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CONCEPT OF LEGAL CONFLICT AND FEATURES OF ITS APPLICATION IN PUBLIC ADMINISTRATION

Abstract. The article analyzes the definition, conditions of occurrence and features of the application of legal conflicts. Determinants of conflicts in legislation and public administration are factors of an objective and subjective nature. The inaccuracy of legal norms plays a particularly important role among the factors that lead to the occurrence of collisions. Eliminating this shortcoming would ensure the proper quality, balance and comprehensibility of prescriptions of regulatory and legal acts. In addition, such a requirement for legislative technique would ensure the system and logical coherence of the legislation.

The issue of legal conflicts in the activities of public administration is quite relevant for any country that is in the process of developing or reforming the state system. In the conditions of the reform of the state administration system in Ukraine, which has been carried out for nine years, as well as in the conditions of the adjustment of the legislative framework in accordance with the state of war and the desire for European integration processes, the issue of collisions becomes especially relevant.

Solving these problems is a prerequisite for ensuring stability and law and order: legal conflicts can lead to contradictions in legislation, slowing down decision-making processes and even legal chaos, which is unacceptable in wartime conditions. Another side of relevance is due to the practical need to increase the efficiency of administration: understanding how to overcome legal conflicts can lead to faster and more efficient administration, in particular between different state and regional authorities. This ensures not only better coordination of actions, but also protection of the rights of citizens who may suffer from ambiguities in the

legislation. In addition, effective conflict management can lead to significant budget savings, particularly in a military conflict where every resource is worth its weight in gold.

The purpose of the article is a thorough study of legal conflicts in public administration and the conditions of their occurrence.

It is proven that legal conflict reflects a situation where there is a conflict or discrepancy between two or more legal norms, which leads to ambiguity in their application. In public administration, this becomes especially relevant, since such conflicts can affect the relationship between citizens and the state, as well as between different levels of state administration. Taking into account and resolving these conflicts is key to ensuring effective, consistent and fair management of society.

Keywords: collision, law, public administration, legal collision, conflict.

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ПОНЯТТЯ ПРАВОВОЇ КОЛІЗІЇ ТА ОСОБЛИВОСТІ ЇЇ ЗАСТОСУВАННЯ В ПУБЛІЧНОМУ АДМІНІСТРУВАННІ

Анотація. У статті проаналізовано визначення, умови виникнення та особливості застосування правових колізій. Детермінантами колізій у законодавстві та публічному адмініструванні виступають фактори об’єктивного та суб’єктивного характеру. Особливо вагому роль серед факторів, які зумовлюють виникнення колізій є неточність правових норм. Усунення цього недоліку дозволило б забезпечити належну якість, виваженість та зрозумілість приписів нормативно-правових актів. Окрім того, така вимога до законодавчої техніки забезпечувала б системність та логічну узгодженість законодавства.

Питання юридичних колізій в діяльності публічної адміністрації є достатньо актуальним для будь-якої країни, яка знаходиться в процесі розвитку чи реформування державного устрою. В умовах реформування системи державного адміністрування в Україні, що здійснюється протягом дев’яти років, а також в умовах коректування законодавчої бази відповідно до військового стану та прагнення до євроінтеграційних процесів питання колізій набуває особливої актуальності.

Розв'язання даних проблем зумовлює передумови забезпечення стабільності та правопорядку: юридичні колізії можуть призвести до протиріч у законодавстві, сповільнення процесів прийняття рішень і навіть до юридич-

ного хаосу, що є недопустимим у воєнних умовах. Ще один бік актуальності зумовлений практичною необхідністю збільшення ефективності адміністрації: розуміння способів подолання юридичних колізій може привести до більш швидкого та ефективного управління, зокрема між різними державною та регіональною владою. Це забезпечує не тільки кращу координацію дій, але і захист прав громадян, які можуть постраждати від неясностей в законодавстві. На додаток, ефективне управління колізіями може призвести до значущих бюджетних заощаджень, зокрема в умовах військового конфлікту, де кожен ресурс є на вагу золота.

Метою статті є ґрунтовне дослідження правових колізій у публічному адмініструванні та умови їх виникнення.

Доведено, що правова колізія відображає ситуацію, коли існує конфлікт або розбіжність між двома або більше правовими нормами, що призводить до неоднозначності їх застосування. В публічному адмініструванні це стає особливо актуальним, оскільки такі колізії можуть торкнутися відносин між громадянами та державою, а також між різними рівнями державного управління. Врахування і вирішення цих колізій є ключовим для забезпечення ефективного, послідовного та справедливого управління суспільством.

Ключові слова: колізія, право, публічне адміністрування, правова колізія, конфлікт.

Formulation of the problem. The issue of legal conflicts in the activities of public administration is quite relevant for any country that is in the process of developing or reforming the state system. In the conditions of the reform of the state administration system in Ukraine, which has been carried out for nine years, as well as in the conditions of the adjustment of the legislative framework in accordance with the state of war and the desire for European integration processes, the issue of collisions becomes especially relevant.

Solving these problems is a prerequisite for ensuring stability and law and order: legal conflicts can lead to contradictions in legislation, slowing down decision-making processes and even legal chaos, which is unacceptable in wartime conditions. Another side of relevance is due to the practical need to increase the efficiency of administration: understanding how to overcome legal conflicts can lead to faster and more efficient administration, in particular between different state and regional authorities. This ensures not only better coordination of actions, but also protection of the rights of citizens who may suffer from ambiguities in the legislation. In addition, effective conflict management can lead to significant budget savings, particularly in a military conflict where every resource is worth its weight in gold.

Analysis of recent research and publications. The problem of overcoming conflicts of legal norms attracted the attention of many famous scientists, namely:

A. V. Belichenko, V. O. Boryshchuk, I. G. Bukhtiyarova, N. V. Volk, V. V. Galunko, A. I. Gryzodub, O. .IN. Kuzmenko, B. L. Parnovskyi, V. M. Pashkov, O. G. Strelchenko, V. Yu. Stetsenko, O. P. Svitlichnyi, I. K. Yarmola, and others. At the same time, not enough attention was paid to the study of the prerequisites for the occurrence of conflicts in public administration, which prompted the research.

The purpose of the article is a thorough study of legal conflicts in public administration and the conditions of their occurrence.

Presenting main material. Legal conflicts in public administration occupy one of the central places in the study of the legal system of any country. A legal collision (from the Latin collisio "collision") is a contradiction or discrepancy between legal acts regulating the same or related legal relations, as well as between the competence of authorities. They reflect situations where two or more legal norms are mutually exclusive or contradict each other, which leads to problems in their application [1 30, c. 24].

This phenomenon is universal and widespread. Although its presence is felt in different legal systems, the methods of solving it can differ significantly [2 44, p. 53]. The application of the concept of conflicts helps to better understand and analyze the relationships between various legal instruments, their role and place in the legal system [3 10, p. 207-208].

In public administration, collisions can cause a number of negative consequences, in particular:

• Uncertainty in the application of the law. When public administration bodies are faced with conflicts in legislation, it complicates the decision-making process, as it is not always clear which rule should be applied.

• Decrease in trust in authorities. Unsystematic and contradictory legislation can lead to a decrease in citizens' trust in the activities of public administration.

• Legal instability. Conflicts in legislation can create legal instability when citizens and organizations cannot predict with certainty the results of their actions in the legal field.

Therefore, the study of legal conflicts and the development of methods to overcome them is an urgent task to ensure the effectiveness of public administration and the stability of the legal system as a whole.

In the light of the study of legal contradictions, the need for a detailed study and understanding of legal conflicts that may arise in public administration becomes obvious. After all, only by understanding their essence can one effectively resist their negative influence on the legal system and its subjects. Let's move on to studying what collisions are and what their role is in the legal field.

Collision, as a legal term, has long been an object of discussion among lawyers, but its versatility and depth of study are unsurpassed. A collision is a clash of opposing views, aspirations, and interests. In the modern world, where globalization causes the collision of different legal systems and cultures, the concept of collision becomes especially relevant [4 17, p. 78].

The term "collision" is not limited to the legal sphere. In fact, its influence can be felt in many aspects of society. When states seek to conclude international treaties or agreements, conflicts may arise due to differences in their internal laws [17, p. 78]. Also, in a business context, conflicts may arise between corporate standards and local laws. Sociocultural clashes are another common phenomenon. In the modern world, where cultures collide and interact like never before, differences in social and cultural norms can lead to contradictions and conflicts [4, p. 78].

The sphere of public administration also plays an important role. Collisions in this area may be associated with differences in approaches to management activities, contradictions between different levels of government, improvement of the legislative framework [4, p. 78].

Therefore, the concept of conflict is not only legal, but also broader, social. This emphasizes its importance and shows how relevant this issue is in various spheres of modern society. Therefore, the study of conflicts, their causes and consequences, as well as ways to solve them is an important stage in legal research and social sciences [4, p. 78].

Legal conflicts in the system of modern state law are not only inherent, but also those that are practically impossible to avoid, taking into account the nature of legal regulation, human nature, globalization processes and the ever-changing political field [5; 6, p. 17]. Different scientists and lawyers approach the study of collisions in different ways.

O. Volosheniuk [7 9] believes that legal conflicts are inconsistencies between separate legal norms or acts that regulate similar or related social relations, as well as conflicts that arise in the interpretation and application of these norms. These conflicts may arise as a result of the actions of competent bodies or officials within the scope of their powers. These contradictions should be seen as potentially harmful to the stability and efficiency of the legal system. However, it is important to distinguish legal conflicts from other legal phenomena, such as special rules or legal fictions.

V. Kryvolapchuk [8 19] perceives the conflict of legal norms as an inconsistency between two or more valid norms that concern the same issue. The resolution of such a conflict is to determine which regulatory act should be used in a specific situation. In case of inconsistency between the norms issued by the same legislator, the later adopted act should be applied. But if these norms are contained in acts adopted by different bodies, then the norm adopted by a higher-level body takes precedence [8, p. 19]. At the same time, the author notes that the main instrument for regulating legal conflicts is the law.

In general, the concept of legal conflict is intertwined with other legal concepts that mean offenses, inconsistency, non-systematic, inconsistency, etc. Legal conflicts are constantly evolving, passing through various stages of development. In the past, they were associated with concepts such as "offence",

"crime", "legality" and "responsibility", with an emphasis on the role of the state and mainly in the context of civil and criminal law. The modern approach considers legal conflicts within the framework of constitutional and administrative law. The increase in the number of norms relating to conflicts in various fields of law indicates the growing need of society to implement the principles of the rule of law and the use of legal mechanisms [8, p. 10-11].

In the scientific context, the term "legal conflict" can have a narrow and broad interpretation. In a narrow sense, this is an internal contradiction in the legal system, and in a broad sense - contradictions that can be material or formal [5].

Zh. Dzeiko and O.P. Ivanchenko considers conflicts in a broad sense, defining them as conflicts between existing legal documents, their structure and attempts to change or revise them. This broad approach is also supported by some experts in the field of law [9].

In a narrow sense, "legal conflict" is equivalent to "legal conflict" or "conflict in law", as defined by S. Pogrebnyak [36]. It includes the concept of conflict between legal norms, disagreements between legal norms and their interpretation, as well as conflicts between legal acts and their interpretation. According to S. Pogrebnyak, conflicts between legal norms can be further divided into: 1) conflicts between legally established norms and 2) discrepancies between legislative norms and norms from other sources of law (for example, when there are inconsistencies between laws and legal customs, contracts or legal precedents) [5; 9].

In the context of public administration, legal conflicts are of great importance. They can influence the efficiency of management, implementation of state policy and interaction with citizens. Understanding and resolving such conflicts is key to ensuring stability and trust in public institutions. Given the context of public administration, legal conflicts can affect the effectiveness of management activities, the proper implementation of decisions, and the harmonious coexistence of different levels of management.

Legal conflicts in public administration are conflict situations and contradictions between various legislative acts, administrative decisions or procedures, which lead to ambiguity or difficulties in their application, execution and interpretation in the field of public administration.

Public administration is a key tool of the state in managing society. Different countries use their own models of public administration, which create unique circumstances for the emergence of law, legal standards, legal norms and, accordingly, legal conflicts. A feature of legal conflicts in public administration is that they affect relations between the state and citizens or between different state bodies. Let's consider typical legal conflicts in the field of public administration.

• Interorgan collisions. These are situations where two or more government agencies have conflicting powers or disagreements in the interpretation of laws. Examples: 1) Two ministries develop different strategies for environmental policy

that may conflict with each other, for example, the Ministry of Regional Development, Construction and Housing and Utilities of Ukraine and the Ministry of Economy. 2) In the case of Apple Inc. v. FBI in the US, the US Department of Justice and the Federal Bureau of Investigation sought to force Apple to create special software to bypass the iPhone's security, but the Defense Department and the National Security Agency opposed it, arguing that it could set a precedent for hacking other systems.

• Collisions between the state and citizens. Situations when state acts or decisions conflict with the rights and interests of citizens. Examples: 1) The state decides to build a new road that passes through a citizen's land, but at the same time violates his rights to private property [3]. 2) In the case of Kelo v. City of New London, the US Supreme Court allowed the city to seize private property for commercial development, which outraged citizens who believed it violated their constitutional rights to private property.

• Territorial (interlocal) collisions. The central government can adopt laws that do not take into account the peculiarities of individual regions. Examples: in Ukraine in the pre-war period, such situations practically did not arise, however, in 2014, when Crimea and Donbas became occupied territories, such collisions took place. 2) In the UK, Brexit became an example of a territorial conflict, where Scotland and Northern Ireland voted against leaving the EU, but were forced to obey the decision of the central government.

• Collisions within the framework of public administration. Such conflicts arise when there are differences in the application and interpretation of legislation within the framework of public administration. Examples: 1) Different local authorities may have different approaches to the provision of social services, causing confusion and inconsistency in their provision. 2) In the case of McCullen v. Coakley, the US Supreme Court ruled unconstitutional a Massachusetts law that restricted the right to picket outside medical clinics that perform abortions. The law was enacted to protect patients, but the court ruled that it violated free speech rights.

Public conflicts in public administration, unlike conflicts in normative and legal documents, require a quick solution, because they can lead to a decrease in citizens' trust in the state and violation of individual rights and freedoms. This raises the question of the need for clear regulation, interpretation and application of legal norms.

A legal conflict in the modern legal space is not just a momentary act or action. It is a complex process that includes analysis, assessment and determination of the degree of "pre-legal illegality". In other words, we are dealing with the process of recognizing contradictions that may exist not only at the legal level, but also in other areas that may affect the legal field [2, p. 53-54]. The causes of collisions can be both objective and subjective factors [4].

Objective factors include:

• Dynamics of legal relations. In today's changing world, legal regulations are often subject to modification or change to adapt to new social conditions or

technological advances. However, in the process of such adaptation, collisions between old and new norms may arise. For example, the advent of the Internet has created the need for new laws on copyright, digital privacy, etc., which may conflict with existing civil law.

• Spatial characteristics of law. The principle of territoriality indicates that the laws of the state are applied only on its territory. However, globalization and the development of international relations can lead to conflicts between national and international legal norms. For example, international corporations may face different antitrust laws in different countries.

• Specificity of social relations. Different aspects of social relations (economic, social, cultural) require their own regulation, which can create space for collisions between different norms. For example, laws on environmental protection may conflict with laws on industrial development.

• The plurality of law-making bodies. The existence of different law-making bodies at different levels (federal, regional, local) can lead to inconsistencies in legislation. When one authority passes a law that conflicts with another already passed law, this can lead to legal uncertainty and conflicts. For example, local laws prohibiting the sale of alcohol may conflict with federal regulations. [1, p. 78-79].

Objective factors of legal conflicts arise in almost every developed democratic country governed by the rule of law.

Subjective factors include:

• Will of the legislator. One of the subjective factors in the emergence of legal conflicts is the personal or political ambitions of legislators. Often, laws are proposed and adopted not only on the basis of the objective needs of society, but also reflect the interests of specific political groups or individuals. Such a situation may lead to the adoption of laws that conflict with existing norms or principles.

• Unclear demarcation of competencies. Conflicts can arise when different public authorities have similar rights and responsibilities. In such cases, parallel or even conflicting legislation is possible. This is especially relevant for federal states, where regional and federal authorities may have overlapping competences.

• Insufficient experience. The inability of legislators to deeply and adequately analyze social, economic and other processes can lead to the adoption of incorrect or contradictory laws. Lack of competence or insufficient analytical experience can lead to the creation of norms that do not take into account all the complexity of the problem that they are supposed to regulate.

• Systematization problems. The subjective factor can also manifest itself in the incorrect combination or structuring of legal norms. Incorrect systematization can lead to internal contradictions in the legislative act, which in turn can cause conflicts between different laws or regulations. [1, p. 78-79].

Subjective factors of the emergence of legal conflicts are to a greater extent a criterion of developing countries, which have a sufficiently high level of corruption

and a low level of public administration culture. However, subjective errors of legal regulation also occur in developed countries, and therefore the governments of such countries provide methods and approaches for solving legal conflicts arising from subjective reasons. To a greater extent, these approaches are based on the personal responsibility of the civil servant.

Conclusions. Therefore, a legal conflict reflects a situation where there is a conflict or discrepancy between two or more legal norms, which leads to ambiguity in their application. In public administration, this becomes especially relevant, since such conflicts can affect the relationship between citizens and the state, as well as between different levels of state administration. Taking into account and resolving these conflicts is key to ensuring effective, consistent and fair management of society.

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