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Current state of activity of public governance bodies in the field of waste management

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Abstract

The article is dedicated to the study of the activities of public administration authorities in the field of legal waste handling. Normative legal acts are analyzed, scientific opinions on the important role of administrative authorities are presented, the role of administrative law in the researched sphere is emphasized. It is proved that the regulation of relations in the field of waste handling is impossible without a system of public administration entities, which in accordance with laws and other regulations, within their competence are designed to solve the tasks of the state. It is identified that in addition to the executive authorities, other subjects of administrative law that do not belong to public authorities can have certain administrative functions in the field of waste handling. They can be legal entities and collective entities that have the status of a legal entity. In some cases, regulations

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may provide for the involvement of individuals of private law to implement management functions in the field of waste handling

Keywords: entities, public administration, waste, activity, normative legal acts

Introduction

Regardless of the field of research, the activity of public administration authorities has always attracted the attention of researchers. This fully applies to the activities of public administration authorities in the field of waste handling. One of the reasons for this interest in the activities of public administration entities is that throughout the period of Ukrainian independence, the activities of public authorities have experienced constant changes. This led not only to changes in their competence, but also to their elimination and / or reorganization, which did not always have a positive effect on the regulation of public relations in the field of waste handling. In view of this, as well as taking into account the existing problems, the study of the current state of public administration authorities is important from both theoretical and practical points of view, which determines the relevance of this article.

The scientific and theoretical basis of the study were the works of legal scientists of various branches of law, in particular: V. Andreytseva, L. Vasylenko, N. Kobetska, V. Kostytsky, M. Krasnova, N. Malysheva, V. Nosik, K. Ryabets, A. Oskirko, O. Ulyutina, Y. Shemshuchenko and other scientists, who in their works considered the activities of public authorities in the field of waste handling.

Results and Discussion

Regulation of relations in the field of waste handling is impossible without the subjects of public administration, which, in

accordance with regulations, within their competence are designed to solve the tasks of the state. In order to determine the composition of the system of public administration entities, to clarify the competence (functional powers) to perform the relevant functions in the field of waste handling, the regulations were analyzed.

According to Art. 75 of the Constitution of Ukraine, the only body of legislative power in Ukraine is the Parliament – the Verkhovna Rada of Ukraine, which is authorized to exercise parliamentary control within the limits set by the Constitution and laws of Ukraine. The Verkhovna Rada has a Committee on Environmental Policy and Nature Management. The importance of the social significance of the issue of waste handling is evidenced by the fact that the Committee has a subcommittee on state policy in the field of waste handling.

In accordance with the provisions of the Constitution of Ukraine, the President of Ukraine is the head of state and acts on its behalf. On the basis of and in pursuance of the Constitution and laws of Ukraine, the President issues decrees and orders that are binding on the territory of Ukraine. The President is the Chairman of the National Security and Defense Council of Ukraine, which coordinates and controls the activities of executive bodies in the field of national security and defense, forms its personnel [1].

Despite the fact that the President of Ukraine does not belong to the executive

branch, the Constitution of Ukraine imposes on the President of Ukraine certain powers of the subject of executive power. The post (position) of the President of Ukraine belongs to the system of executive power purely functionally, or more precisely – competently, so through a certain amount of his powers (competencies). But it is not referred to it structurally, as an independent component of the system of executive bodies [2].

The Cabinet of Ministers of Ukraine plays one of the leading roles in the field of waste handling. Art. 18 of the Law of Ukraine “On Waste” of 05.03.1998 No 187/98-VR, determines the competence of the Cabinet of Ministers of Ukraine in the field of waste handling [3].

According to the Regulation on the Ministry of Environmental Protection and Natural Resources of Ukraine, the Ministry of Environment is the main body in the system of central executive bodies, which ensures the formation of state policy in the field of waste handling [4]. Direct implementation of state tasks in the field of waste handling is entrusted to the State Ecological Inspectorate of Ukraine, which within the powers provided by law, carries out state supervision (control) over compliance with legislation, in particular, on waste handling [5].

Despite the fact that relations in the field of different types of waste are regulated by almost identical legislation, there are certain differences between different types of waste, which are defined by the Law of Ukraine “On Waste”. This makes some adjustments to the activities of public administration entities in the field of waste handling. Thus, the Ministry of Development of Communities and Territories of Ukraine is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy in

the field of household waste handling [6].

However, according to the Regulations on the State Inspectorate of Architecture and Urban Planning of Ukraine, which is the central executive body whose activities are directed and coordinated by the Cabinet of Ministers through the Minister of Communities and Territories [7], and the Regulations on interregional territorial bodies of the State Urban Planning Inspectorate bodies, the mentioned authorities unlike the Ministry of Development of Communities and Territories of Ukraine [8], are not authorized to exercise state control in the field of household waste handling.

This function is entrusted to local authorities – local state administrations and executive bodies of village, settlement, city councils. The powers of these bodies in the field of waste handling are regulated by the norms of the Laws of Ukraine “On Local State Administrations” of April 9, 1999, No 586-XIV [9] and “On local self-government in Ukraine” on May 21, 1997 No 280/97-VR [10]. Thus, local authorities are part of the overall system of public administration in the field of waste handling.

The body of general state control in the field of radioactive waste handling is the Ministry of Energy of Ukraine [11], which is the main body in the system of central executive bodies, which ensures the formation and implementation of state policy in the fuel and energy sector of the country. State management in the field of radioactive waste handling at the stage of their long-term storage and disposal is carried out by the State Agency of Ukraine on Exclusion Zone Management [12].

Certain functional powers in the field of waste handling are assigned to the State Service of Ukraine for Food Safety and Consumer

Protection [13], which carries out state veterinary and sanitary control over the collection, disposal and destruction of dead animals and animal waste, as well as materials and waste that may create a danger to the life and health of the population (except for measures related to the implementation of health surveillance (epidemiological surveillance (supervision), as well as in addition to the functions of radiation control of workplaces and radiation doses of workers). This also applies to the State Service of Ukraine for Geodesy, Cartography and Cadaster [14], which organizes and carries out state supervision (control) to prevent land owners and users of land to damage by contamination with chemical and radioactive substances and wastewater, industrial, household waste and other pollution.

The field of waste handling involves compliance with state sanitary rules and regulations. According to the Regulation on the Ministry of Health of Ukraine, the Ministry of Health [15] ensures the formation and implementation of state policy in the areas of sanitary and epidemiological well-being of the population.

Art. 1 of the Law of Ukraine "On ensuring the sanitary and epidemiological well-being of the population" from 24.02.1994 No 4004-XII [16] determines that the sanitary and epidemic well-being of the population is the standing of health of the population and the environment of human life, in which morbidity rates are at a stable level for the area, living conditions are favorable for the population, and environmental vital factors are within the limits set by sanitary norms.

For a long time, the state sanitary and epidemiological surveillance of populated areas was carried out by the State Sanitary and

Epidemiological Service of Ukraine, but the system of the State Sanitary and Epidemiological Service of Ukraine was reorganized by establishing the State Service of Ukraine on Food Safety and Consumer Protection [13].

It should be noted that when establishing the State Sanitary and Epidemiological Service of Ukraine in 2013, all district, city, district in cities, regional, Kyiv and Sevastopol city, Crimean Republican sanitary and epidemiological stations, as well as the Central Sanitary and Epidemiological Station of Ukraine were liquidated without succession. According to the statutes, all liquidated SES were health care institutions. Therefore, during their liquidation, Part 3 of Art. 49 of the Constitution of Ukraine [1] (the existing network of such institutions cannot be reduced). The issue of the absence of the State Sanitary and Epidemiological Service is especially acute, the country and society feel it now, when the coronavirus is rampant in the country.

In addition to the executive authorities, public entities in the field of waste handling, for example, legal entities of public law should be included. For example, the Ukrainian Research Institute of Environmental Problems is one of the leading scientific organizations in the system of environmental protection of Ukraine and is subordinated to the Ministry of Environmental Protection and Natural Resources of Ukraine, organizes work on the issues of statutory direction [17], is created for the purpose of scientific support of the state policy of Ukraine in the field of environmental protection, use of natural resources, ecological safety. One of the activities of the institute is the development of systems and methods of industrial and solid waste handling [18].

In some cases, regulations may provide

for the involvement of individuals of private law to implement management functions in the field of waste handling. This is provided for in Part 2 of Art. 36 of the Law of Ukraine "On Environmental Protection" of 25.06.1991 No 1264-XII [19], which provides for the participation of public inspectors in environmental protection.

At the same time, it is necessary to mention the institution of delegation of powers, the content of which is the right of public authorities and local governments to delegate part of their powers to other entities of public and private law.

Taking into account the above considerations, it can be concluded that the system of public administration in the field of waste handling is carried out by a wide range of entities, from public authorities to individuals. The affiliation of their activities to "management activities" is due to the fact that the latter act in the interests of society, pursuing the goal of satisfying the public interest.

Conclusions

Thus, drawing a general conclusion from the above, it can be noted that in the field of waste handling, significant number of public and private law entities are involved, the purpose of which is to meet the interests of the state and society. Today, taking into account the provisions of current regulations, the system of public administration authorities in the field of waste handling, according to the existing approach in the scientific literature it can be formulated as follows: Bodies of general competence (public administration) are: the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers Of Ukraine, the National Security and Defense Council of Ukraine, local state administrations, executive bodies of village,

settlement, city councils within the limits of delegated powers.

Along with the entities of general competence involved in the implementation of public administration, certain management functions in the field of waste handling are performed by sectoral bodies. These are: the Ministry of Development of Communities and Territories of Ukraine, the Ministry of Health of Ukraine, the Ministry of Energy of Ukraine, the State Agency of Ukraine on Exclusion Zone Management, the State Service of Ukraine on Food Safety and Consumer Protection, the State Service of Ukraine for Geodesy, Cartography and Cadastre.

The peculiarity of these bodies is that they perform sectoral functions of public administration, in accordance of their powers they perform only certain functions in the field of waste handling, which, unlike the entities of special competence, for the first, are endowed only with certain functional powers, for the second, in the field of waste handling, their powers are limited to certain tasks.

The bodies of special competence in the field of public waste handling are: the Ministry of Ecology and Natural Resources of Ukraine and the State Ecological Inspectorate of Ukraine. The element of the system of entities of public administration are structural ones of these bodies and subordinate legal entities of public law.

The performed analysis of the system and activities of public administration entities gives grounds to state that public administration entities in the field of household waste handling are bodies of general, sectoral (intersectoral) and special competence, which are endowed with different competence to perform state tasks.

Thus, taking into account the above, it can be concluded that in accordance with the

powers defined by regulations, public administration in the field of waste handling is carried out by a wide range of entities: public authorities, local governments, public law en-

ties and certain individuals. In general, the issue of public administration in the field of waste handling remains relevant and debatable and requires additional detailed research.

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Сучасний стан діяльності органів публічного управління у сфері поводження з відходами

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Анотація

Стаття присвячена дослідженню діяльності органів публічного управління у сфері правового поводження з відходами. Аналізуються нормативно-правові акти, наводяться наукові думки щодо важливої ролі органів управлінської діяльності, підкреслюється роль адміністративного права у досліджуваній сфері. Доведено, регулювання відносин у сфері поводження з відходами неможливе без системи суб'єктів публічного управління, які відповідно до законів та інших підзаконних нормативно-правових актів, в межах своєї компетенції покликані вирішувати поставлені перед ними завдання держави. Встановлено, що крім органів виконавчої влади, окремими управлінськими функціями у сфері поводження з різними видами відходів можуть бути наділені й інші суб'єкти адміністративного права, які не відносяться до органів державної влади. Ними можуть бути юридичні особи та колективні суб'єкти, які наділені статусом юридичної особи. В окремих випадках нормативними актами може бути передбачено залучення фізичних осіб приватного права для реалізації управлінських функцій у сфері поводження з відходами.

Ключові слова: суб'єкти, публічне управління, відходи, діяльність, нормативні акти
