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PROBLEMY BADANIA ADMINISTRACYJNO-PRAWNYCH REGULACJI OCHRONY KONKURENCJI: PRZESŁANKI NOWEJ KONCEPCJI

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Adnotacja. Obiektem badania artykułu są Public Relations w zakresie państwowych regulacji antymonopolowych. Przedmiotem badań są stosunki społeczne powstające w procesie realizacji interesu publicznego w zakresie ochrony konkurencji. Przedmiot artykułu obejmuje ogólne zasady, normy i zasady ogólnej części ukraińskiego i zagranicznego prawa administracyjnego, prawa międzynarodowego, normy i zasady krajowego i zagranicznego antymonopolowego prawa i ustawodawstwa, pokrewne branże i branże regulacji prawnych i legislacyjnych, w tym ustawodawstwo dotyczące planowania strategicznego, ustawodawstwo dotyczące przestępstw administracyjnych. Celem artykułu jest zbudowanie koncepcji administracyjno-prawnej zapewnienia równowagi interesów publicznych w zakresie ochrony konkurencji oraz innych interesów publicznych i prywatnych w zakresie regulacji antymonopolowych, w tym zestawu propozycji tworzących teoretyczną podstawę poprawy administracyjno-prawnych regulacji antymonopolowych. Podstawą metodologiczną badania artykułu jest kompleks filozoficznych, ogólnych i prywatnych środków (metod) poznania. Badania opierało się na następujących filozoficzno-ideologicznych ideałach i wartościach, takich jak praworządność, podział prawa na prywatne i publiczne, materialne i procesowe, a także zapewnienie rozwiniętych środków prawnych w celu ochrony interesów publicznych i prywatnych w celu osiągnięcia równowagi interesów. W artykule dokonano przeglądu wyboru równowagi interesów jako podstawy merytorycznej badania administracyjno-prawnych regulacji antymonopolowych, których nie można uznać za wystarczające bez uprzedniego rozwiązania kwestii teoretycznej dotyczącej przedmiotu takiej równowagi, charakteru i treści interesów, które muszą być zrównoważone przez przepisy prawa administracyjnego w celu osiągnięcia skutecznej regulacji antymonopolowej. Biorąc pod uwagę powyższe, niniejszy artykuł jest badaniem mającym na celu zbudowanie koncepcji teoretycznej, która zapewnia systemowe rozwiązanie problemów administracyjno-prawnych dotyczących ochrony konkurencji w zakresie regulacji antymonopolowych.

Słowa kluczowe: prawo administracyjne, ustawodawstwo administracyjne, zabezpieczenie administracyjno-prawne, administracja publiczna, ochrona konkurencji, realizacja praw, mechanizm prawny, gospodarka rynkowa, demonopolizacja, interwencja państwa.

PROBLEMS OF RESEARCH OF ADMINISTRATIVE AND LEGAL REGULATION OF COMPETITION PROTECTION: PREREQUISITES FOR THE LATEST CONCEPT

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Abstract. The object of the study public relations in the field of state antimonopoly regulation. The subject of the study are public relations that arise in the process of implementing the public interest of protecting competition. The purpose of the article is to build a concept of administrative and legal support for the balance of public interest in the protection of competition and other public and private interests in the field of antimonopoly regulation, including a set of proposals that form the theoretical basis for improving administrative and legal antimonopoly regulation. The methodological basis of the article research is a complex of philosophical, general scientific and private scientific means (methods) of cognition. The theoretical concepts aimed at improving legal regulation are based on the understanding of the original legal idea as the basic principle of all law. The article describes the choice of the balance of interests as a subject-target basis for the study of administrative and legal antimonopoly regulation, the nature and content of interests that must be balanced by the norms of administrative law in order to achieve effective antimonopoly regulation. This article is the first comprehensive study aimed at building a theoretical concept that provides a systematic solution to the problems of administrative and legal support of the balance of interests in the field of antimonopoly regulation.

Key words: administrative law, administrative legislation, administrative and legal support, public administration, implementation of rights, legal mechanism, market economy, demonopolization, state intervention.

ПРОБЛЕМИ ДОСЛІДЖЕННЯ АДМІНІСТРАТИВНО-ПРАВОВОГО РЕГУЛЮВАННЯ ЗАХИСТУ КОНКУРЕНЦІЇ: ПЕРЕДУМОВИ ДЛЯ НОВОЇ КОНЦЕПЦІЇ

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Анотація. Об'єктом дослідження статті виступили суспільні відносини у сфері державного антимонопольного регулювання. Предметом дослідження стали суспільні відносини, що виникають у процесі реалізації суспільних інтересів щодо захисту конкуренції. До предмета статті належать загальноправові принципи, норми і принципи загальної частини українського і закордонного адміністративного права, міжнародного права, норми і принципи вітчизняного і закордонного антимонопольного права і законодавства, суміжні галузі та галузі правового і законодавчого регулювання, зокрема й законодавство про стратегічне планування, законодавство про адміністративні правопорушення. Метою статті є побудова концепції адміністративно-правового забезпечення балансу державних інтересів у сфері захисту конкуренції й інших державних і приватних інтересів у сфері антимонопольного регулювання, що включає комплекс пропозицій, що формують теоретичну основу вдосконалення адміністративно-правового антимонопольного регулювання. Методологічною основою дослідження статті є комплекс філософських, загальнонаукових і приватнонаукових засобів (методів) пізнання. В основу дослідження були покладені такі філософсько-ідеологічні ідеали і цінності, як верховенство права, поділ права на приватне і публічне, матеріальне і процесуальне, а також забезпечення розвинених правових засобів захисту публічних і приватних інтересів із метою досягнення балансу інтересів. У статті розглядається вибір балансу інтересів як предметно-цільової основи дослідження адміністративно-правового антимонопольного регулювання, який не можна вважати достатнім без попереднього вирішення теоретичного питання про предмет такого балансу, природу і зміст інтересів, які повинні бути збалансовані нормами адміністративного права для досягнення ефективного антимонопольного регулювання. Отже, дана стаття є дослідженням, спрямованим на побудову теоретичної концепції, що забезпечує системне вирішення проблем адміністративно-правового забезпечення захисту конкуренції у сфері антимонопольного регулювання.

Ключові слова: адміністративне право, адміністративне законодавство, адміністративно-правове забезпечення, державне управління, захист конкуренції, реалізація прав, правовий механізм, ринкова економіка, демонополізація, державне втручання.

Introduction. The effectiveness of protection and the level of competition development in Ukraine largely depends on the effectiveness of state policy in a wide range of areas: from macroeconomic policy, creating a favorable investment climate, including the development of the financial and tax system, reducing administrative and infrastructure barriers, to the protection of citizen's rights and national policy.

The modern period turned out to be clearly insufficient to create normal conditions for the development of competition, which is now manifested in the existence of negative consequences of the transition from administrative-command to market methods of regulating the economy, including excessive monopolization of most of its industries, violations of competition by state authorities.

It is necessary to study and give a scientific assessment of the currently approved thesis on ensuring the development of market relations with a significant weakening of the role of the state in the economy and social sphere. It should be borne in mind that the protection of competition is one of the forms of state intervention in the economy, the necessity, depth of penetration and effectiveness of which have always caused criticism from not only practitioners, but also scientists of various fields of knowledge. The problem is the need to minimize the negative consequences associated with antimonopoly regulation, while ensuring both effective protection of competition and harmonious development of the country's economy through appropriate administrative and legal mechanisms. It is necessary to find out exactly in what areas and to what extent the state can afford to move away from direct administration and use other methods, primarily economic ones, without compromising the efficiency and integrity of Public Administration. The level of state intervention in the economy should, on the one hand, ensure high quality of Public Administration, and on the other hand, prevent uncontrolled management facilities.

Currently, despite the active efforts of the antimonopoly authorities to create normal conditions for the development of competition in commodity markets, there is no consistency of actions within the executive power system necessary for effective solution of antimonopoly policy tasks. The divergence of departmental interests of Public Administration bodies in the field of competition protection prevents a simultaneous decrease in economic concentration in various commodity markets. The actions of public authorities in conducting purchases for state needs have a negative impact on competition. Scientific research on the problems of administrative and legal protection of competition becomes particularly relevant in connection with the need to create a favorable investment climate in the country, which provides for the formation of an institutional environment corresponding to international standards, including competition protection institutions.

The study of the problems of administrative and legal support for competition protection is associated with significant methodological and practical difficulties. On a number of conceptual problems, a variety of points of view concerning the conceptual apparatus remains. Sometimes different meanings are placed in terms that are similar in meaning. The lack of unified terminology and the same interpretation of basic categories, including normative ones,

in practice leads to different assessments, diversity and uncoordinated actions of subjects of competition protection among themselves.

The relevance of the study also lies in the fact that the development of the problem in Ukraine was mainly carried out by representatives of economic theory to a greater extent, and not legal scientists, and even to a lesser extent-representatives of the science of administrative law.

Main part

1. The essence of antimonopoly regulation in administrative law. Antimonopoly legal regulation is an integral and important element of state policy and the legal system in the modern world. Antimonopoly legal regulation in the modern world, including in Ukraine, is carried out with the help of norms of various branches of law, including mainly administrative and civil, as well as in some countries and criminal. In addition, the basics of antimonopoly regulation, as a rule, are established by constitutional norms, and a number of issues are regulated at the international legal level. With the help of the norms of procedural law, the judicial procedure for considering antimonopoly disputes is established, the interest of the state is ensured, and the rights and interests of other persons are protected. Thus, antimonopoly regulation is complex and includes the norms of various branches of law.

At the same time, Y. Bityak also noted that criminal law norms do not play a key role in foreign antimonopoly law, and "a large place in the "antitrust laws" is occupied by norms of a civil and administrative nature", and administrative norms both material and procedural in foreign antimonopoly law have a significant share in its regulatory composition (Bityak, 2005: 223). According to A. Galunko, the Ukrainian antimonopoly law is also dominated by administrative and legal norms. Indeed, the norms of Administrative Law form the basis of the antimonopoly regulation of the power activity of the state, in particular, it should be noted and the administrative and legal status of the main subject of administrative rulemaking and law enforcement in the antimonopoly sphere-the Antimonopoly committee of Ukraine, which occupies a key place in the system of authorities responsible for the sphere of antimonopoly regulation, and the array of norms regulating issues of administrative responsibility for violations of antimonopoly legislation, and the administrative and legal regime of control and supervisory activities in general. It is within the framework of the administrative and legal regime that measures of administrative responsibility and other measures of administrative coercion are regularly applied, inspections are carried out, agreements are agreed, preferences are granted, and many bylaws are issued. Thus, part of the system of modern antimonopoly regulation is administrative and legal antimonopoly regulation, the effectiveness of which significantly affects the effectiveness of the entire antimonopoly regulation as a whole (Bakalinska, 2013: 17).

This circumstance makes it necessary to study the problems of antimonopoly regulation in an indissoluble connection with the problems of administrative law in general, including the issues and doctrine of its general part. Developed by the domestic and world theory of administrative law for more than a century of its existence, approaches to solving issues and problems common to all areas of administrative and legal regulation cannot but be, due to the systemic logic of Industry Regulation, relevant and applicable in general to solving many issues and problems of administrative antimonopoly law. The theory and dogma of the relevant branch of law cannot but determine the content of its individual norms and institutions.

Thus, complex branches of legislation formed from the norms of various legal branches cannot but depend on the basic principles, spirit and content of the latter. In this regard, administrative and legal antimonopoly regulation is determined, among other things, by the basic principles, goals, objectives, and dominant approaches of the general part of administrative law. The more developed national administrative law as a whole, the greater its impact on the content of its individual institutions and norms, including those that are components of complex branches of legislation, one of which is antimonopoly (Bakalinska, 2013: 19).

So, positive administrative law, its systematized presentation or, as A. Galunko pointed out, the dogma of administrative legislation, as well as the doctrine or theory of Ukrainian administrative law should be considered one of the factors determining or influencing the content of administrative and legal norms and institutions of antimonopoly law and legislation. At the same time, administrative antimonopoly law and administrative law in general are formed taking into account the general laws, principles and approaches characteristic of the legal system of the state as a whole, since the logic of the formation, existence and functioning of a part cannot essentially contradict the corresponding logic of the whole (Galunko, 2008: 131).

2. The importance of international experience. Of course, the world experience of positive administrative and legal regulation and its doctrine also has a certain influence on the issue under study. It is interesting to note that, for example, Y. Bityak applies the concept of theory specifically to the world experience of administrative legislation. Distinguishing between dogma and the theory of administrative law, he pointed out that "the theory of administrative law is brought closer to dogma by the fact that both of them remain entirely on the basis of the current positive law. But while dogma focuses exclusively on the systematization of the legal norms of one particular state, theory extracts general principles from the legal life of several or even many states". Thus, in his view, the theory of administrative law is derived from the achievements of positive administrative legislation of the most legally developed states and is a source for improving the administrative legislation of individual countries, for which this theory is like a guiding star (Bityak, 2005: 231).

The achievements of foreign administrative law through understanding in the domestic doctrine and in the practice of rule-making are not necessarily and not always used, but, of course, have a certain influence and are taken into account in the process of scientific development of certain administrative and legal issues, and sometimes in law-making and preliminary expert-analytical and Scientific-Applied work. However, for the purposes of objective scientific

research, it seems useful to use the experience of mistakes and achievements of foreign states for the development of theoretical issues of legal regulation, including for the purpose of studying administrative and legal support for the balance of interests in the field of antimonopoly regulation, referring to foreign experience not only of antimonopoly administrative law, but also of the provisions of the General part of administrative law or general administrative law, since it is within the framework of the latter that administrative and legal antimonopoly regulation is also carried out.

However, considering modern legal research in the field of antimonopoly regulation, it should be noted that it is insufficient to address the problems and achievements of the general part of administrative law. Thus, in some cases, the subject of study in Ukrainian science is, as a rule, certain problems of antimonopoly regulation that are considered outside the general administrative and legal context. Including the study of the problems of administrative and legal antimonopoly regulation in a comparative legal perspective, as a rule, is not included in the consideration of foreign administrative and legal regulation of antimonopoly relations in the context of solving the problems and achieving the goals of administrative law in general. The article examines largely the foreign experience of antimonopoly regulation in itself than the foreign administrative law regulating antimonopoly relations. In addition, many modern studies are devoted to the study of individual administrative and legal problems or institutions of antimonopoly regulation (Averyanov, 2004: 309).

Thus, the complex problem of assessing the state of effectiveness of the domestic system of administrative and legal antimonopoly regulation remains outside the scientific discourse, the solution of which provides for identifying the place of administrative antimonopoly law in the domestic system of administrative and legal regulation, identifying the degree of development of domestic administrative and legal antimonopoly institutions in their relationship with administrative and legal institutions of the general part of administrative law, assessment of the perception by domestic administrative and legal institutions of antimonopoly regulation of the achievements of the world theory of administrative law, its general and special parts.

3. Main problems of research of administrative and legal support of competition protection. Solving systemic problems of improving efficiency is impossible without a comprehensive study of these issues, which, however, causes the need for a serious theoretical and methodological basis for such research. In other words, it is necessary to build a theoretical concept of administrative and legal antimonopoly regulation.

In connection with the solution of this problem, first, it is necessary to mention the need to form the theoretical foundations of such a concept based on and taking into account the genesis of the formation of the modern system of administrative and legal antimonopoly regulation. Such data obtained in the course of a retrospective study will reveal the reasons for the creation, formation and Development, Goals, Objectives and main approaches to the formation of a modern system of administrative and legal antimonopoly regulation, which in turn will become a fundamental theoretical basis for identifying key approaches and provisions on which modern models of administrative and legal antimonopoly regulation in the world are based. First, an appeal to the genesis of the system is necessary to identify permanent, time-tested means of administrative and legal antimonopoly regulation, which have confirmed their relevance and viability as opposed to secondary and variable ones, which is especially necessary and relevant for determining those means that are justifiably perceived in order to build a concept aimed at improving domestic regulation. Secondly, the study of such Genesis is important precisely as the study of the formation of the system of administrative and legal antimonopoly regulation, to identify the essential causes, phenomena, processes and Means characteristic of the formation of the system as a whole. This will allow us to provide a theoretical solution to certain problems of antimonopoly regulation from the standpoint of a systematic approach, and will give the solutions the necessary validity and objectivity. On the contrary, without understanding the logic of the formation of the modern system of administrative and legal regulation and its individual varieties (models), the solution of individual problems of institutions and subinstitutions of antimonopoly law will look largely hostile, not based on an objective understanding of the goals, objectives of regulation, the place of individual norms and institutions of administrative antimonopoly law in the general system of regulation. Thus, the data of a retrospective study of the genesis of the formation of the modern system of administrative and legal antimonopoly regulation are a necessary condition for ensuring the validity and objectivity of the desired theoretical concept (Bakalinska, 2009: 71).

As another basis for the task of constructing this concept, it is also necessary to identify a system of administrative and legal means that allow us to comprehensively solve problems facing administrative and legal antimonopoly regulation.

This approach leads to the need for an official understanding of administrative and legal means and, in general, administrative and legal regulation in relation to a certain socially significant task, or set of tasks. Legal norms and legal regulation depend on a certain set of ideas, meaningful meanings, and goals. These ideas, meanings, and goals, being, so to speak, metaphysics or teleology of law, nevertheless underlie its content. One of the sections of such a scientific direction as Teleology is devoted to the goals of law. Teleological problems of law, in turn, are increasingly being studied by domestic and foreign jurists using and from the standpoint of the category of interest. At the same time, no matter how important temporary interests are as the subject-target basis of law, an integral feature of identifying law as an independent phenomenon, as a special social regulator, is its moral basis, the constancy of which ensures both the internal strength of law and its recognition by society. Many jurists have seen and still see the expression of the moral basis of law in the idea of Justice (Averyanov, 2004: 304).

These tasks follow from real life, determine the purpose of legal regulation, while passing through the prism and a priori attitudes of the so-called legal idea, without which there can be no law proper, as a special social regulator that has its own identity, which is based on certain moral imperatives. Thus, the improvement of any direction of legal regulation cannot but be based on a certain idea underlying it, which, if necessary, combines the needs

of solving practical problems and the moral imperative that many legal scholars associate with the idea of Justice. The idea of justice as the basis of the idea of law was shared and shared by many authors of subsequent generations, including our contemporaries, including the author of this study (Bityak, 2005: 243).

The idea of justice and the idea of interests are important for understanding the idea of law as such. Some authors prefer the first, others – the second basis of a legal idea, as noted in the literature, despite all the evidence of the need to have an idea to build a system of norms or a legal idea on its basis.

Developing this idea, it should be noted that largely, it seems that the dialectical unity of interests and justice as the basis of a legal idea is manifested when we talk about the balance of interests as a legal idea. If the individual interest of the winning social group can come into serious antagonistic contradictions with the idea of justice, then the idea of balancing interests, coordinating different interests in legal regulation, seems to be even more consistent and brings together the idea of interest and justice as a common basis for Legal Regulation and, it seems, reflects not only scientific views on the idea of law, but also the average person's ideas about proper law.

This approach to understanding the legal idea creates the basis for forming a meaningful basis for creating theoretical concepts in legal Science in relation to certain branches of law and areas of legal regulation, including antimonopoly law. The idea of the balance of interests as the basis of fair antimonopoly law creates new theoretical and methodological prerequisites and foundations for the development of the concept of administrative and legal antimonopoly regulation. The latter, with this understanding, turns into an object of research from a position and in order to achieve a balance of interests. Antimonopoly regulation, despite the fact that it faces and is influenced by various areas of state policy and regulation, for example, in the field of security, is primarily based on economic interests. Antimonopoly regulation is based on market economic relations related to the problems of competition and monopoly. It should be noted that monopoly and competition as market phenomena that have passed through the centuries are still present today in our modern life as economic phenomena and relations, and as a subject of Legal Regulation (Galunko, 2008: 142).

It is reasonable to distinguish the following types of Public Administration Tools: measures, means and mechanisms. Mechanisms of Public Administration and public policy can be organizational, regulatory, social, institutional, political, judicial, economic, and informational.

Thus, legal regulation is not an independent, self-sufficient social phenomenon, but operates in an indissoluble connection with state policy, acting as a part of it. Law acts as a social regulator, legally ensuring the achievement of goals and objectives laid down in the essential, ideological-semantic or material content of state policy, while the content subject of state policy can be a variety of issues lying in the field of economic life, and in the field of security, defense, culture, education, etc.

Thus, if the prerequisites for the content of Legal Regulation are in the ideological and semantic content of the corresponding direction of state policy, then this content is considered in a certain sense as a reflection of certain public interests. In turn, state economic policy reflects the totality of certain economic or socio-economic interests, and regulatory and Legal Regulation forms the necessary means of implementing interests within the relevant direction of state policy in any sphere of public relations, including competition and monopoly relations.

Antimonopoly regulation is implemented within the framework of one of the areas of state policy, which can be designated as the state antimonopoly policy. It has in its composition a content basis that expresses certain interests, and legal means by which various socially significant economic interests arising from such phenomena as competition and monopoly, as well as derivatives and related phenomena, are mediated in legal regulation.

Relations of competition and monopoly, which are formed about these phenomena and concepts, as it follows from centuries-old and modern experience, reflecting this experience of various theoretical literature on economics, training courses in economic theory, etc., include the scope of economic relations. Moreover, competition and Monopoly are the most important factors, largely determining the theoretical order of economic problems and practical measures to preserve or change state economic policy in order to solve pressing problems and problems in the field of economy and Markets, social life (Bakalinska, 2009: 59).

Therefore, the relations that are formed about competition and monopoly, as well as about the derivative phenomena associated with them, are part of economic relations. Therefore, the state competition (antimonopoly) policy and legal regulation are part of the state economic policy and economic legal regulation. As part of the latter, antimonopoly regulation should take into account the general logic and objectives of economic regulation and economic policy in general. Thus, economic socially significant interests form the basis of the interest included in the legal idea of antimonopoly law.

The economic nature of interests as a legal idea of antimonopoly law, along with the idea of Justice, determines the definition as one of the foundations of the theoretical concept of administrative and legal antimonopoly regulation of the presence of a specific economic result from the implementation of competitive norms within the framework of antimonopoly policy. The desired system of administrative and legal means of competitive regulation should, therefore, meet the tasks of economic development, welfare, and ensure the economic interests of society.

Conclusions. The studied approach allows solving a number of problems of theoretical and practical problems of improving administrative and legal antimonopoly regulation. First, the search for conceptual solutions is based on an objective need for law, reflecting the idea of Justice, understood in an indissoluble connection with the tasks of balancing interests, which, in turn, will contribute to the viability of the constructs produced, since they are based on social consensus and ideas about proper law, which suit different social groups on the basis of compromise. Secondly, this approach allows us to build a system of solutions, a single concept for improving administrative

and legal regulation, and not just a mechanical connection of solutions to individual problems in this area. The solution of individual problems, carried out outside of a single conceptual theoretical and methodological basis, may turn out to be incorrect precisely because the most important essential and systemic factors, the social context of the legal problems being solved, are not taken into account. Identifying strategic ways to achieve the effectiveness of administrative and legal regulation in the field of competition protection on a methodological and theoretical basis, ensuring a balance of interests in such regulation will avoid such errors and deviations.

However, the choice of the balance of interests as a subject-target basis for the study of administrative and legal antimonopoly regulation cannot be considered sufficient without first resolving the theoretical question of the subject of such a balance, the nature and content of interests that must be balanced by the norms of administrative law in order to achieve effective antimonopoly regulation. In turn, the solution of this issue is connected with an appeal to the nature of interests that determine the content of antimonopoly law, to identify the place of antimonopoly regulation in state regulation in general, as well as to the importance of personal rights and freedoms in the field of antimonopoly regulation of a person to determine the content of his administrative and legal means that meet the needs of the balance of interests.

The idea of Justice does not allow law in general and antimonopoly law in particular to slide into pragmatic service of the interests of certain social groups to the detriment of others and manifests itself, in particular, in the ideas of protecting the subjective rights and legitimate interests of a particular individual, which are guaranteed by the constitutions of countries around the world, including Ukraine. The combination of economic interests as a driving force of law and the tasks of protecting subjective rights and legitimate interests in legal, including administrative and Legal Regulation, arising from the idea of Justice, lead to the need to introduce the concept of balance of interests as a subject-target and methodological basis for the study of administrative and legal antimonopoly regulation.

Taking into account the above, the nodal elements of the theoretical concept of studying the effectiveness of administrative and legal antimonopoly regulation are in demand and are several interrelated factors: the convergence of justice and interest as interrelated elements that form the basis of the legal idea, and the determination of the balance of interests based on this approach as a theoretical subject-target basis for regulation; the genesis of regulation, understood as a retrospective basis for studying the reasons for the creation, formation and Development, Goals, Objectives and main approaches to the formation of a modern system of administrative and legal antimonopoly regulation; the consistency and content of regulation, understood as a developed system of administrative and legal means of antimonopoly regulation, which is ensured by the structural and functional consistency of the means of the general part of administrative law and administrative antimonopoly law; adaptation in domestic regulation of the achievements of the world theory of administrative and antimonopoly law, which are most appropriate to the tasks of ensuring a balance of interests, taking into account the current development tasks of the Ukrainian state.

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REGULACJA PRAWNA TRANSFORMACJI CYFROWEJ NA UKRAINIE

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Adnotacja. W artykule przeanalizowano stan regulacji prawnych transformacji cyfrowej na Ukrainie, co odzwierciedla stan i rozwój reformy różnych sfer życia publicznego oraz udział podmiotów administracji publicznej w tym procesie.

Ustalono, że przez cyfrową transformację administracji publicznej należy rozumieć system środków na transformację, poprawę poprzez integrację technologii informacyjnych i telekomunikacyjnych w działaniach podmiotów administracji publicznej i ich urzędników w celu rozwoju otwartego społeczeństwa informacyjnego, poprawy wydajności, wzrostu gospodarczego, a także poprawy jakości życia obywateli Ukrainy. Główne przejawy transformacji cyfrowej obejmują: a) cyfryzację; b) rozwój gospodarki cyfrowej, innowacji cyfrowych i technologii; c) wdrażanie zarządzania elektronicznego i demokracji elektronicznej; d) wdrażanie elektronicznego obiegu dokumentów i opracowywanie krajowych elektronicznych zasobów informacyjnych, stosowanie zasady interoperacyjności i tym podobne.

Dokonano klasyfikacji aktów prawnych regulujących cyfrową transformację w Ukrainie poprzez wyróżnienie: 1) aktów prawnych określających cyfrową transformację jako integralną część reformy administracji publicznej; 2) aktów prawnych określających priorytetowe kierunki transformacji cyfrowej na Ukrainie; 3) aktów prawnych określających status prawny podmiotów administracji publicznej w zakresie transformacji cyfrowej.

Zwrócono uwagę na fakt, że normy konstytucyjne pośredniczą w potrzebie podążania za międzynarodowymi trendami podczas ich egzekwowania. Nie wyjątkiem jest przeformatowanie działalności podmiotów administracji publicznej poprzez zastosowanie technologii informacyjno-telekomunikacyjnych. Ustalono, że dokumenty międzynarodowe, z jednej strony, ustalają podstawowe wytyczne dotyczące egzekwowania praw człowieka poprzez stosowanie mechanizmów transformacji cyfrowej, a z drugiej strony, przewidują potrzebę transformacji cyfrowej w zakresie świadczenia usług publicznych i współpracy organów administracji publicznej i obywateli.

Słowa kluczowe: transformacja cyfrowa, regulacje prawne, Public Relations, podmiot administracji publicznej, standardy międzynarodowe.

LEGAL REGULATION OF DIGITAL TRANSFORMATION IN UKRAINE

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Abstract. The article analyses the state of legal regulation of digital transformation in Ukraine, which reflects the state and development of reforming various spheres of public life and the participation of public administration in this process.

It is established that the digital transformation of public administration should be understood as a system of measures for transformation, improvement through integration of information and telecommunication technologies of public administration entities and their officials for the development of open information society, productivity, economic growth and quality of life of Ukrainian citizens. The main manifestations of digital transformation include: a) digitalization; b) development of digital economy, digital innovations and technologies; c) introduction of e-government and e-democracy; d) introduction of electronic document management and development of national electronic information resources, use of the principle of interoperability, etc.

The normative-legal acts regulating digital transformation in Ukraine are classified by distinguishing: 1) normative-legal acts, which define digital transformation as an integral part of public administration reform; 2) regulations that determine the priority areas of digital transformation in Ukraine; 3) regulations that determine the legal status of public administration entities in the field of digital transformation.