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## THE INSTITUTE OF CONCILIATION IN ADMINISTRATIVE PROCEEDINGS

One of the main features of the rule of law is the right to access to justice and a fair trial. The Constitution of Ukraine stipulates that everyone is guaranteed the right to appeal against decisions, actions or omissions of public authorities, local authorities, officials and employees that is considered one of the main ways to protect the violated rights, freedoms and interests of individuals and legal entities in the relationship with public administration bodies. To ensure such protection in Ukraine, the system of administrative courts was established, moreover, the Code of Administrative Procedure [1] (hereinafter – CAP) was adopted, which entered into force on the 1st of September, 2005.

The acceptance of CAP Ukraine has led to the establishment of many innovations, among which the institute of conciliation is very important in the process of public disputes resolution, which became a novelty for the domestic legal system and administrative law doctrine. Thus, in Section 3, Part 1, Art. 157 CAP Ukraine it is stated that the proceedings in the administrative case can be closed due to the reconciliation of the parties. Reconciliation will be recognized as full or partial settlement of the matter on the basis of mutual concessions. In this case we can't identify conciliation with waiver of the plaintiff's administrative claim or recognition of administrative action by the defendant. The terms of conciliation in administrative proceedings are to be recorded in its decision to close the proceedings in connection with the reconciliation of the parties. [2, p. 49].

Reconciliation in administrative proceedings has dual substantive and procedural nature. On the one hand, the parties in the dispute are provided by the substantive law with the right to conclude an agreement of reconciliation and on the other – the procedural rules are established that allows to apply such opportunity into practice. Besides this, it should be noted that these characteristics of reconciliation are interrelated and cannot be separated from each other. Thus, the agreement of reconciliation itself does not incur any legal consequences without proper registration procedure that appears in approving the settlement by the court. In Part 3 of Art. 51 CAP Ukraine it is stated that the parties can reach reconciliation at any stage of the administrative process, which is the reason for the closing of the administrative case. Also it is clear that without the agreement that is submitted for approval by the court one cannot set the procedure of reconciliation.

Quite important is the fact that the state allows the parties of the conflict to resolve it in a way that takes into account the interests of each of them. It is known that, because of "classic" proceedings of the case, one of the parties of the conflict (and sometimes both) remains unsatisfied with the decision

made. This fact affects the efficiency of the judicial acts, because it is clear that in most cases the party will comply with the terms of the settlement which takes into account the interests of the plaintiff and the defendant, and also the rediscovered compromise of the dispute settlement.

I want to focus on the research of the compromise aspect of the mentioned legal institution. We agree with the opinion of D.L. Davydenko, who claims that "because of the psychological reasons a civil servant initially is afraid to take responsibility for the decision of an independent dispute resolution, and the reconciliation is impossible without it. There is legal complexity in the principle of civil servants which states that "everything is forbidden except what is expressly permitted". This obviously narrows the range of possible solutions of the dispute" [3]. Of course, on the one hand, the task of public authorities and their officials is to ensure the interests of the state and the public interests, that makes it difficult to compromise with the private interests (of the individuals and entities). State authority establishes the general requirements to conduct, the compliance with them is mandatory for the whole society, that's why changing the terms of their performance with respect to an individual may be interpreted as a factor that creates inequality among the liable parties. Quite often the illegal infringement on the part of authority is clear, but, because of bureaucracy that exists in the system of government, it is almost impossible for the official to resolve the dispute peacefully, because the officials don't have any initiative in making decisions that are necessary for reconciliation. Because of this and many other legislative issues, the reconciliation in resolving administrative disputes is not common in Ukraine.

Considering the above, the need for further improvements of the legal regulation of conciliation institute in the process of resolving public disputes becomes obvious, as the peaceful settlement of contentious relations is opening a wide range of opportunities for the parties of the conflict to satisfy their requirements, and also reduces the number of cases, that are under consideration in the courts, and respectively minimizes the burden on the judicial system of Ukraine.

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