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ADMINISTRATIVE PROCESS AND ITS PLACE IN THE SYSTEM OF NATIONAL LAW

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The article describes the prospects for the creation of administrative justice in the Republic of Belarus. The author offers a positive aspects of the introduction of administrative justice as an independent branch of justice.

The last decade we have seen extensive changes in the area of administrative relations in the Republic of Belarus. 1 March 2007 was enacted Procedural-Executive Code of Administrative Offences of 20 December 2006 (hereinafter referred to PECoAO). Adoption PECoAO the Republic of Belarus has brought with it a significant change in the concept of the administrative process.

According to par.3 st.1.4 Procedural-Executive Code of Administrative Offences "administrative process - the procedure established by this Code, the activities of its members in the case of an administrative offense". [1] The definition tells us that the administrative process is associated with an administrative offense, and specific stakeholders.

However, in the modern scientific literature, legal concept of administrative procedure and its structure are presented differently. This is due to the fact that the structure of the administrative process is complicated and not sufficiently investigated and causes heated debate scientists.

These scientists administrativisty Y.A.Dmitriev, I.A.Polyansky, V.V.Volkov E.V.Trofimov, L.L. Popov, A.B.Zelencov, A.A.Stakhov, M.A. Lapin offer the following variant of the process of administrative structures: administrative procedure, administrative jurisdiction and administrative justice.

Let us consider each element of the proposed version of the administrative structure of the process:

1) administrative procedures are established consistent activity of authorized state bodies for the implementation of their competence on the basis of administrative and procedural rules [2, c.14] .;

2) administrative jurisdiction - the administrative and jurisdictional activity of enforcement authorities and other authorized bodies (their officials) conducting administrative proceedings on administrative offenses on the complaints of production discipline, etc [2, c.14] .;

3) administrative justice, the activities of public authorities to resolve the public legal disputes in the area of public administration about the illegality of the action, inaction or decision of the state administration, which is a mandatory party to the dispute, the other party can be a citizen, organization, government body or local self [3, c.67].

Belarusian lawmaker known terms such as "administrative procedures" and "administrative jurisdiction". The term "administrative justice" at the legislative level in the Republic of Belarus doesn't exist. This is due to the fact that disputes arising from administrative legal relations are dealt with in the system of courts of general jurisdiction. In the system of courts of general jurisdiction is not established any special board or special institution of judges who would be considered a category of disputes. In other words, in the Republic of Belarus there is no administrative justice as the procedure for the consideration and resolution of judicial procedural form of disputes arising in the area of administration between individuals or legal entities, on the one hand, and administrative bodies - on the other hand, exercised jurisdictional bodies, specially created for the resolution of legal disputes.

We obviously need a system of administrative courts in the Republic of Belarus.

Creation and development of the Republic of Belarus in the administrative proceedings the future is predetermined by factors such as the development of justice, increase citizens' sense of justice and is reflected in the constitutional principle of territoriality and specialization of courts. In Article 2 of the Code on Judicial System and Status of Judges of the Republic of Belarus stipulates that the judicial power is exercised by means of constitutional, civil, criminal, commercial and administrative law. [4]

Such a system of vessels already operating in Ukraine, the Baltic States.

It should also be noted that the legislation of other countries determines the development of administrative justice, especially in the context of judicial activities. For example, currently in Belarus disputes between citizens (legal entities) and public authorities discussed the system of courts of general jurisdiction in the proceedings in cases arising from administrative legal relations (gl.29 Civil Procedure Code of the Republic of Belarus (hereinafter - the Code of Civil Procedure) [5] and also of cases of verifying the legitimacy of non-normative legal acts, actions (inaction) of state bodies, local government and self-government officials (Chapter 25 of the Economic procedural Code of Belarus (hereinafter - COD) [6].

It says that before the creation of the future of the administrative courts in the Republic of Belarus for the administrative jurisdiction of the stored number of legal regulation of judicial review with the traditions of civil (economic) justice procedural form.

Creation of administrative courts in the Republic of Belarus is also due to the fact that in recent years, in parallel with a reduction in the number of cases and claim special productions has increased the number of cases arising from administrative legal relations, which eventually led to the congestion of the judicial system.

For example, a review of cases in civil proceedings cases arising from administrative legal relations requires a fairly deep specialization of judges due to the existing specifics in the application of substantive and procedural law, procedural deadlines abbreviated proceedings. At the same time, we cannot fail to note that the system of courts of general jurisdiction is moving towards increased specialization of judges and, despite the absence of a formal administrative courts, administrative justice elements are used and function [7, c.65].

Therefore, in the Republic of Belarus is the basis for the creation of administrative courts in the promising future.

Among the positive aspects of the introduction of administrative justice, we can include:

-compliance all the principles of administrative process (because there are cases when the cases on administrative offenses, as a rule, be appealed to a higher body (higher official), the body in most cases does not make a decision in favor of the person concerned, which raises questioned the principle of comprehensive, full and objective investigation of the circumstances of the case).

-fixationan additional guarantees for the protection of the rights and legitimate interests of individuals and legal entities

-more quality management and resolution of cases of administrative disputes

In-depth specialization of judges (which must include the study of non-legal disciplines related to public administration theory, but also the passage of internships: in the court and in the republican governmental body or in an organ of local government or local government) that provides the resolution of certain categories of legal disputes competent professionals.

Summing up the consideration of the prospects for the creation of administrative courts, we note that the establishment of an independent system of administrative courts - a serious and correct step in the judicial Belarus system that requires financial, logistical, organizational, staffing, to achieve the quality of the administrative proceedings in the whole territory of our country . We anticipate a significant number of obstacles and challenges that must be resolved in order to achieve this goal. But the expected level of protection of the rights and freedoms worth the effort.

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