

SCIENTIFIC ACTIVITIES OF A.S. VASILIEV

Summary

The article analyzes the scientific works of Professor A. Vasiliev, who had worked at the problems of administrative law and public administration theory in Odessa I. I. Mechnikov National University for more than forty years.

Key words: Professor A. Vasiliev, scientific way, administrative responsibility, management relations in administrative law.

A. Vasilyev lived in an era of tumultuous social change, when the role of law in society and the state constantly changed the opinion initially influenced by the transition from communist to socialist society, and later through the implementation of the policy of "perestroika" in the 80-ies, and with the development of Ukraine as an independent, democratic legal and social state.

In all these periods in legal science were made important discoveries. And if we recognize the existence of "continuity of knowledge" in legal science, the development of administrative law at any given historical period depends not only on the achieved level of production and social conditions, but also on previously accumulated stock of scientific truths produced a system of concepts and ideas that summarized previous experience and knowledge. After successfully build a new theory of administrative law can only carefully keeping it real, valuable, and so that paid off in old theoretical concepts.

In this sense interesting is the PhD thesis of A. Vasiliev "Administrative responsibility of officials farms", which was successfully defended in 1971 at Odessa State University named after II Mechnikov. It would seem that collective farms (the farms) as the dominant form of agricultural business in Soviet times, have lost their meaning for the modern legal system of Ukraine. In this connection, we could talk about the loss of relevance of the thesis for the modern administrative law. But the

scientific activity and its results as theses or monographs and so different from any instructions and practical recommendations are temporary and momentary effect, containing recommendations for the future of a generalized nature. Indeed as a form of collective management in rural areas have disappeared from the national legal system, in their place came the agricultural cooperatives and farms. With the changing forms of economic activity in rural areas in the past left and use the term "official of the farm," but nowhere were persons who are, firstly, the right to act on behalf of agricultural cooperative or farm and, secondly, to represent them in dealings with public authorities and local governments, international organizations, corporations and individuals. Therefore, changing forms of economic activity in rural areas, has not solved the problem existing today to administrative liability of board members and chairman of the cooperative agricultural farm.

In his Ph.D. thesis Anatoly Semenovich raised a number of issues that are under discussion today in the scientific community and are not resolved at the legislative level. First, this ratio concepts of "official" and "officer". Was there a need or a broader interpretation of the concept "officer", which traditionally had in administrative law (this approach at the time used the criminal law), or a clear distinction between official who sells exclusively public authority and officer which implements organizational and administrative or administrative-economic duties in public institutions and entities of private law. We would like to note that today in the Code of Ukraine on Administrative Offenses (hereinafter CAO), the term "officials". However, the legislator tried to expand the meaning of the term, defining officer in Art. 12 CAO as the person in whose duties include implementation or security regulations established by current legislation in the relevant field of public life. But this approach has a negative impact, both at the administrative responsibility of the features of special subjects, among them as separate species should be allocated to officers and employees and the quality of administrative and legal regulation of their responsibility, because the article of the CAO is missing individual approach to responsibility of officials of state and local governments, officials of government agencies and legal entities of private law.

The second question that was raised A. Vasiliev in his thesis, and which has its relevance today, is the need to study subjects of administrative responsibility, that the definition of criteria for classification and mapping legislatively specifics of their involvement in the administration. These issues are resolved today in science and administrative law at the legislative level. Moreover, the idea of Anatoly Semenovich entered its development not only in the works of his students – O.I. Mikolenko, V.A. Prodayevycha [1; 2; 3], but also in the works of students of his students – O.V. Doolina, M.R. Syrotyaka, A.V. Stukalenko [4; 5; 6].

For example, surprised by the fact that today the term "an administrative responsibility" is widely used by scientists in academic papers, theses, books to explain or clarify concepts or other legal phenomena, but at the same time, he has not acquired a particular meaning. So commonplace in many complex scientific identification work was "the subject of administrative responsibility" and "the subject of an administrative offense." Generally, there are three modern approaches to value these concepts. The first is that the subject of administrative responsibility is not always is also the subject of an administrative offense, because the subject of an administrative offense can only be a natural person and the subject of the administration - individuals and legal entities. The second approach is that "an administrative offense" is broader in meaning than the term "subject of administrative responsibility," for a person who committed an administrative offense, under certain circumstances, may not be brought to administrative responsibility. The third approach is the concept of "an administrative responsibility" combines two components, one of which is mandatory - "an administrative offense", and the second is optional - "subject, which brought to administrative responsibility. " This third approach to value the subject of an administrative offense and administrative responsibility supported entity A. Vasiliev and tried to pay attention to it his students. According to recent studies, which were performed at the Department of Administrative and Economic Law, it was proposed to characterize the subject of an administrative offense allocate general and special features that characterize it, and when describing the business administration - general and special features. However, common features of both entities are the same, so

closely linked to the administrative notion of administrative tort. Thus, the signs of the subject of administrative responsibility in general can be divided into three groups - general, special and particular, and among the structural elements of the subject of administrative responsibility to allocate general, special and particular subjects. In addition, features that characterize a particular subject of administrative responsibility may, on the one hand, to influence the procedure itself bring the person to justice and, on the other, influence the type, size or type of administrative sanction measure of influence provided by applicable law.

Thus, we can say that today the views expressed Anatoly Semenovich back in 1971, continue their development in the works of his students and employees of the Department of Administrative and Economic Law Odessa University.

It noted that the issues of administrative responsibility is one of the main research school of administrative law named after A. Vasiliev. It Anatoly S. laid the first brick in the foundation of scientific research administrative responsibility at the Odessa National University I.I. Mechnikov. A significant contribution to the development of this line of research in the Odessa University did E.V. Dodin, who from 1975 to 1980 headed the department of criminology, criminal law and procedure Odessa State University named after I.I. Mechnikov (Department provided reading objects not only forensic but also administrative cycle), and from 1990 to 1997 under the direction of A. Vasiliev served as Professor of Administrative Law Faculty of Odessa State University named after I.I. Mechnikov. Working together under one roof two schools of administrative law, which led prof. A. Vasiliev and Professor. E.V. Dodin positively reflected not only in the quality of students and young scientists but also contributed to the mutual enrichment of new ideas and concepts, including on ways and development in our state institute of administrative responsibility.

In 1989, the Institute of State and Law V.M. Koretsky NAN of Ukraine Anatoliy S. defended his doctoral thesis on "Problems of legal regulation of organization and decision-making in public enterprises (associations)." Thesis is interesting because in the Soviet era administrative law considered and determined as "administrative law", that industry that regulates the procedure for the formation and

functioning of the public administration, which attributed not only executive power but also public institutions and administrations businesses. Anatoly Semenovich drew attention to the fact that management relations are mainly governed substantive administrative law and smears remain undeveloped procedural (procedural) rules of administrative law. For subjects of public administration was assigned to a large range of powers, including the special place occupied by the authority to make management decisions in the area of jurisdiction of the subject of public relations. But the Soviet legislation does not regulate the process of preparing a management decision, the procedure of passing in different situations and organizational features of its implementation. Such substantial gaps in administrative law to appear in general negatively on the quality of public administration entities.

Today, the integration of Ukraine into the international community and the role of administrative-legal regulation of the rights and freedoms of man and citizen, there was a problem clarify the subject of administrative law. Different approaches scientists who are trying to suggest criteria for the classification of public relations, administrative law governing very different and contradictory in nature. In addition, there is a definite bias toward exaggerating the importance of "service" relationship with simultaneous "devaluation" value management relations in administrative law.

From the standpoint of today, Anatoly Semenovich doctoral thesis touches a number of problems that remain relevant today. By the way most of the ideas raised in the paper was developed in the works of his students – P.P. Bilyk and V.O. Orlova [7; 8].

First, as already noted, Anatoly Semenovich draws attention to the need for legal regulation of administrative procedural (procedural) rules of administrative law. The basic principle of legality in the implementation of activities of state and local governments can be described as a thesis - "allowed only what is written in the law." This raises an interesting situation - Authorities entitled to make a management decision that is written in the law, but it uses when procedures are not appropriate in the current legislation fixing. It is a management decision can be considered legitimate? Unfortunately, today management (intra-organizational) activities of state

and local governments is without proper administrative and legal regulation. To solve this problem at one time were called job descriptions, but they went through simplification, that anticipated in the content management structure, formation of management levels fixed by each subject authority control (substantive rules) and not the procedure provided for preparation of management decisions, order decisions on specific issues (so-called decision-making algorithms, such as in emergencies) and the order of making and monitoring its implementation (procedural rules).

Second, due to the fact that the number of state-owned enterprises over the past twenty years in Ukraine has decreased dramatically, doctoral dissertation A. Vasiliev attracted attention in another aspect, namely whether the subjects of administrative law the administration of public institutions and enterprises? The attempts of some scholars to reduce administrative law only to the legal provision of executive bodies and their relationships with citizens arbitrarily impoverishes the subject of administrative law. Despite the desire of scientists, management relations in the subject of administrative law will always occupy a worthy place, as these relations are closely connected with the formation and activity of subjects of public administration. A public administration, as you know, can be implemented both in the activities of state executive, and outside of the executive authorities, for example, in public enterprises, institutions and organizations in the management of staff of the administration. Thus the administration of state enterprises, institutions and organizations are subjects of administrative law, and intra-organizational (managerial) relations arising in these organizations are subject to administrative law and subject to investigation by specialists not only the theory of management or labor law, and specialists and administrative law.

You can not avoid another work party A. Vasiliev. This is the textbook "Administrative Law Ukraine (Chapeau)," which was first published in 2001 [9]. Anatoly Semenovich one of the first scientists who proposed a new way to look at the subject of administrative law, abandoning the Soviet perception of administrative law as a management area. And today in the scientific community sustained discussion on

the subject of administrative law and public relations division of criteria that governs administrative law. For example, still not clearly established value management relations, which are the subject of administrative law, and other social relations are inherently non-management. Considering the fate management relations in the subject of administrative law, allows today to talk about the three concepts of administrative law, which are presented in the scientific literature: 1) administrative law - administrative law; 2) Administrative Law - service law; 3) Administrative Law - polistructured right. A. Vasilyeva can be attributed to the concept of third-administrative law. He is one of the first proposed to allocate administrative law in the subject of three public relations: a) relationship management (which is in the process of governance); b) law relationship (which is in the process of ensuring public order law enforcement agencies); c) law-providing relationship (consisting in ensuring the implementation of the state apparatus subjective rights and interests in relations with state authorities). Thus, claimed A. Vasilyev, the subject of administrative law is a set of interrelated and relatively homogeneous social relations arising in the field of foreign and intra-organizational management, law enforcement and law-providing the state. This characteristic of the object of administrative law, firstly, underlines that the range of public relations, which are governed by the law branch, quite varied. Along with management relations, in which directly implemented functions and powers of the management bodies of executive power, its subject also includes security and law-providing relations and foreign relations organizational arising in connection with certain public bodies and external organizations-powered functions and powers. It suggests, for example, some focus on the service or the second part of the repressive social relations. Second, this approach to the subject of administrative law at the same time shows that social relations are governed by administrative law, have internal integrity, and can be considered regarded as independent and self-sufficient branch of law in the law of Ukraine [9, p . 4-8].

Continuity in administrative law as a branch of law is not possible without continuity in science, which expresses the continuity of all knowledge of reality as a single process change internally ideas, principles, theories, concepts, methods of

scientific research. Thus, each higher step in the development of science of administrative law occurs based on the provisional or preliminary steps to the conservation of all valuable that has been accumulated earlier. The basis of the findings, which are now offered young scientists assigned, including the ideas that were expressed by scientists in the Soviet era and the 90s of last century. The ideas of Professor A. Vasiliev, which he expressed during his life, remain relevant for the modern science of administrative law and continue to develop in the writings of his ideological followers.

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