16. Dudchenko V. Financial and economic mechanisms of state debt in Ukraine. Finance and Credit [Electronic resource] / Dudchenko V. Ukrainian Academy of Banking of the National Bank of Ukraine. – Access mode : http ://referatu.com.ua/referats/7569/145599

17. Ivanenko Y. Agency for Public Debt Management : Experience of Portugal and the UK / Y.Ivanenko, A.V. Malyshev // Bulletin of the NBU. – 2008. – № 3. – P. 14-18.

18. Dudchenko V. Foreign public debt management practices [Electronic resource] / V. Dudchenko. – Access mode : http ://lib.uabs.edu.ua/library/Article/Dudchenko_4.pdf

19. Kucher G. The impact of government debt on the economic situation in Ukraine / G. Kucher // Bulletin KNTEU. – 2009. – № 1. – P. 43-52.

УДК 342.9 (477)

PRINCIPLES OF ADMINISTRATIVE LAW: GENERAL CHARACTERISTICS OF FEATURES

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Principles of administrative law are specific, original category of a particular field of law. Not enough attention is paid at this in educational and scientific works. Their importance and fundamentality are often underestimated. Nevertheless it's relevant to emphasize the significant influence of principles of administrative law on forming and developing the science of modern administrative law, effective regulation and law application. In order to clarify a real perspective of principles of administrative law, the general features which characterize a particular category need to be mentioned. Such features represent external expression and content of all the principles of administrative law.

Key words: principles, administrative law, features of principles, origin, system, inviolability, universality.

Шарая А.А. ПРИНЦИПЫ АДМИНИСТРАТИВНОГО ПРАВА: ОБЩАЯ ХАРАКТЕРИСТИКА ПРИЗНАКОВ / Запорожский национальный университет, Украина
Принципы административного права являют особой своеобразную категорию соответствующей отрасли права. Не всегда им уделяется достаточное внимание в учебных и научных работах. Чаще их значение и фундаментальность недооценивают. Однако нельзя не отметить весомое влияние принципов административного права на формирование и развитие современной административно-правовой науки, эффективного нормотворчества и правоприменения. Для выяснения реального потенциала принципов административного права, необходимым является определение их общих признаков, которые характеризуют данную категорию. Такие признаки отражают внешнее выражение и содержательное наполнение всех без исключения принципов административного права.

Ключевые слова: принципы, административное право, признаки принципов, основоположность, системность, незыблемость, универсальность.

Шарая А.А. ПРИНЦИПИ АДМІНІСТРАТИВНОГО ПРАВА: ЗАГАЛЬНА ХАРАКТЕРИСТИКА ОЗНАК / Запорізький національний університет, Україна
Принципи адміністративного права є особливою, своєрідною категорією відповідної галузі права. Не завжди їм приділяється достатня увага у навчальних та наукових роботах. Частіш за все їх значення і фундаментальність недооцінюють. Відсутність підвищеної уваги серед науковців до принципів адміністративного права створює уявлення, що така категорія не має істотного впливу на адміністративне право, є вторинною та неважливою для нього. Проте не можна не відзначити вагомий вплив принципів адміністративного права на формування та розвиток сучасної адміністративно-правової науки, ефективної нормотворчості та дієвого правозастосування. Варто помітити, що адміністративне право в

сучасних умовах дуже стрімко розвивається, системно переглядається його предмет, зміст, тому аналіз сучасних доктринальних підходів до визначення поняття принципів адміністративного права як фундаментальної категорії останнього має неабияке значення.

Важливість принципів адміністративного права полягає в тому, що вони створюють передумови для формування та розвитку сучасної адміністративно-правової науки, ефективної нормотворчості та дієвого правозастосування. Однак задля демонстрації їх дійсного потенціалу, реального ресурсу, необхідним є проведення загальної характеристики ознак, які притаманні принципам адміністративного права, і які дозволяють виокремити їх в окремий блок принципів. Такі ознаки відображають зовнішнє вираження та змістовне наповнення всіх без винятку принципів адміністративного права.

Звісно не можна стверджувати про наявність вичерпного переліку ознак принципів адміністративного права, адже це досить широке коло значущих властивостей та ознак. Однак, у статті проаналізовані найбільш вагомі критерії, завдяки яким ці нормативні утворення іменуються саме принципами та отримують особливий правовий режим застосування. Серед таких ознак: соціальна обумовленість, нормативність, системність, універсальність, регулятивність, основоположність, непорушність. Отже, принципи відображають у собі світоглядні ідеї щодо належного в побудові та організації адміністративного права; вони виражають сутність правил поведінки суб'єктів; діють системно як сукупність основних та найзагальніших правил; їх дія поширюється на всі складові (або їх більшість), а їх порушення тягне за собою скасування чи перегляд рішень у справі або застосування інших засобів відповідальності.

Ключові слова: принципи, адміністративне право, ознаки принципів, основоположність, системність, непорушність, універсальність.

Principles and their importance for creating any kind of field of law are often underestimated. They are considered to be intermediate and passing doctrine regulations. The lack of high attention at principles of administrative law among scientists makes it seem that such category doesn't have an essential influence on administrative law and considers to be unimportant or of secondary importance. However, it's important to say that administrative law in modern conditions is rapidly developing, it's subject and content are systematically revised, so analysis of modern doctrine approach for identifying the concept of principles of administrative law as a fundamental category has above the average importance. The significance of principles of administrative law is that they create preconditions for building and developing modern science of administrative law, effective regulations. However, in order to demonstrate their real potential, real resources it's worth realizing general description of features which are attached to principles of administrative law. It makes them separated in individual block of principles.

Research of features of any legal category or public phenomenon should always be based, first of all, on the study of their historiography, which allows to analyse the theoretical positions in different historical periods, highlight their features, trace their interrelation with adjacent categories, the impact of the historical epoch in their formation. Will not be an exception in this case, and the principles of administrative law, study of which is inextricably linked with their historiography in the national doctrine. Hardly anyone can deny the fundamental principles of the universal as the provisions, reflected in the norms of law and obligatory for all the subjects of administrative law. The prime value of the principles of administrative law is that they are the basis for building a model of social relations in the administrative-legal sphere, the basis for standard setting. The principles of the administrative law are generally considered as the basic, fundamental category, substratum for law-making and law-enforcement activity. According to the Soviet tradition, however, the principles are still considered as only declaratory, objectless, theoretical and abstract phenomenon. It should be deemed that these are the principles that direct the administrative mechanism of social relations' regulation and determine the significance of law in social development. The principles are the measure of the lawfulness of the actions of citizens and those of the state apparatus; and, under the proper conditions, the principles promote increase in legal awareness. It is for that reason that the modern Ukrainian administrative science is aimed at

determination of principles as the basis, substructure of legal relationships, rules of conduct and norms. Amid substantial doctrinal reconsideration of the content, purpose and essence of administrative law, the issue of the administrative law principles content reconsideration with due regard to the changes in the doctrine and law enforcement is becoming topical.

The administrative law principles category does not have long history, and that is bound with the administrative law development history. Furthermore for a long period in the administrative law science the administrative law principles concept was not used, instead of it the state administration principles concept was used and that complicated the study of their essence, content and the possibility of their classification. Principles of administrative law were the subject of research in works of such remarkable scientists as Y.P. Bityak, V.M. Garashuk, O.V. D'yachenko [1], S.V. Kivalov [2], T.O. Kolomoec [3], S.G. Stecenko [4], V.V. Kovalenko [5] etc. However, more attention is paid at the concept of principles of administrative law and their classification, content while features of the principles are out of attention unfortunately.

Object of the article is to formulate the features of principles of administrative law, and their general characteristics.

The analysis of the features can be started with the one of social conditionality. The feature mentioned above consists in ideas which conform to social and economical requirements of development of society as well as political, ideological and other principles which are carried out in the state turning into principles. Mentioned feature represents the content of law with its social basis – with those regularities of social life on which a particular law system is built. Nevertheless the principles in their original form (before they were created) are world-view ideas, effect of dominant views in society, prejudice, imagination, ideals, life or scientific doctrine pursuits. The subjects of forming such ideas are particular individuals, their unions, and society in general. Theoretical generalizations, law theories become principles of administrative law owing to objectification in regulations of law or doctrine research.

Next feature of principles of administrative law is their normative character of law. The meaning of the word "normative" refers to fixing or representing the principle in rules of law. Until the moment of its fixing the main idea which is in the status of "candidate" for the role of principle, and is not settled in the law, it can be considered as a principle of law, it remains theoretical, scientific, doctrine idea, which refers to the system of building the science of law. Necessary to say that none of the ideas can regulate legal relations by itself until they are fixed in legal regulations or get state authoritative character, normative features. At the same time fixing principles in legal regulations must provide with steady observance under threat of negative consequences for violator or under threat canceling decisions in actions accepted with such violation. This feature reflects providing steady observance of main regulations expressed in principles of administrative law by all subjects of law application.

Taking notice that principles of administrative law must be stated not in a chaotic order but in logical sequence, attention must be paid at such characteristic as system. Principles represent a joint system of law regulations which is the basis of the entire administrative legislation. The significance of each principle is conditioned not only by its content but also by functioning of all system of principles which supposes their interconnection, interconditionality and coordination of their content and forms of realization. Such an interconnection provides unity of all fields and courses of administrative law. It's important to mention that the system of principles of administrative law characterizes unity of goals, lack of internal misunderstandings both inside particular elements and those among them. Meanwhile the content of any element can't be taken into the content of others or be absorbed by the others. More often some situations happen when violation of one principle leads to violation of other ones, and in the end it leads to general violation of law. Significant place in formation of complete idea of the system of principles is in the question of importance of

each. It can be confirmed from mentioned above that in the frames of the whole system each of the principle has its own content which mustn't duplicate other ones. At the same time principles condition each other and very often serve as the guarantee of providing other principles. Supplementing, not contradicting each other, they determine the structure of administrative law in general. Some of the principles are in the balanced relations or even compete with each other. There is also possibility that realization of one principle stands on the way of some others.

Next in the list of features is universality. Special feature of the system of administrative law is lack of unity in the views at the list of its structural elements. However, principles which are developed by the science of administrative law and fixed in administrative legislation have all-embracing pursuit. They must be suitable to use for any kind of component (procedural, delicting, procedural etc). Moreover such feature reflects opportunity to carry principles over to any kinds of administrative relations regardless their subjects, object or content.

Regulativity as a feature can refer to the principles of administrative law. Owing to the high level of generalization of law ideas, principles determine general basis both of the whole field of law and their separate components (among which administrative delicting conductions, administrative legal proceedings, administrative procedure conductions, administrative management conductions etc.). Their role is to arrange the behavior of subjects of administrative law by setting particular limits. So principles are not only the ways of reflecting some ruling ideas and opinions in the state but they also contain demands for the participants of these legal relations becoming important instrument of their regulation. All the other norms of administrative legislation must be coordinated with principles of administrative law. While regulative features of principles of law cannot be identified with regulative features of norms as they are considered to be abstract within the principles. In this case regulation of administrative relations is conducted from much "higher" positions as when using only principles it is impossible to regulate some certain relations in law.

Among the features of principles of administrative law fundamental features must be emphasized. Principles are often defined as the most general, basic and fundamental law principles and ideas which differ in supremacy from the other norms of administrative actions that in its turn must come out from the principles, be based on them, concretize the action of this or that principle but not contradict them. This way owing to its universality every principle clearly characterizes the main point of administrative law. Moreover in professional science literature positions can be found according to which one of the main identifying features, that condition separated fields of law, is the presence of specific ones featured only for its subject of principles of law regulation. Ideas which are put in the basis of the system of principles of administrative law are compromise that appear in accordance with resumptive unity of some of the competing ideas of a small scale. As a result of such resumptive unity the general idea appears that can influence the wider range of administrative relations of law. Fundamental feature of principles defines their content, main point and relevancy: principles can be the reason for changing particular administrative legislative norms. Also, as an exception from general rules of law actions, principles have a reverse power that allows them expend their action for any kind of norm which got fixed earlier than the very principle until its cancellation and disavowal of connected with it consequences.

And an indisputable feature of principles of administrative law is their inviolability. Disregard of principles or violation from the legislator's side, members of public administration, court or other subjects of administrative law can damage stability of law system, or be reflected negatively on the conditions of sense of justice or violate the order of law. That's why the violations of any kind of principle inevitably drag responsibility of subjects for using the law and/or cancelation or reconsideration of decisions in the case which was accepted with such violation. Talking about different kinds of consequences of principle violation we mean different forms of reaction of law on, let's say, considerable and inconsiderable violations.

A.I. Mikolenko draws attention to the many changes that have occurred in connection with the transition of Ukraine from command-and-control systems to management in a market economy, the rapid development of social relations in the country, and national law enforcement to communicate problems with the uncertainty of theoretical issues and argues that primary task of science of administrative law is a systematic development of the theory of administrative law [6, p. 142]. One has to agree with this statement and add that the part of a systematic theory of administrative law is the study of the principles, including the retrospective aspect that allows us to trace the dynamics of the studied categories and consider the trends for the future.

On the ground of the analysis of viewpoints of leading modern Ukrainian scholars on the differentiation of the general administrative law principles, we may assume that the system of the abovementioned includes: supremacy of law; legality; equality under the law; democracy; publicity. The main purpose of the law supremacy principle is to ensure the human rights and freedoms, and first and foremost in relations with the state authority and state bodies. The essence of legality lies in the reality of law and in the fact that all without exception people are being guided by the principle of rigid adherence to legal regulations and norms prescribed by the other legal instruments, honestly fulfill all legal obligations, without hindrance and to the full exercise their personal rights. The principle of equality under the law is manifested by the absence of privileges or restrictions under the race, politic, religious beliefs, social origin or other circumstances. The democracy principle is evident from the opportunity of people to directly or through their representatives, different organizations participate in the policy forming and in the state administration. The publicity principle content consists in ensuring each person with right of knowing the results of public administration activity, its forms and methods.

Simultaneously, we may not insist that this list of the general principles of law is exhaustive, because, although the category is characterized by certain stability the possibility of dynamic changes owing to the alternation in the legislation, renewal of doctrine, etc. is not excepted.

Making conclusion, it can be said that principle have and other significant features and characteristics. However, there were given more significant criteria mentioned above owing to which present normative formations are called principles and get special legal regulation use. Among such features there are: social conditionality, normative character of law, system, universality, regulative features, fundamental features, inviolability. Shortly concluding what is said it's important to mention that principles reflect world view ideas about proper forming and organization of administrative law; they express the main point of rules of subjects' behavior; act systematically as whole of main and major rules; their actions spread all over the components (or most of them), and their violation leads to cancelation or reconsideration of decisions in the case or applying other ways of responsibility.

REFERENCES

1. Administrative Law of Ukraine: textbook / [Y.P. Bityak., V.M. Garashuk, O.V. D'yachenko and others] ; editing by Y.P. Bityak. – Kiev: Urinkom Inter, 2005. – 544 p.
2. Kivalov S.V. Administrative Law of Ukraine: methodical educational textbook / S.V. Kivalov, L.R. Bila. – [edit. 2, changed and added]. – Odessa: Juridical Literature, 2002. – 107 p.
3. Kolomoyec T.O. Administrative Law of Ukraine: textbook / T.O. Kolomoyec. – Kiev: Istina, 2012. – 528 pages.
4. Stecenko S.G. Administrative Law of Ukraine: educational textbook / S.G. Stecenko. – edit. 3, changed and added. – Kiev: Atika, 2011. – 624 p.

5. Course of Administrative Law of Ukraine: textbook / [V.K. Kolpakov, O.V. Kuzmenko, I.D. Pastuh, V.D. Sushenko and others] ; edited by V.V. Kovalenko. – Kiev: Urinkom Inter, 2012. – 808 p.

6. Mikolenko A.I. The theory of administrative law : the past, the present and the future) / Mikolenko A.I. // Publichnoe pravo. – 2011. – № 2. – P. 136-142.

УДК 347.73

ОСОБЛИВОСТІ СКЛАДУ ПОДАТКОВОГО ПРАВОПОРУШЕННЯ

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Статтю присвячено дослідженню особливостей складу податкового правопорушення за податковим законодавством України. Автором здійснене доктринальне визначення складу податкового правопорушення. Визначені недоліки в закріплені складу податкового правопорушення в Податковому кодексі України. Зокрема, визначено, що суб'єктивна сторона податкового правопорушення виключена з його складу.

Ключові слова: фінансово-правова відповідальність, податкова відповідальність, податкове правопорушення, склад податкового правопорушення, суб'єктивна сторона податкового правопорушення.

Трипольская М.И. ОСОБЕННОСТИ СОСТАВА НАЛОГОВОГО ПРАВОНАРУШЕНИЯ / Классический приватный университет, Украина

Статья посвящена исследованию особенностей состава налогового правонарушения в соответствии с налоговым законодательством Украины. Автором осуществлено доктринальное определение состава налогового правонарушения. Определены несовершенства в закреплении состава налогового правонарушения Налоговым кодексом Украины. В особенности, установлено, что субъективная сторона налогового правонарушения исключена из его состава.

Ключевые слова: финансово-правовая ответственность, налоговая ответственность, налоговое правонарушение, состав налогового правонарушения, субъективная сторона налогового правонарушения.

Tripolskaya M. THE FEATURE OF CONSTRUCTION OF THE TAX OFFENCE / Classic private university, Ukraine

Article deals with the problem of tax offence as base of financial responsibility for violation of tax legislation. The feature of construction of the tax offence has been studied by author. On the basis of comprehensive analysis of the measures of the construction the tax offence the scientific definition has been made by author.

Central part of article devoted to investigation of subjective side of tax offence. Devoted that subjective side of tax offence excluded from construction of tax offence by the tax legislation of Ukraine.

The author reveals the imperfections of the legal regulation of the financial responsibility for the violation of tax legislation. On the authors opinion in Tax Code of Ukraine must be fixed the definition of financial responsibility for violation of tax legislation. The concepts of the violation of the tax legislation and tax offense must be separated in the Tax Code of Ukraine.

The violations of tax legislation include a wide range of offenses, which include crimes, administrative and financial violations. Tax offenses, including their financial and legal nature, as well as fiscal, monetary, banking is a form of financial wrongdoing, and therefore is the basis of financial and legal responsibility for tax offences. Tax offenses inherent in following features: the main reason is the financial and legal responsibility for violation of tax legislation. They are characterized by social harm, unlawfulness, guilt; committed in the form of actions (or inaction); is