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Pluhatar Tetiana,
Candidate of Juridical Sciences, Senior Research Associate,
Scientific Secretary of the Secretariat of the Academic Council,
State Research Institute MIA Ukraine, Kyiv, Ukraine,
ORCID ID 0000-0003-2082-5790
Lelet Serhii,
Candidate of Juridical Sciences, Senior Researhcer,
Chief of the Department, State Research Institute MIA Ukraine,
Kyiv, Ukraine,
ORCID ID 0000-0001-6099-4121

CONTENT, FEATURES AND FORMS OF ADMINISTRATIVE-JURISDICTIONAL ACTIVITY OF THE NATIONAL POLICE OF UKRAINE

On the basis of a comprehensive analysis of doctrinal approaches, normative legal regulation and generalization of the practice of the National Police of Ukraine the article reveals the essence of the concept of administrative-jurisdictional activity of the National Police of Ukraine, defines the content of administrative-jurisdictional activity of these bodies and features as basic elements that form its essence, highlights the peculiarities of the National Police of Ukraine as a subject of administrative jurisdiction, characterizes the forms of administrative-jurisdictional activities of the National

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Considering the European integration aspirations of Ukraine, the main objective of the process of reforming the law enforcement system of our country consists primarily in the adjustment of tasks and functions of law enforcement agencies, the introduction of new criteria for evaluating their work to effectively ensure law and order in the state, increasing the level of protection of the rights and freedoms of citizens from unlawful infringements. One of the top ten and one of the nine "security vectors" envisaged by the Sustainable Development Strategy "Ukraine 2020" [1] consists precisely of the reform of the law enforcement system. One of the top ten and one of the nine "security vectors" envisaged by the Sustainable Development Strategy "Ukraine 2020" [1] consists precisely of reforming the law enforcement system. During the reform of law enforcement agencies, special attention should be paid to improving their administrative-jurisdictional activity, in the process of which legal protection of affected or contested interests and which is aimed at preventing, averting and suppressing offenses. Authorities of the National Police of Ukraine have the power to consider cases on administrative offences, issue relevant rulings and impose sanctions without recourse to the courts. Given the above, it is relevant to develop common approaches to the disclosure of the content and forms of administrative-jurisdictional activity of this law enforcement body.

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Such scientists, as: T. Alferova, V. Berdnyk, I. Horodetskaia, A. Horoshko, A. Drozdov, A. Zaiats, L. Ivanova, A. Ischuk, I. Kravchenko, R. Kukurudz, I. Lybenko, K. Pudans-Shushlebyna, K. Serhienko, M. Stefanchuk, A. Shevtsova, A. Shemiakin, V. Yurchenko studied the problematics of administrative-jurisdictional activity. Certain issues of administrative-jurisdictional activity of law-enforcement bodies have been the subject of research of many scientists. In particular, V. Shylnyk researched theoretical and practical problems of legal regulation of jurisdictional administrative proceedings in the bodies and units of the system of the Ministry of Internal Affairs of Ukraine; I. Panov highlighted the features of administrative-jurisdictional activity of district police inspector. Comprehensive study of administrative-jurisdictional activity of internal affairs bodies, their role and importance in the protection of public order and public safety carried out by S. Husarov. However, despite the scientific achievements of Ukrainian and foreign researchers, many issues of the raised problems still remain understudied, ignoring the results of the reform processes taking place in Ukraine in the law enforcement sphere, in particular, there is no unambiguous understanding of the essence, content and types of administrative-jurisdictional activity of law enforcement bodies of Ukraine, such jurisdictional powers of the National Police reflecting their competence are not disclosed. With this in mind, it is necessary to conduct a comprehensive analysis of theoretical and applied problems of administrative-jurisdictional activity of the National Police and propose specific ways to solve them.

Purpose of the article consists in revealing the essence of the concept of administrative and jurisdictional activity of the National Police of Ukraine on the basis of a comprehensive analysis of doctrinal approaches, normative-legal regulation and generalization of the practice of the National Police of Ukraine, defining the content of administrative and jurisdictional activity of these bodies and signs as basic elements that form its essence, highlighting the features of the National Police as a subject of administrative jurisdiction and characterize the forms of administrative-jurisdictional activity of police bodies (officials).

For disclosing the content of administrative-jurisdictional activity of the National Police of Ukraine, it is necessary, first of all, to establish the essence and features of such concepts as: “administrative jurisdiction”, “administrative-jurisdictional activity”.

The word “jurisdiction” [Latin jurisdictio, from jus (juris) – law and dico – proclaim] means the ability to give a legal assessment of the facts, to solve legal issues [2].

Large explanatory dictionary of the modern Ukrainian language explains the term as: 1) the right to make a trial, to consider and decide legal issues, 2) the power to make a legal assessment of the facts, to decide legal issues, 3) the sphere to which such right applies [3, p. 1420].

In the theory of administrative law, the concept of “administrative jurisdiction” is used in a broad and narrow sense. In the broad sense “administrative jurisdiction” means the resolution of any individual cases in case of a dispute of law, that is, conflict situations [4, p. 132].

Administrative jurisdiction provides for the consideration of both disputes referred by the Code of Administrative Jurisdiction of Ukraine to the competence of administrative courts, and cases on administrative offences, regardless of whether they

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are considered by a court of general jurisdiction or a specially authorized body of executive power (body of non-judicial administrative jurisdiction). At that, the activities to consider disputes carried out by administrative courts are determined by administrative justice and correlate with administrative jurisdiction as a part with a whole. Activities to consider cases on administrative offences, in turn, defined as judicial and non-judicial administrative jurisdiction [5, p. 117].

Generally, in the legal literature administrative jurisdiction considered in its narrow meaning, which consists in the consideration of cases on administrative offenses in the statutory administrative-procedural form by specially authorized bodies and their officials empowered to consider them and impose administrative and legal penalties [6, p. 424].

O. Mykolenko and V. Berdnyk define the concept of "administrative jurisdiction" as the envisaged by administrative and legal norms competence of a public authority or local self-government body (their officials) to consider administrative cases and take on their decision legally binding decisions. This definition allows us to talk about the existence of three types of administrative jurisdiction, each of which has its own characteristics: a) administrative-regulatory jurisdiction, that is, the competence to resolve administrative cases arising on grounds other than the occurrence of a dispute of law and committing an administrative offense (cases on issuing licenses, state registration of legal entities, etc.); b) administrative-judicial jurisdiction, that is, the competence of administrative courts to resolve relevant cases; c) administrative-tort jurisdiction, that is, the competence to resolve cases on administrative offenses, for which administrative penalties are provided for. The latter two types of administrative jurisdiction, due to the fact that they are associated with the resolution of legal conflicts (legal collisions), scientists combine into one group - administrative-conflict jurisdiction [7, p. 16–17].

Scientists, in general, refer to administrative jurisdiction as an activity, in the course of which a legal case is solved, legal protection of violated or disputed interests is carried out, a legally-authoritative decision on the application of an appropriate legal sanction, restoration of violated right is made [8, p. 506], as they understand administrative jurisdiction as consideration of administrative and legal disputes, cases of administrative offences in the statutory administrative and procedural form by specially authorized bodies.

In general, scientists refer to administrative jurisdiction as an activity, in the course of which a legal case is resolved, legal protection of violated or disputed interests is carried out, a legally-authoritative decision on the application of an appropriate legal sanction, restoration of violated right is made [8, p. 506], as understand administrative jurisdiction as consideration of administrative and legal disputes, cases of administrative offences in the statutory administrative and procedural form by specially authorized bodies (officials), which are entitled to consider disputes and impose administrative penalties [9, p. 196].

Consequently, after analyzing the different positions of scientists-administrators on the definition of the essence and content of the concept of "administrative jurisdiction" we can conclude that so far, there is no single definition of this concept, and it is considered both in a narrow and broad sense. In the broad sense, administrative

jurisdiction combines the totality of public relations arising between public authorities and citizens or their associations on a variety of issues in their activities. Thus, administrative jurisdiction deals not only with issues that require legal regulation and resolution of a dispute on the merits, but also with problems arising in the course of their direct activities in the interaction with citizens [10, p. 11]. In the narrow sense administrative jurisdiction is defined as consideration of administrative and legal disputes, cases on administrative offences in the established by law administrative and procedural form by specially authorized bodies (officials), which are entitled to consider disputes and impose administrative penalties.

Turning to the consideration of the concept and characteristics of administrative-jurisdictional activity, we note that in the legal literature also there is no unified understanding of this concept, especially since most scientists do not distinguish administrative jurisdiction and administrative-jurisdictional activity at all.

Some scientists define administrative-jurisdictional activity as regulated by administrative and legal norms activity of relevant subjects to consider and decide cases on administrative offenses and application for administrative penalties [11, pp. 37-38]. The definition of the concept of "administrative-jurisdictional activity of internal affairs bodies" formulated by S. Husarov is somewhat similar. also regarding the implementation of other administrative and jurisdictional actions of a security nature within the powers of internal affairs bodies to ensure public safety, provided to them by the Constitution of Ukraine, the Law of Ukraine "On Police", KUpAP of Ukraine and other legislative acts [12, p. 31].

Based on the analysis of various scientists' approaches to the definition of the concept of "administrative-jurisdictional activity", we can concluded, that most scientists reveal its content through such categories as "system of legal relations", "totality of procedural actions", "exercise of powers of a competent subject", "implementation of legal norms establishing the rights and obligations of a particular subject to consideration and resolution of legal conflicts". Now we can observe the confusion of the content of the concepts of administrative-jurisdictional activity, administrative jurisdiction, administrative-jurisdictional process, administrative-jurisdictional proceedings, administrative justice and even law enforcement activity. Therefore, we should define the signs of this activity, which allow characterizing it as administrative-jurisdictional, distinguishing it from a number of externally similar (public-administrative, jurisdictional, procedural and other) types of activity [13, pp. 20–21].

Most scholars attribute the following to the features of administrative-jurisdictional activity: 1) a wide range of public relations, which are protected by administrative-jurisdictional means; 2) a significant amount of rights to impose administrative penalties – compared to other jurisdictions; 3) a wide range of officials who have the right to apply administrative and legal sanctions; 4) specialization on consideration of administrative and jurisdictional cases determined by normative legal acts; 5) the right to impose administrative penalties at the scene of the offense [14, p. 74].

O. Dzhafarova, analyzing the administrative-jurisdictional activity of law enforcement bodies, identifies the following characteristic features of this activity: 1) is carried out by specially authorized officials of the relevant bodies; 2) the main

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purpose of ensuring the rights and freedoms of man and citizen, protection of public order and safety, the established order of administration; 3) the presence of a legal dispute is mandatory; 4) requires proper procedural regulation; 5) obligatory adoption of a decision by means of a legal act; 6) in the system of law enforcement bodies not all services and their officials have jurisdictional powers; 7) a law enforcement officer considers each administrative case individually; 8) consideration of individual administrative cases is carried out on the basis of relevant normative-legal acts enshrining the procedure for considering complaints about illegal actions or inaction of law enforcement bodies and their officials that violate the rights and legitimate interests of citizens [15, p. 155].

The most appropriate, in our opinion, lies in the position of scientists, who to the main features of administrative-jurisdictional activity of police bodies include the following: 1) part of the administrative activity of police bodies and units; 2) has executive and administrative nature; 3) arises from a legal dispute related to the commission of an administrative offense (Articles 222, 255 of the Code of Administrative Offenses), in other words, the presence of a certain specialization, and the need to apply administrative sanctions to the offender; 4) its implementation takes place within the framework of the implementation of law enforcement tasks and functions (provision of police services) and law enforcement; 5) requires proper procedural regulation; 6) the possibility of simplified proceedings (without drawing up a protocol on an administrative offense); 7) employees of police bodies and units have the right to impose administrative penalties at the scene of the offense, regardless of size with the use of non-cash payment devices; 8) is carried out exclusively in a single person (individually); 9) the powers to consider cases on administrative offenses and impose administrative penalties are vested exclusively in employees of bodies and units of the police with special ranks, in accordance with the powers vested in them; 10) its result should be a decision by a legal fact [16, p. 24].

Having said that, in view of paragraph 8 part 1 Article 23(1) of the Law of Ukraine “On the National Police” the police within the framework of its tasks, in cases determined by law, carries out proceedings on cases of administrative offenses, decides on the application of administrative penalties and ensures their execution, that the main purpose of administrative-jurisdictional activity of the National Police of Ukraine is, firstly, to provide a legal assessment of the compliance of the conduct of the object of legal action with the requirements established at the level of relevant regulations, and secondly, to consider, in case of violations of legislation, cases on administrative offenses, making decisions on the application of administrative penalties to the offender and implementation of decisions taken.

The content of administrative-jurisdictional activity of bodies of the National Police of Ukraine combines detection of offences, collection, verification of evidence, execution of the necessary administrative and procedural documents, consideration of cases and issuance of appropriate rulings in them, sending individual cases for consideration beyond the jurisdiction, as well as in enforcement proceedings [17, p. 138].

Distinguishing features of administrative-jurisdictional activity of the bodies of the National Police of Ukraine can be defined that: 1) this activity is of executive and

administrative nature; 2) conditioned by the tasks and functions of a specific body (official) of the police on consideration and resolution of a dispute and the possibility of applying measures of administrative coercion to the subject of administrative law; 3) the content of this activity is a legal assessment of the totality of facts, behavior of parties in a conflict situation, based on which an appropriate decision is taken, which may contain legal sanctions; 4) this activity is human rights, law enforcement and preventive and is carried out in a clearly regulated by law form and procedure; 5) is focused on the protection of the rights and freedoms of people, the legitimate interests of society and the country.

Its implementation administrative-jurisdictional activity founded in the established procedural forms and procedure of consideration of the solution of specific cases. As for the forms of administrative-jurisdictional activity of the National Police of Ukraine, they are homogeneous in their legal nature and nature of actions of employees of bodies (officials) of the police, aimed at consideration and resolution of cases within the legally determined competence. The main forms of administrative-jurisdictional activity are: committing procedural jurisdictional actions and adoption of legal acts.

Execution of procedural jurisdictional actions by authorized subjects should be carried out in accordance with the regulated norms of administrative law procedural forms and in the prescribed manner. Within the framework of this form of administrative-jurisdictional activity there are several types of administrative proceedings, the difference between which lies in their intended purpose, subjects and procedure of implementation, procedural design [16, p. 27].

As A. Horbunova notes, legal forms of implementation of administrative-jurisdictional activity are conditioned by their direct target purpose, which is defined by normative acts. And if as criteria for the classification of types of jurisdictional activity of the National Police of Ukraine choose the nature, features and degree of complexity of the actual side of administrative offenses and the related complexity of the jurisdictional procedure (meaning its scope and limits), then we can give such a classification of administrative-jurisdictional proceedings in the National Police of Ukraine: a) general (full) proceedings; b) reduced (accelerated) proceedings; c) complicated (expanded) proceedings; d) proceedings in the bodies of the second instance (for example, by an official of higher rank (position), compared to the employee who initially considered materials of an administrative case) [18, c. 25–26].

The basis for the allocation of general (full) and expedited (simplified) proceedings in the body of administrative jurisdiction is the drawing up a protocol on an administrative offense.

The overwhelming majority of cases of administrative offences, authorized for consideration by the officials of the National Police, provides for drawing up protocols on administrative offences. An exhaustive list of constituent elements of administrative offences, which result in the following protocols, provided in paragraph 1 of part 1 of article 255 of the Code of Administrative Offences. 1 of Article 255 of the Code of Administrative Offences. In turn, article 258 of KUpAP clearly defines the cases when a protocol on an administrative offense is not drawn up, that is, we are talking about simplified administrative proceedings on a case of offense [19].

As for disciplinary proceedings, its content consists in bringing employees of police bodies to disciplinary responsibility for violation of service discipline and for committing an administrative offense (except cases provided for by the Code of Administrative Offences of Ukraine). Service discipline – compliance by a police officer with the Constitution and laws of Ukraine, international treaties, consent to the binding of which is provided by the Verkhovna Rada of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine, orders of the National Police of Ukraine, regulatory legal acts of the Ministry of Internal Affairs of Ukraine, police officer oath, orders of the leaders [20].

The procedure on citizens' appeals is performed by the National Police of Ukraine as they are one of the subjects empowered to consider citizens' appeals and conduct personal reception of citizens. The procedure of sending and consideration of such appeals is regulated by the norms of the Law of Ukraine "On appeals of citizens" of 02.10.1996 No. 393, and the issues of police activity on the reception, registration, consideration of citizens' appeals, control over the execution of instructions on the results of consideration of citizens' appeals and compliance with deadlines for their consideration, the basic requirements for the organization of personal reception of citizens and record keeping on citizens' appeals are regulated by the Order of the MIA of Ukraine "Procedure of consideration of appeals and organization of personal reception of citizens in bodies and units of the National Police of Ukraine" from 15.11.2017 No. 930.

Consequently, by features of the jurisdictional procedure administrative-jurisdictional proceedings are divided into: general (full) and expedited (simplified), by the nature and complexity of a committed administrative offense into: proceedings on complaints of citizens; disciplinary proceedings; proceedings on cases of administrative offenses.

Logical result of procedural jurisdictional actions, aimed at consideration of cases on administrative offences, is adoption of legal acts of administrative jurisdiction. At the adoption of legal acts of administrative jurisdiction takes place a decision through a legal act, which is preceded by the consideration and resolution of a particular legal case. According to the results of consideration and resolution of a case is adopted a ruling of an administrative jurisdiction body, which has attributes of public administration acts. Such a ruling is a subordinate managerial act of applying law on a particular case of an administrative offense, which adopts in order to regulate the behavior of subjects in the field of ensuring public order and safety. Ruling on a case of an administrative offense is of law-enforcement nature, and its adoption is the result of law-enforcement activity [16, pp. 49–50].

Ruling on the imposition of an administrative penalty constitutes the most common act of administrative jurisdiction. Most cases of administrative violations end with the imposition of a penalty on the perpetrator. Other types of rulings on a case of an administrative offence include rulings regarding the imposition of measures under Article 241 of the Code of Administrative Offences 241 of KUpAP and order to close the case (order to close the case is made in the announcement of an oral reprimand, the transfer of materials to a public organization or labor collective or transfer them to the prosecutor, the body of pre-trial investigation or inquiry, as well

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as in the presence of the circumstances provided for by Art. 247 of the Code of Administrative Offences).

Thus, the main direction of administrative-jurisdictional activity of the National Police of Ukraine is the consideration of proceedings on cases of administrative offences, but this activity also finds its manifestation in the consideration of citizens' appeals, and in the implementation of disciplinary proceedings, as well as prevention and counteraction to certain types of administrative offences. Being a subject of administrative jurisdiction, the bodies of the National Police of Ukraine authorized to implement measures aimed at the protection of human rights and freedoms, the prevention of threats to public safety and order, the termination of their violation.

Based on the above, we can formulate the definition of "administrative-jurisdictional activity of the National Police of Ukraine", which should be understood as regulated by the norms of administrative and administrative-procedural law activity of police bodies (officials) to review and resolve legal disputes, cases of administrative offenses, disciplinary offenses, cases on complaints of citizens, establishment of facts, providing legal assessment of the conduct of the parties, making decisions within the legally defined competence, having public authority and aimed at protecting the rights, freedoms of citizens, the legitimate interests of society and the state.

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Плугатар Тетяна Анатоліївна,
кандидат юридичних наук, старший науковий співробітник,
учений секретар секретаріату вченої ради ДНДІ МВС України,
м. Київ, Україна
ORCID ID 0000-0003-2082-5790
Лелет Сергій Миколайович,
кандидат юридичних наук, старший дослідник, начальник відділу
ДНДІ МВС України, м. Київ, Україна
ORCID ID 0000-0001-6099-4121

ЗМІСТ, ОЗНАКИ ТА ФОРМИ АДМІНІСТРАТИВНО-ЮРИСДИКЦІЙНОЇ ДІЯЛЬНОСТІ ОРГАНІВ НАЦІОНАЛЬНОЇ ПОЛІЦІЇ УКРАЇНИ

У статті на основі комплексного аналізу доктринальних підходів, нормативно-правового регулювання й узагальнення практики діяльності Національної

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поліції України розкрито сутність та сформульовано визначення поняття адміністративно-юрисдикційної діяльності органів Національної поліції України, під яким слід розуміти урегульовану нормами адміністративного та адміністративно-процесуального права діяльність органів (посадових осіб) поліції щодо розгляду та вирішення правових спорів, справ про адміністративні правопорушення, про дисциплінарні проступки, справ за скаргами громадян, встановлення фактів, надання правової оцінки поведінці сторін, прийняття рішення у межах визначеної законом компетенції, що має державно-владний характер і спрямована на захист прав, свобод громадян, законних інтересів суспільства та держави.

До ознак адміністративно-юрисдикційної діяльності органів Національної поліції України віднесено: 1) ця діяльність має виконавчо-розпорядчий характер; 2) обумовлена завданнями та функціями діяльності конкретного органу (посадової особи) поліції з розгляду та вирішення спору і можливістю застосування щодо суб'єкта адміністративного права заходів адміністративного примусу; 3) зміст цієї діяльності становить правова оцінка сукупності фактів, поведінки сторін, які знаходяться у конфліктній ситуації, на підставі чого приймається відповідне рішення, яке може містити правові санкції; 4) ця діяльність є правозахисною, правоохоронною та превентивною і здійснюється в чітко регламентованій законом формі та процедурі; 5) спрямована на захист прав і свобод громадян, законних інтересів суспільства та держави.

Наголошено, що адміністративно-юрисдикційна діяльність знаходить своє втілення в установлених процесуальних формах та порядку розгляду вирішення конкретних справ. Форми адміністративно-юрисдикційної діяльності органів Національної поліції України є однорідні за своєю правовою природою та характером, тому діями працівників органів (посадових осіб) поліції спрямовані на розгляд та вирішення справ у межах визначеної законом компетенції.

Розкрито такі основні форми адміністративно-юрисдикційної діяльності, як учинення процесуальних юрисдикційних дій та ухвалення правових актів.

Зауважено, що основним напрямом адміністративно-юрисдикційної діяльності органів Національної поліції України є саме розгляд проваджень у справах про адміністративні правопорушення, проте ця діяльність знаходить свій прояв і під час розгляду звернень громадян, і в ході здійснення дисциплінарних проваджень, а також попередження та протидії окремим видам адміністративних правопорушень. Зазначено, що органи Національної поліції України як суб'єкт адміністративної юрисдикції уповноважені реалізовувати заходи, спрямовані на охорону прав і свобод людини, запобігання загрозам публічній безпеці та порядку, припинення їх порушення.

Ключові слова: адміністративна діяльність, адміністративна юрисдикція, адміністративно-юрисдикційна діяльність, Національна поліція України.

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