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PUBLIC DISPUTE AS A JUDICIAL MATTER IN THE ADMINISTRATIVE COURTS

The article deals with the examination of public dispute as a judicial matter in the administrative courts.

Scientific elaboration of the concept of a public dispute is very relevant today. Primarily it can be explained by the practical necessity, as, nevertheless this term is used in the current Code of Administrative Procedure of Ukraine, there is no definition of it, and therefore there is no unified understanding of this term. This fact often complicates the process of distinction between administrative and other jurisdictions, leading to difficulties in considering specific administrative matters.

The author states that scientists have no unified definition of the concept of legal dispute and public dispute as well. Having analyzed the opinions of scientists on the concepts and essential features of a public legal dispute, the author concludes that there are two main positions on this issue in the legal literature. According to the first position an important feature of public disputes is a special subject composition. Consideration and resolution of public disputes is assigned to administrative courts, where one party in controversy is physical or legal entity, and the second – the authorities, local

governments, their officials or officers, or other subjects of public authority exercising their administrative functions on the basis of legislation, including delegated powers. The second group of scholars states that to recognize a public dispute among other disputes, not only the subjects of relationships, but also the nature of relations of which it arose should be taken into account. The dispute is public if rights, freedoms, interests, duties, powers implemented in public relations are disputed.

It should be mentioned that discussions among scholars about terminological definition of disputes between physical or legal entities and public authorities are baseless. However, the Code of Administrative Procedure of Ukraine should not contain ambiguous provisions. The author states that the second part of the Article 4 of the Code of Administrative Procedure of Ukraine should be clarified by specifying that the jurisdiction of administrative courts extends to all public disputes except public disputes (not just disputes as defined in the Code of Administrative Procedure of Ukraine) which have other judicial procedure established by the law.