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GROWING INFLUENCE OF JUDICIAL CONTROL OF ADMINISTRATIVE COURTS ON PUBLIC ADMINISTRATION BODIES

Introduction. As countries progress toward stronger governance, the role of administrative courts in overseeing the actions of public administration bodies has gained prominence. The balance between administrative discretion and its judicial oversight presents both a challenge and an opportunity for enhancing public trust and adherence to the rule of law.

The purpose of the paper is to analyze the burgeoning influence of judicial control by administrative courts on public administration bodies, with a particular focus on Ukraine. The objective is to understand the nuances, ambiguities, and implications of this evolving relationship, in light of European standards, national legislation, and practical realities.

Results. A defined framework of administrative discretion, offering public authorities a margin of appreciation while making decisions. Ambiguities in the Ukrainian legal doctrine, particularly the blurred lines between discretion and vague legal concepts. The Council of Europe standards and the European Court of Human Rights (ECtHR) case law that set benchmarks for discretionary power's exercise and control. Varied approaches to judicial control among EU member states, with notable distinctions between the German and French legal traditions. A growing trend where administrative courts are intensifying scrutiny over discretionary powers, fueled by the need to uphold fundamental rights and democratic principles.

Conclusion. The escalating role of administrative courts in reviewing the actions of public administration bodies reflects a move towards more transparent, accountable, and rights-respecting governance. While challenges persist, especially in distinguishing discretion from ambiguous legal terms, the trajectory points toward a future where administrative actions are both efficient and just, guided by robust judicial oversight. This evolution, grounded in both national realities and European standards, signals a maturing of democratic institutions and processes.

Keywords: judicial control, administrative courts, public administration bodies, Discretionary powers, Governance, Transparency

INTRODUCTION

The intricate dynamics between public administration bodies and the rule of law have always been a focal point in modern democracies. At the heart of this relationship lies the concept of judicial control, a mechanism designed to ensure that administrative decisions adhere to the principles of legality, transparency, and fairness. Historically, public administration operated with a significant level of autonomy. However, recent trends underscore an expanding oversight role of administrative courts in scrutinizing the actions of these public entities. This growing influence is not just a regional phenomenon; it mirrors a broader global trend, reinforcing the checks and balances within democratic systems.

The context of Ukraine offers a unique lens to analyze this evolution. The aftermath of the EU Pravo-Justice Project in 2019 highlighted critical areas where the Ukrainian administrative law framework appeared to be in flux. Notably, there was an evident blurring of lines between the discretionary powers of elected and non-elected authorities and an inadequate distinction between the interpretation of laws and discretion. These ambiguities raised pressing questions: To what extent should administrative courts interfere with the discretionary powers of public administration? What should be the contours of such judicial oversight? And, how does this influence reflect upon the principles of democracy and governance?

This research delves deep into these questions, examining the underpinnings of the growing judicial control over public administration bodies, with a particular emphasis on the Ukrainian context. Through a rigorous analysis of legal

doctrines, European standards, national legislation, and judicial practices, this study seeks to chart the trajectory of this evolving relationship, its implications, and its alignment with democratic ideals.

The **PURPOSE** of this paper is to critically examine and elucidate the expanding role and influence of judicial oversight, specifically by administrative courts, on public administration bodies. As administrative authorities are vested with significant discretionary powers, it is essential to ensure that these powers are exercised judiciously, transparently, and in alignment with the principles of justice, fairness, and the rule of law.

MATERIALS AND METHODS

The examination of the growing influence of judicial control exerted by administrative courts on public administration bodies necessitates a methodological approach that is both comprehensive and meticulous. Herein are the materials and methods adopted for this study:

1. Literature Review

Primary Sources: Examination of constitutional provisions, statutes, regulations, and other legal instruments relevant to administrative discretion and judicial oversight.

Secondary Sources: Analysis of academic literature, scholarly papers, commentaries, and treatises dealing with administrative law, judicial review, and related themes. This would also include a review of European and Ukrainian legal doctrines pertaining to administrative discretion.

2. Case Law Analysis

A detailed scrutiny of relevant rulings by the Supreme Court, particularly those by the Grand Chamber, to understand the judicial perspective on administrative discretion

and the permissible boundaries of its exercise.

Comparative analysis of case law from other jurisdictions, especially European courts, to gain a broader understanding of the global nuances associated with the subject.

3. Empirical Research

Surveys and Questionnaires: Distributed among legal practitioners, public administrators, and academics to gather perspectives on the balance between administrative discretion and judicial oversight.

Interviews: Conducted with seasoned judges, administrative officials, and legal scholars to gain in-depth insights into the practical challenges and implications associated with judicial control over administrative actions.

4. Comparative Study

Drawing parallels with countries having similar administrative structures or facing analogous challenges related to judicial review. This will help identify best practices and potential pitfalls.

5. Legal Doctrinal Analysis

Dissecting established legal principles, theories, and doctrines that underpin the concepts of administrative discretion and judicial review. This includes understanding the historical evolution, philosophical foundations, and practical ramifications of these principles.

6. Statistical Analysis

Employing statistical tools to analyze data obtained from various sources, such as the frequency of judicial interventions in administrative decisions, the nature of these interventions, and the subsequent administrative responses.

7. Workshops and Deliberations

Organizing interactive sessions with stakeholders, including judges, lawyers, public administrators, and academicians, to facilitate an exchange of ideas and promote a mutual understanding of the challenges and opportunities in the realm of judicial oversight of administrative actions.

8. Scenario Building

Crafting hypothetical situations to assess the implications of varying degrees of judicial oversight on administrative actions and decisions. This method will be pivotal in projecting future trends and identifying potential areas of conflict or collaboration.

By employing this multifaceted methodological approach, the study aspires to provide a holistic, nuanced, and pragmatic understanding of the intricate interplay between administrative courts and public administration bodies in the realm of judicial control.

Setting objectives

In an ever-evolving legal landscape, the interplay between administrative courts and public administration bodies is paramount. To better comprehend this relationship and its implications, the following objectives have been set:

1. Understanding Historical Context

To trace the historical evolution of judicial control by administrative courts over public administration bodies. To identify the underlying factors that have contributed to the increasing influence of such judicial control.

2. Defining the Scope of Administrative Discretion

To delineate the boundaries of administrative discretion, emphasizing its purpose, intent, and limitations. To understand the standards, principles, and criteria against which administrative decisions are evaluated by courts.

3. Analysis of Judicial Interventions

To assess the frequency, nature, and outcomes of judicial interventions in administrative decisions. To identify trends in case law, particularly decisions from the Supreme Court and other influential courts.

4. Comparative Analysis

To compare and contrast the Ukrainian approach with other European jurisdictions concerning judicial control over administrative discretion. To glean insights and lessons from international best practices.

5. Assessment of Impact

To evaluate the consequences of judicial control on the efficiency, transparency, and fairness of administrative decisions. To determine the effect of such oversight on public trust, accountability, and governance.

6. Future Projection

To anticipate the future trajectory of judicial oversight over public administration, considering legal reforms, societal needs, and global trends. To identify potential areas of conflict or collaboration between the judiciary and administrative bodies.

7. Recommendations for a Balanced Approach

To propose strategies for achieving a harmonious balance between administrative discretion and judicial oversight, ensuring that public interests are served without compromising individual rights. To suggest reforms or initiatives that might enhance the collaboration between administrative bodies and the judiciary.

8. Engagement and Education

To foster dialogue and understanding among stakeholders, including the judiciary, public administrators, lawyers, and the general public. To develop educational and awareness programs highlighting the importance and implications of judicial control over public administration.

By clearly setting these objectives, the **PURPOSE** of the paper is to provide a comprehensive, insightful, and actionable analysis of the growing influence of judicial control by administrative courts on public administration bodies. This endeavor is crucial for fostering a more transparent, accountable, and efficient administrative system that respects both individual rights and collective interests.

RESULTS

After a comprehensive analysis of the increasing influence of administrative courts on public administration bodies, the following key findings were identified:

Historical Evolution. Over the past few decades, there has been a marked increase in the number of administrative decisions challenged in the courts. There is a clear trend towards a more interventionist approach by the courts, especially when the rule of law or fundamental rights are perceived to be at stake [1].

Scope of Administrative Discretion. Although administrative bodies have a significant degree of discretion, it's not unbounded. Courts have been actively delineating the limits of such discretion, ensuring it doesn't infringe upon individual rights or the broader public interest. Instances were identified where administrative bodies overstepped their boundaries, necessitating judicial intervention.

Judicial Interventions. Judicial scrutiny of administrative decisions has grown more rigorous. Factors leading to such scrutiny include lack of transparency, arbitrariness, or decisions that appear to be influenced by external pressures

rather than law or public interest. The Supreme Court's case law reveals a consistent emphasis on transparency, procedural fairness, and substantive reasonableness of administrative decisions [2].

Comparative Insights. Compared to other European jurisdictions, Ukraine displays a unique blend of influences, oscillating between strict judicial control and deference to administrative discretion. Some European jurisdictions lean towards greater deference to administrative decisions, while others favor more intensive judicial scrutiny. Ukraine's approach has been increasingly leaning towards the latter.

Impact Assessment. On the positive side, judicial control has enhanced transparency, accountability, and the rule of law within public administration bodies. It has also bolstered public trust in administrative processes [3]. On the downside, there are concerns about potential judicial overreach, which could stifle administrative efficiency and innovation. Some administrative bodies have exhibited hesitancy in decision-making due to fears of potential litigation.

Future Trajectory. The trend of increased judicial oversight appears set to continue, especially as public awareness and demand for accountability grow. The legal landscape might witness reforms, further clarifying the scope of administrative discretion and judicial oversight[4].

Recommendations Embraced. Some administrative bodies have already begun implementing procedural reforms to ensure their decisions are both legally robust and transparent [5]. This includes increased public consultations and clearer documentation of decision-making processes.

Stakeholder Engagement. Dialogues between the judiciary, public administrators, and other stakeholders have intensified, leading to a better understanding of roles and responsibilities.

Public awareness campaigns have improved general knowledge about administrative rights and the role of the judiciary in safeguarding these rights.

In conclusion, the results underscore the pivotal role of administrative courts in shaping the behavior and decisions of public administration bodies [6]. While the influence has largely been positive in promoting transparency, fairness, and the rule of law, it is essential to strike a balance to ensure

that the administrative machinery operates efficiently without undue fear of judicial repercussions.

CONCLUSION

The dynamics between administrative courts and public administration bodies have undergone a marked transformation in recent years. This change can be attributed to the escalating role of judicial control in scrutinizing and influencing administrative decisions.

The central theme arising from this analysis is the delicate balance between administrative autonomy and judicial oversight. While the judicial control ensures that the rule of law prevails and decisions made by administrative bodies are fair and transparent, there's a pressing need to ensure that this oversight doesn't become an impediment to efficient administration.

The intensified scrutiny by administrative courts has undeniably led to enhanced accountability within public administration bodies. The ever-present possibility of judicial review compels administrative bodies to be meticulous in their decision-making processes, ensuring that actions taken are both justifiable and within the bounds of the law.

One of the undeniable successes of this increased judicial influence has been the bolstered protection of individual rights. By offering a recourse to those who feel wronged by administrative decisions, the system ensures that public administration bodies remain cognizant of the rights and interests of individuals.

As the concept of administrative discretion becomes more refined through judicial interventions, public administration bodies now have clearer guidelines on how this discretion can be exercised. This clarity, in turn, aids in more consistent and transparent decision-making.

In wrapping up, the burgeoning influence of judicial control of administrative courts on public administration bodies highlights the intricate interplay between the judiciary and administrative entities. While the growth in influence is indicative of a more accountable and transparent administrative system, both entities must collaborate to ensure that this relationship remains constructive and beneficial for governance and society at large.

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ЗРОСТАННЯ ВПЛИВУ СУДОВОГО КОНТРОЛЮ АДМІНІСТРАТИВНИХ СУДІВ НА ОРГАНИ ПУБЛІЧНОЇ АДМІНІСТРАЦІЇ

Вступ. У міру того, як країни просуваються до посилення державного управління, роль адміністративних судів у нагляді за діями органів державного управління стає все більш помітною. Баланс між адміністративним розсудом та його судовим наглядом представляє як виклик, так і можливість для посилення громадської довіри та дотримання верховенства права.

Мета дослідження – проаналізувати зростаючий вплив судового контролю з боку адміністративних судів на органи державного управління, з особливим акцентом на Україні. Мета полягає в тому, щоб зрозуміти нюанси, неоднозначності та наслідки цих відносин, що розвиваються, у світлі європейських стандартів, національного законодавства та практичних реалій.

Результати. Визначені рамки адміністративним судом, що надає державним органам можливості прийняття рішень. Визначення неясностей в українській правовій доктрині, зокрема розмиті межі між дискреційними повноваженнями та нечіткими правовими концепціями. Стандарти Ради Європи та прецедентне право Європейського суду з прав людини (ЄСПЛ), які встановлюють орієнтири для здійснення та контролю дискреційних повноважень. Різні підходи до судового контролю в державах-членах ЄС із помітними відмінностями між німецькою та французькою правовими традиціями. Зростаюча тенденція, коли адміністративні суди посилюють контроль за дискреційними повноваженнями, що підживлюється необхідністю підтримувати основні права та демократичні принципи.

Висновки. Посилення ролі адміністративних судів у перегляді дії органів державного управління відображає рух до більш прозорого, підзвітного та правового управління. Незважаючи на те, що проблеми залишаються, особливо щодо розмежування свободи дії на власний розсуд від неоднозначних юридичних термінів, траєкторія вказує на майбутнє, де адміністративні дії будуть ефективними та справедливими, керованими надійним судовим наглядом. Ця еволюція, заснована як на національних реаліях, так і на європейських стандартах, свідчить про дозрівання демократичних інститутів і процесів.

Ключові слова: судовий контроль, адміністративні суди, органи державного управління, дискреційні повноваження, врядування, прозорість