, and their number and the list of forms is so cumbersome, requiring a fundamental revision. This problem still loses its relevance.

An attempt to streamline relations in the area of granting permits (obtaining permits) is carried out by adopting by-laws, at least at the level of decisions of the Cabinet of Ministers of Ukraine, and instructions of local state administrations. The Register of documents of permissive nature, which is implemented in the form of a unified automated national system of collection, accumulation, protection, registration and provision of information on the issuance of permits, refusal to issue them, reissue, issue of duplicates, cancellation, is facilitated by the organization of information and monitoring of permits.

The abovementioned indicates the need to determine a unified approach to the regulation of permissive relations in the field of management, which will allow to answer the difficult question about the extent of limiting the imperative impact on the field of management. On the one hand, the state, by establishing and controlling compliance with the requirements for granting permits, thus performs the function of protecting citizens from low-quality goods and services. On the other hand, the excessive expansion of the list of activities requiring the issuance of permits constrains the development of entrepreneurship, since the latter is an independent, initiative, systematic at its own risk of economic activity of business entities (entrepreneurs) in order to achieve economic and social results and profit (Article 42 of the Commercial Code of Ukraine [13]).

II. Administrative service. Problems in determining the nature and content

The doctrinal work on the problem of the essence of administrative service is logically connected with the problem of permissive activity. Most researchers of

the problem referred to the administrative services and permit activities, licensing, registration (O.V. Kuzmenko [14, pp. 270-271], T.O. Kolomoets [15, pp. 240], I.B.Koliushko, V.P.Tymoshchuk, S. L. Dembitskaya, Yu.M. Il'nitskaya). Academician V.B. Aver'yanov, referring to the etymology and meaning of the term «service», emphasized that the service is an activity that is carried out with the purpose of consolidating the obligations of the state to individuals and legal entities, in particular those that are aimed at legal registration of the conditions necessary to ensure the proper realization of their rights and interests protected by law [16, p.379]. The scholar pointed out that the notion of activities related to the provision of services as «public service» (from the «serve-serve») and pointed out the content of such activities - the creation of conditions under which individuals or legal entities are capable of effectively implementing and protecting their rights, freedoms and legitimate interests. To the subjects of services delivery were assigned state and non-state bodies [16, p.269].

Consequently, the scientist did not identify the administrative service with permission or other positive action of the authorized state authorities, in particular - registration, licensing, etc.

The legal construction of the term «administrative service» consists of a universal legal category - «service» and categories «administrative». The content of the category «service» affects the perception of the administrative service from the point of view of consolidating the mutual rights and obligations of both the subjects of their provision and the services of consumers. Category «administrative» refers to the sphere of social relations, within which the service is provided - managerial, organizational. Such an essence of administrative service determines the circle of subjects of their provision - the executive authorities, local self-government bodies, and their officials.

The genesis of such a legal construction indicates the gradual introduction of a term in the legal doctrine and legislation, which indicates the nature of the relations within which the service is delivered, beginning with the term «managerial», and subsequently - «executive», «executive-obligation» (V.B.Aver'yanov), «public», «state» and «municipal» (Concept of development of the system of providing administrative services by executive authorities) and, finally, «administrative» as a service provided in public relations.

Interesting is the fact that in 1938 Ernst Forsthoff analyzed the problem of managing the provision of public services [17, p.180]. Thus, the scientist introduced into the scientific circle the relevant category, which indicated a new quality of government - from the imperative, binding to the dispositive.

Consequently, the term for the introduction of administrative services into the field of public-law regulation is rather long, and the need to form a doctrinal approach to the essence of administrative service - important in both social and in

the state sense, taking into account the reproduction in this term of change of priorities in the public-law regulation the activities of the state, its bodies, officials.

III. Methodology for determining the essence of administrative contracts: problems of formation

With regard to the necessity of forming a methodological approach to the essence of an administrative contract, one can first point out the individual nature of scientific research of the respective direction. Among the contemporary scientific works can be noted works K.K. Afanasyeva, R.A. Kuibids, S.M.Olkhovskaya and others.

Although the notion of an administrative contract is contained in almost all textbooks on administrative law, however, in Ukraine, at the level of the doctoral dissertation, a corresponding analysis was made by Zh.V. Zavalna [18]. Academician notes that in the works of domestic and Russian scientists the problem of using the contractual form in relation to coordination and interaction – V.B. Averyanov, O.P. Alohin, V.D. Bakumenko and others; Concerning the organization of joint concerted action of state bodies – A.A. Aksenov, G.V.Atamanchuk, A.L. Dudnikov, V.A. Kruglov, V.M. Pleshkin, A.M. Suprunenko, V.V. Tsvetkov and others; when researching the problem of delegation of authority – O.A. Somova, S.K. Dryakhlov, I.G. Machulskaya and others [18, p.8-9]. Among the works of Russian researchers, performed at the level of PhD theses on administrative law, it could be mentioned the scientific achievements of N.V.Balitskaya, AM Kolokoltseva, I.Yu. Sindeeva and others.

The legal nature of administrative contracts is due to the fact that they arise in those areas where administrative-legal relations are formed, and their purpose is the realization of public-legal interests. They are applied within the competence of the subjects of authoritative power.

Among the legislation regulating the sphere of public relations, only the Code of Administrative Procedure of Ukraine (hereinafter referred to as the CAP of Ukraine) defines the notion of an administrative contract (clause 16, part 1 of Article 4. [19]). The application of the norms of the CAP of Ukraine is carried out in a wide circle issues related to the protection of rights and legitimate interests in public-law relations. However, the legislation in the field of administrative contracts was formed earlier than the adoption of the CAP of Ukraine, which is why there is confusion not only in the application of certain concepts. When resolving disputes arising from the conclusion of administrative contracts, it is necessary to proceed from the administrative and legal nature of this agreement, to distinguish it from the economic, legal and civil-law nature, which, of course, extremely complicates and delays the process of protection of rights and legal. Thus, in some cases, if the case comes to the economic court, and one of the participants is an authority with authority, it is transferred to the administrative court or decide in the manner prescribed by the CAP of Ukraine, despite the fact that it is the subject of the

dispute. With the adoption in December 2017 of the CAP of Ukraine in the new edition, the problem of delineation of judicial jurisdictions was not eliminated.

With regard to the delineation of judicial jurisdictions, there are legal positions of the highest judicial authorities. Thus, in the Resolution of the Plenum of the Supreme Administrative Court of Ukraine dated May 20, 2013, No. 8 «On Certain Issues of the Jurisdiction of Administrative Courts» [20], it was indicated that judges should be referred to the legal doctrine regarding the division of the right to public and private. However, in resolving the issue of opening a proceeding, the judge should not carry out a theoretical analysis, along with an analysis of the current legislation. The abovementioned Resolution of the Plenum of the Supreme Administrative Court of Ukraine did not become invalid, despite the current other higher judicial body - Administrative Court of Cassation of the Supreme Court.

R.A. Maidanyk brings the opinion of N.S. Kuznetsova regarding criteria for determining jurisdiction, where it is necessary to proceed not only from the subject structure of the legal relationship, but above all from the subject matter. If the subject of consideration is the private rights of an individual or business entity to the disputed property, such a dispute shall be subordinated to the civil or commercial courts [21, p.173; 30].

The above opinion is formed on the basis of the doctrinal provisions of the science of civil law. However, based on the conceptual provisions of the theory of administrative law in relation to the signs of administrative and legal relations, in the case of resolving a dispute in the field of economic activity with the participation of state and other bodies that are not economic entities, the following criteria for delimitation of judicial jurisdiction with the classification of the specified category can be proposed disputes to the jurisdiction of administrative courts. These criteria should apply only in complex with:

- a) a dispute with the participation of a state body or local self-government arises in relation to the actions of the subject of legal authority in connection with the performance of its administrative functions and functions of legal protection of public order;
- b) relations related to the implementation of the subject of legal authority may arise at the initiative of any of the parties;
- c) the activity of the subject of the power of attorney does not require the consent of the other party.

IV. The concept of the application of indirect forms of economic regulation.

The problem of the application of indirect forms of economic regulation has two interrelated sides. On the one hand, there is a need for a clear definition of groups of social relations in the field of economic activity, which are the subject of administrative and legal regulation. On the other hand, it is necessary to form a

conceptual approach to the limits of the use of forms of indirect regulation of economic relations.

First of all, it is necessary to identify groups of social relations in the field of management, which are the subject of administrative and legal regulation.

In scientific researches on administrative law, the subject matter of the search consisted mainly of scientific approaches regarding the criteria of the measure and degree of state intervention in the sphere of management (L.R.Gritsaenko, AS Lastovt'kyj, V.P. Nagrabelny, N.O.Saniachmetov, and others). To this end, proposals were made for the use of priority mechanisms of administrative and legal regulation:

- openness of the formation of the state policy on support and development of entrepreneurship by means of coordination of interests of all interested parties, use of feedback mechanisms;

- flexibility of the system of priorities and various forms of state support for national entrepreneurship;

- taking into account national and historical features, especially at the regional level;

- simplification of the government regulatory procedures, especially for small businesses;

- mandatory determination and consolidation of a permanent source of state budget allocations aimed at the development of entrepreneurial activity;

- coordination of activities and a clear separation of powers and responsibilities of public authorities directly involved in the issues of support and development of national entrepreneurship at the state, regional and local levels;

- use of property of inefficient and insolvent enterprises that are in state ownership as sources of resource support for small and medium-sized businesses;

- improvement of the accounting system and state statistics of entrepreneurship;

- consistency and unbiased measures to support and develop entrepreneurial activity;

- organization of systematic scientific research and an effective propaganda campaign aimed at stimulating entrepreneurial activity in Ukraine [22, p.13-14].

The list of the above suggestions on the use of the primary mechanisms of administrative and legal regulation shows the actual absence of the idea of specific measures and means of administrative regulation, in connection with which the provisions themselves, in many, declarative content.

Thus, the analysis of the first provision on the openness of the formation of a state policy on support and entrepreneurship development by coordinating the interests of all interested parties, the use of feedback mechanisms allows us to indicate that it is, rather, a declaration, a general direction of state policy in the field of entrepreneurship, which needs to be detailed. To implement it, it will be

necessary to find an answer to a number of questions: what does «openness» mean to public policy, what means «openness» will be provided to, which authorities will be empowered to ensure such «openness», who will be legally responsible for violations the requirements for ensuring the «openness» of the state policy, how the interests of the parties and parties, and so on will be coordinated. The same can be fully attributed to the «flexibility of the system of priorities and the versatile forms of state support for national entrepreneurship».

The problem of determining the criteria for the degree and degree of state intervention in the field of economy is really important, but it is unlikely that it can be solved, since the sphere of economic activity itself is not a constant phenomenon. It is dynamic, complex and its development depends on many factors, including political ones. All these factors can not be taken into account, because it is impossible to solve a scientific problem with many unknown and unpredictable parameters. It is advisable to carry out scientific research in a different direction. Thus, it is possible to identify specific spheres of economic activity, which are the subject of administrative-legal regulation and require the use of adequate measures and means of state influence, including - and inherent in the dispositive method of regulation.

The concrete four groups of social relations that arise in the economic sphere and are the subject of administrative-legal regulation, are determined on the basis of an analysis of the essence of administrative-legal relations and the content of administrative and legal regulation.

The first group is relations related to the regulation of economic activity in order to ensure the rights and interests of citizens, based on the constitutional provision that the rights and freedoms of man and their guarantees determine the content and direction of the state (part 2 of Article 3 of the Constitution of Ukraine [23]). They refer to the relations of registration, licensing, patenting, standardization, certification, granting of permits (in the terminology used in the current legislation). These relations are classified as administrative-legal on the basis of their compliance with the features of administrative-legal relations: 1) consist in the sphere of positive management activity; 2) have a public-law nature; 3) connected with the implementation of organizational and regulatory activities of authorized state bodies; 4) may arise at the initiative of any subject, but the consent of the other is not compulsory; 5) the violation of one of the parties of his duties entails responsibility not to the other party, but to the state.

The second group consists of relations related to the implementation of the norm of part 4 of Article 13 of the Constitution of Ukraine, which states that the state protects the rights of all subjects of property rights and economic management, the social orientation of the economy. Not all relations within this group are administrative-legal. By regulating economic activity, the state, in particular, also applies financial policy instruments - investment, taxation,

budgetary, currency regulation. Administrative-legal relations are distinguished in terms of quota system, state regulation of prices and tariffs, application of norms and limits, antimonopoly regulation. The reason for such a conclusion is the position of the theory of administrative law that administrative-legal relations are formed, as a rule, in a special sphere of public life - public (state and self-government) management, and, first of all, in connection with the exercise of power by the executive authorities - distribution functions.

The third group of relations in the field of economic activity, which objectively require administrative-legal regulation, constitute control relations. In some ways, streamlining of the control of economic activity was facilitated by the adoption of the Decree of the President of Ukraine dated 23.07.1998 № 817/98 «On Certain Measures to Deregulate Business Activity». But the practice of its application showed that the problem of optimization of control activities in order to eliminate unnecessary interference in the field of business, this legal act did not completely eliminate. This is indicated by the practice of appealing the decisions of the controlling bodies in the judicial and extrajudicial order, as well as the recent activation of legislative activity in the direction of limiting the use of control measures or setting their limits. In 2018, a number of subordinate regulatory acts were adopted, the effect of which is to unify control and supervisory activities in the field of economic activity. In particular, the mentioned refers to the Resolution of the Cabinet of Ministers of Ukraine «On Approval of Methods for Developing the Criteria for Assessing the Risk of Economic Activities and Determining the Periodicity of Planned Measures of State Supervision (Control), as well as Uniform Forms of Acts, which are drawn up on the basis of planned (unscheduled) measures of state supervision (control) is also attached» from May 10, 2018. № 342, Letter from the State Regulatory Service dated April 10, 2018 № 3683/0/20-18 with appendix. This indicates the need for further search for ways to optimize control activities in the field of management.

To the fourth group of relations in the field of management, which are the subject of administrative-legal regulation, is classified as a jurisdictional activity. Without denying the thesis about the need to improve the administrative responsibility of individuals for violations of the rules in the field of management, the greatest attention from the part of the scientists needs the problem of administrative liability of legal entities, since in this area most of the violations are committed by legal entities. An integral part of this problem is the question of determining the legal nature of administrative and economic sanctions established by Article 239 of the Commercial Code of Ukraine, since it is necessary to improve the legal protection of the constitutionally established right to entrepreneurial activity and the prohibition to be prosecuted otherwise than on the basis and in the manner prescribed by laws. The jurisprudence on economic and administrative affairs testifies to the existing legal uncertainty of the grounds and procedure for

the application of certain administrative and economic sanctions and, as a result, violates the rights of citizens, the legitimate interests of legal entities, economic entities.

Apart from the four groups of public relations mentioned above, the administrative-legal relations in the field of corporate rights management of the state are allocated. Administrative-legal relations in the field of management of corporate rights of the state are connected with the implementation of the external management activity of authorized bodies of executive power: the definition of those spheres of business that are subject to corporatization by the state; application of registration, licensing, patenting, certification, standardization, issuance of permits; control over the activities of an entity in whose statutory fund the state has a certain share of ownership; application of compulsory measures to violators of mandatory rules in the field of corporate rights management of the state; ensuring legality; protection in administrative courts.

In order to solve the problem of establishing the subject of licensing activities, it is advisable to refer to the Constitution of Ukraine, namely, the norms of Articles 3, 17, 42. Article 3 of the Constitution of Ukraine is the basic, which stipulates that human rights and freedoms and their guarantees determine the content and direction of state activity. The state is responsible to a person for his activities. The assertion and guarantee of human rights and freedoms is the main responsibility of the state. Among the functions of the state, Article 17 of the Constitution of Ukraine establishes the provision of economic and information security, protection of the sovereignty and territorial integrity of the state. Article 42 enshrines the right of everyone to entrepreneurial activity, not prohibited by law, providing state protection of competition in entrepreneurial activity, preventing abuse of a monopoly position on the market.

Thus, the Basic Law enshrines the priority of human rights and freedoms. Along with this, the state's activity in ensuring the implementation of the right of everyone to entrepreneurship involves ensuring national security.

Proceeding from these constitutional norms, the following various areas of entrepreneurship are subject to the use of various permissions by the state:

- a) aimed at monopolization of the market of goods and services;
- b) have a risk of negative impact on the national, including economic, security.

The first type of business relations is regulated by the Laws of Ukraine «On Antimonopoly Committee of Ukraine», «On Protection of Economic Competition», «On Protection against Unfair Competition», «On Foreign Economic Activity», «On Consumer Rights Protection», bylaws adopted from separate issues of development of competitive relations.

These regulatory acts provide for the granting by the Antimonopoly Committee of Ukraine or its administrative boards of permits for concerted actions, concentration, as well as relevant preliminary conclusions.

If the relations in the field of antitrust activities of the state are regulated by a number of relevant legislative acts – not only antimonopoly but also those aimed at protecting economic competition, then the legal regulation of the spheres of entrepreneurship that risks the negative impact on national security does not provide for several normative legal acts, but it is carried out by a sufficiently large number of laws and bylaws. Moreover, there is a need to establish the very sphere of entrepreneurship, which may pose a risk of negative impact on national security.

Areas of management that have a risk of negative impact on the national, including - economic, security and therefore require the use of permits by the state appropriate to include: a) permits in the field of operations with weapons, war materials, explosive materials and substances, potentially toxic substances (Resolution Cabinet of Ministers of Ukraine of October 12, 1992 № 576, which approved the Regulation on the permit system and other regulations); b) permits in the field of nuclear energy use (Laws of Ukraine «On Permits in the Field of Nuclear Energy Utilization», «On the Use of Nuclear Energy and Radiation Safety», and others); c) permits in the field of sanitary and epidemiological welfare of the population (Laws of Ukraine «On ensuring sanitary and epidemiological welfare of the population», «On the safety and quality of food products», a number of subordinate normative legal acts.

The above list of areas of management that have a risk of negative impact on national security is not closed. There is no complete list for today that would be defined at the level of legislative acts, and relevant research in this area is practically not implemented, or certain problems are revealed in studies of a wider issue [24, 25]. Therefore, a clear definition of those spheres of business that risk the negative impact on national security requires further scientific research.

One of the approaches to solving this problem is the appeal to the Law of Ukraine «On National Security of Ukraine» [26]. Article 1 of this Law determines that national security is the protection of state sovereignty, territorial integrity, democratic constitutional order and other national interests of Ukraine from real and potential threats. Under the national interests, they understand the vital interests of man, society and the state, the realization of which is ensured by the state sovereignty of Ukraine, its progressive democratic development, as well as safe living conditions and the welfare of its citizens. Threats to national security are defined as phenomena, trends and factors that make it impossible or complicate or make it impossible or difficult to realize the national interests and preserve the national values of Ukraine.

Based on the normative definition of threats, one can agree with the thought of I.V. Soloshkina on the following types of entrepreneurial activity as an object of

licensing activity: 1) is related to operations with weapons, ammunition, explosives, 2) affects monopolization of markets, 3) is related to the use of fuel and energy resources, 4) is connected with the safety of food products, 5) innovations, 6) information security [27, p.7]. In the list below, this kind of entrepreneurial activity as food security needs to be expanded. Taking into account the above arguments it is expedient to include in the list of types of entrepreneurial activities related to the provision of public health and activities that will negatively affect the state of the environment.

Consequently, to the final list of types of business that require the issuance of permits, it is expedient to include activities:

- related to operations with weapons, ammunition, explosives,
- which affects the monopolization of markets,
- related to the use of fuel and energy resources,
- related to the provision of public health,
- that negatively affects the state of ecology,
- associated with innovations
- related to the information security.

In order to ensure the development of the system for providing administrative services, it is necessary to: optimize the procedures for administrative services in so far as minimizing the applicant's participation in such procedures; establish the criteria for the payment of administrative services; to ensure the awareness of persons applying for administrative services in the procedures and terms of provision; unify service delivery standards.

However, the doctrinal level requires a substantiation of the provision on the definition of the essence of the administrative service. In this context, it is advisable to take into account the achievements of scientists regarding:

- identification of persons who apply for the provision of administrative services as service consumers (in particular, V.P. Tymoshchuk [28, p. 116]);
- a positive social effect of the activity on the provision of administrative services, aimed at satisfying the rights and interests of the persons who applied, reflecting the results of the administrative act (Yu.M. Il'nitskaya [29, p.177]);
- direction of the duty of the state to private persons on the legal registration of the conditions necessary for the proper realization of their rights and interests protected by law (G.M. Pisarenko [30, p.8]);
- use of the term «administrative authority» to indicate the subject of the provision of administrative services (S.L. Dembitskaya [31]);
- definition by the subjects of the provision of administrative services of executive bodies, local self-government bodies, and their officials (V.V. Petyovka [32]);
- is a «positive» individual act adopted in order to meet certain interests of individuals or legal entities (O. Lukhtergandt [33]).

The abovementioned and other researchers of the problem of the essence of the administrative service noted its declarative character and correspondence with the public-service character of the direction of management activity.

Without denying, in general, against scientifically valid approaches, it is advisable to form the perception of an administrative service from the standpoint of taking into account the essence of the basic category of «service», which is disclosed in civil law. I.V. Zhilinkova noted that the service is considered a certain intangible benefit provided by one person (the executor) and consumed by another person (customer) in the process of committing an executor of certain actions or certain activities [34, p.399].

From this definition of the concept of a service one can draw a conclusion on the consumer quality of the service, due to which the person who consumes the service acquires certain intangible benefit. In the administrative-legal relations, the consumer quality of services is manifested in the activities of executive authorities, local authorities, their officials as providers of services to assist the consumer in obtaining a certain permission, creating conditions for the consumer's legalization of the administrative service of a certain right by obtaining a permit, registration or other actions. This approach takes into account the transformation of priorities in the administrative-legal regulation of relations in the field of economics, objectively introduces the dispositive principles of state power.

With regard to administrative contracts, it should be noted that they are already quite actively used in the field of economic activity. They can be classified into:

- contracts in the field of state property management (for example, Typical general agreement on the transfer of authority to exercise the functions of corporate rights management by the State to the competent authorities [35]),
- procurement contracts (according to the Law of Ukraine «On Public Procurement» [36]);
- contracts for the provision of certain services (property or physical protection, contract of carriage in public transport, etc.);
- contractual form of delegation of authority and others.

Zh.V. Zavalna allocates the following three groups of administrative agreements: on the regulation of coordination relations; change of powers; regulation of relations in the budgetary sphere [18, p.259-328].

However, current legislation does not provide for the definition of forms of administrative agreements, general rules and procedures for their conclusion. Such relations need to be resolved at the level of a separate Law, which may be the Law «On Administrative Contracts». The title of this Law is exactly this, unlike the proposed Zh. V. Zavalna. The title of the draft law «On the contractual regulation of administrative relations» [18, p.391], since proposed by Zh. V. Zavalna.

The banner name contains the doctrinal category - «administrative relations», which requires additional interpretation by the law enforcers.

Conclusions. The analysis made it possible to note the following.

The need for a doctrinal analysis of the problem of the use of forms of indirect regulation of the economy is due to the primacy of human-centeredness in the activities of state bodies, which determines the stimulation of social activity of a person, provided that the state's interests are assured, which relate to sustainable economic development, and the welfare of the population.

The legal possibility of alternative choice of economic relations between the behavioral options within the law, which is typical of the discretionary method, is realized, in particular - through such forms of indirect regulation as permits, administrative agreements, administrative services.

Modern problems of the use of the dispositive method through the appropriate forms of public law in the field of economics are due not to the disadvantages of the current legislation, but to the lack of established doctrinal provisions on the subject of the permitting activity, the content of the administrative agreement, the essence of the administrative service.

Thus, the permit activity applies to many business areas and is implemented in various forms of permit documents: permits, certificates, conclusions, approvals, etc. The effect of the norms of the Law of Ukraine «On the permit system in the field of economic activity», as well as some by-laws, does not eliminate the need for the elaboration of a doctrinal approach to streamlining the permissive relations in the field of management, the application of which will be the theoretical basis for the formation of legislation aimed at guaranteeing the proper realization of constitutionally entrenched right man and citizen for entrepreneurship. Solving this problem will create the conditions and doctrinal basis for the answer to the complex question about the degree of limitation of imperative influence on the sphere of management. The problem of the essence of the administrative service is logically related to the problem of permissive activity, since such a logical connection is defended both in theoretical approaches substantiated by scientists and in the current legislation. Granting the right and imposing a duty on the state bodies to provide administrative services is in line with the public service orientation of state activities, which was noted by academician V.B. Averyanov. The substantiated scientist's provisions about the essence of administrative services require further elaboration taking into account the content of the basic category «service». The necessity to carry out doctrinal analysis of the essence of the administrative agreement is due to the single nature of scientific research on this issue, on the one hand, and the legal uncertainty of the form, procedure of conclusion, legal consequences and the order of termination of its action.

The criteria of delineation of the court jurisdiction with the allocation of disputes in the sphere of economic activity with the participation of state and other bodies that are not economic entities are proposed to the jurisdiction of administrative courts, which should be applied in aggregate: a) a dispute with the participation of a state body or local government arises in relation to the performance of their managerial functions and functions of legal protection of public order; b) relations related to the implementation of the subject of legal authority may arise at the initiative of any of the parties; c) the activity of the subject of the power of attorney does not require the consent of the other party.

Two mutually related aspects of the problem of the use of forms of indirect regulation of the economy are identified: the definition of groups of social relations in the field of economic activity, which are the subject of administrative-legal regulation and the formation of a conceptual approach to the limits of the application of forms of indirect regulation of the economy.

There are four groups of social relations that arise in the economic sphere and are the subject of administrative-legal regulation: 1) relations related to the ordering of economic activity to ensure the rights and interests of citizens - registration, licensing, patenting, standardization, certification, granting of permits (in the terminology used in the current legislation); 2) relations to ensure the protection of the rights of all subjects of ownership and economic activity, social orientation of the economy - the procedure for quota, state regulation of prices and tariffs, the application of norms and limits, antimonopoly regulation; 3) relations in the field of control; 4) relations in the area of administrative jurisdiction of the resolution of public-law disputes arising in the field of economic activity. Separately allocated administrative-legal relations in the field of corporate rights management of the state.

Among the conceptual foundations of the use of permits as forms of indirect regulation of the economy, priority was given to the subject of permissive activities. The basis of the allocation of the subject is proposed to lay the rules of the Constitution of Ukraine (Articles 3, 17, 42), as well as the Law of Ukraine «On National Security of Ukraine». Relying on the norms of the Basic Law, it is noted that the use of various permissions by the state is subject, first of all, to the following areas of entrepreneurship: a) aimed at monopolization of the market of goods and services; b) have a risk of negative impact on the national, including economic, security. The last group of business areas that require the issuance of permits are: activities related to operations with weapons, ammunition, explosives; which affects monopolization of markets; connected with the use of fuel and energy resources; connected with the provision of public health; which negatively affects the state of ecology; associated with innovation; relates to information provision.

It has been established that in order to ensure the development of the system of providing administrative services it is necessary to: minimize the applicant's participation in the procedures for providing administrative services, clearly define the criteria for the payment of administrative services, establish regulatory guarantees for informing people about the timing of the provision of administrative services, unify the procedures for the provision of administrative services and reproduce them in the relevant standards.

Despite the existence of a sufficiently large number of scientific papers devoted to the essence of administrative services, there is a need to continue research in this direction. It is noted that in the administrative-legal relations the consumer quality of services manifests itself in the activities of executive authorities, local authorities, their officials as subjects of providing services to assist the consumer in obtaining a certain permission, creating conditions for the legalization by the consumer of the administrative service of a certain right by obtaining permission, registration or other actions.

It is indicated that administrative contracts are actively used in the field of economic activity. They are classified in: contracts in the field of state property management, procurement contracts, contracts for the provision of certain services, contractual form of delegation of authority, and others. The expediency of drafting and adopting a draft Law «On Administrative Contracts», in which the concept and content of a contractual form of regulation of public-legal relations - an administrative agreement, would be reproduced.

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The collective monograph of the author's group of the Faculty of Law of the National Aviation University is dedicated to the relevant problems of jurisprudence in the modern information space. The main globalization tendencies of the development of the law, in particular the fundamental values of the law, their interpretation and interaction of legal systems, the role of fundamental principles of law, state sovereignty and human rights, modern tendencies in ensuring legal security and economic freedoms in the light of the interaction of national legal systems are considered.

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