Foreign experience of compensation of damage caused by a subject of public administration to a private person and the possibility of its use in Ukraine

La experiencia extranjera en materia de indemnización de los daños causados por un sujeto de la administración pública a un particular y la posibilidad de su utilización en Ucrania

Experiência estrangeira de compensação de danos causados por um sujeito da administração pública a uma pessoa privada e a possibilidade de seu uso na Ucrânia

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Abstract

This article carries out an analysis and a comparison of successful experience of foreign countries on compensation of the damage caused by the subject of public administration to the private person, and possibilities of its use in Ukraine are defined. It is pointed out that in order to achieve the effective functioning of the public administration system, which would respect all fundamental rights, freedoms and legitimate interests of individuals, Ukraine needs to pay attention to the state of affairs in this area in Western Europe and North America. Emphasis is placed on the fact that only a state that properly complies with the legislation related to the protection of individuals, in the performance of public administration tasks and responsibilities of public administration, can create and maintain a high level of economic development and social welfare. In particular, this applies to the legal norms of national and international law, which in one way or another regulate the procedures for compensation (or compensation) to individuals by the state (its representative bodies), in the case when the first damage or damage from the state is related to public administration. The author's definitions of the terms "public administration", "compensation" and "methods of compensation" are offered. In addition, the systems of functioning of such a state and public institution as a mechanism of state compensation for damage caused to individuals are studied and compared, and the impact of the quality of functioning of such a mechanism on the overall efficiency of the state system is analyzed.

Keywords: Administrative activity, compensation of losses, damage compensation, foreign experience, legal norms, legal regulation, public administration.

Resumen

En este artículo se realiza un análisis y una comparación de las experiencias exitosas de países extranjeros en materia de indemnización de los daños causados por el sujeto de la administración pública a la persona privada, y se definen las posibilidades de su utilización en Ucrania. Se señala que para lograr un funcionamiento eficaz del sistema de administración pública, que respete todos los derechos fundamentales, las libertades y los intereses legítimos de los particulares, Ucrania debe prestar atención al estado de la cuestión en este ámbito en Europa Occidental y América del Norte. Se hace hincapié en el hecho de que sólo un Estado que cumple adecuadamente con la legislación relacionada con la protección de los individuos, en el desempeño de las tareas y responsabilidades de la administración pública, puede crear y mantener un alto nivel de desarrollo económico y bienestar social. En particular, esto se aplica a las normas jurídicas del derecho nacional e internacional, que de una manera u otra regulan los procedimientos de indemnización (o compensación) a los particulares por parte del estado (sus órganos representativos), en el caso de que el primer daño o perjuicio del estado esté relacionado con la administración pública. El autor ofrece definiciones de los términos "administración pública", "indemnización" y "métodos de indemnización". Además, se estudian y comparan los sistemas de funcionamiento de dicha institución estatal y pública como mecanismo de compensación estatal por los daños causados a los particulares, y se analiza el impacto de la calidad del funcionamiento de dicho mecanismo en la eficiencia global del sistema estatal.

Palabras clave: Actividad administrativa, compensación de pérdidas, compensación de daños, experiencia extranjera, normas legales, regulación legal, administración pública.

Resumo

Este artigo realiza uma análise e uma comparação da experiência bem-sucedida de países estrangeiros na compensação dos danos causados pelo sujeito da administração pública à pessoa privada, e são definidas as possibilidades de seu uso na Ucrânia. É destacado que, para alcançar o funcionamento eficaz do sistema de administração pública, que respeitaria todos os direitos fundamentais, liberdades e interesses legítimos dos

indivíduos, a Ucrânia precisa prestar atenção à situação nesta área na Europa Ocidental e na América do Norte. A ênfase é dada ao fato de que somente um Estado que cumpre adequadamente a legislação relacionada à proteção dos indivíduos, no desempenho das tarefas e responsabilidades da administração pública, pode criar e manter um alto nível de desenvolvimento econômico e bem-estar social. Em particular, isto se aplica às normas legais do direito nacional e internacional, que de uma forma ou de outra regulam os procedimentos de indenização (ou compensação) aos indivíduos pelo Estado (seus órgãos representativos), no caso em que o primeiro dano ou prejuízo do Estado esteja relacionado à administração pública. As definições do autor dos termos "administração pública", "indenização" e "métodos de indenização" são oferecidas. Além disso, são estudados e comparados os sistemas de funcionamento de tal estado e instituição pública como um mecanismo de compensação estatal por danos causados a indivíduos, e é analisado o impacto da qualidade de funcionamento de tal mecanismo sobre a eficiência geral do sistema estatal.

Palavras-chave: Atividade administrativa, compensação de perdas, compensação de danos, experiência estrangeira, normas legais, regulamentação legal, administração pública.

I. Introduction

The problem of compensation for damage has always existed, it exists now and, unfortunately, will not leave us in the future. At the same time, compensation for damage can relate to a wide variety of aspects of our life (compensation for damage as a result of an environmental disaster; rehabilitation; provision of various kinds of benefits to persons with a special social and legal status; compensation for moral damage; compensation payments to employees of an enterprise, institution, organization). The issue of social security is becoming especially relevant regarding the expected support from the state in the current conditions, when millions of people in the context of the COVID-19 pandemic that started in March 2020 demand support from the state.[1]

In this moment of rapid changes and recent events in Ukraine and in the world, problematic issues, which in one way or another are related to the activities of state bodies in the field of public administration, are becoming increasingly important. The importance of studying this issue is primarily due to the fact that public administration, which is carried out by public authorities, is a phenomenon that relates to almost every subject of public relations. As a guarantee of the right to justice of a person harmed by an act of a public authority, administrative litigation is an extremely important institution in a democratic state.[2]

1 Anton G. Grunin & Olga O. Egorova. *Influence of Synergistic Approaches on Compensation for Damage in a Modern Welfare State*. LEGAL THOUGHT 120. 2020. Pg. 51-55. https://doi.org/10.47905/MATGIP.2020.120.4.004

2 Andreea Teodora Al-Floarei. JUDICIAL CONTROL OVER THE PUBLIC ADMINISTRATION: NOTION, LEGAL BASIS, ESSENCE. Anuarul Institutului De Cercetări Socio-Umane C.S. Nicolăescu-Plopșor. Available at: https://www.ceeol.com/search/article-detail?id=923526

According to N. P. Kamenskaya: "The modern domestic administrative-legal doctrine directs the activity of public administration authorities to effective interaction with the subjects that are not endowed with authority. One of the key priorities of such multidimensional communication is to ensure the full implementation and guarantee the effective protection of the rights and legal interests of individuals and legal entities as it's declared at the legislative level".[3]

Thus, the quality of public administration carried out by government agencies and departments has a direct impact on the overall level of coherence and well-being in society. This can be explained by the fact that with proper and careful dealings of public authorities with each individual private entity, providing reliable protection of the rights, freedoms and interests of this entity, it will be able to function for the benefit of society and the state, and demonstrate maximum efficiency. And as you know, the improvement of national legislation, including on the subject of this article, must be carried out taking into account foreign experience. However, a particular difficulty in comparing is that specific claim compensation systems are compared with lump sum adjustment approaches; for example, claims are settled under German tort law as precisely as possible according to the economic damage actually incurred. In Spain, however, the loss compensation is measured overall as a lump sum using compensation tables, whereby the compensation amount is only a rough approximation of the individual claim[4].

II. Methodology, status and objective of study

The research is based on the use of appropriate scientific methods, the application of which makes it possible to achieve the purpose, to justify the conclusions scientifically, and to propose appropriate ways to solve the problem under study. The methodological basis includes a set of general and specific methods of scientific cognition. The systematic approach as a general scientific method has allowed to define the problematic issues related to the using experience of foreign countries on compensation of the damage caused by the subject of public administration to

3 N. P. Kamenska. *Acts of Realization of the Right to Appeal to Public Administration: Functional and Legal Analysis*. ENTREPRENEURSHIP, ECONOMY AND LAW 2. 2017. Pg. 131-135.

4 L. A. Vismara. *Comparison of Compensation for Personal Injury Claims in Europe*. GENRE. January 2014. Available at https://www.genre.com/knowledge/publications/claimsfocus-pc-201309-en.html

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Universidad Cooperativa de Colombia

the private person. The logical and semantic methods within this study provided an opportunity to consider the essence of the concepts of "public administration", "compensation" and "methods of compensation". Data collection was carried out through two techniques: Document analysis and observations, followed by data reduction, data display, and conclusion. All of these methods are applied in interdependence and interconnection.

It should be noted that due to the high level of relevance of issues related to public administration, including procedures for proper compensation by the state for the damage caused by its bodies to individuals, a large number of scientific papers and publications have been devoted to solve them. It is noted that they were written in different periods of time and were kind of a reflection of the socio-political and socio-economic situations that occurred at the time of their writing. The most authoritative of these publications are the works of scientists such as: O. M. Bandurka, I. L. Borodin, M. A. Boiaryntseva, A. M. Kolodii, V. V. Konoplyov, O. V. Negodchenko, V. P. Petkov, P. M. Rabinovych and others.

The Ukrainian experience of adapting national legislation to international legislation indicates that the process of developing the legal framework for adaptation has become quite lengthy. The effectiveness of the process of adaptation of national legislation depends on how the regulatory framework from which adaptation will be carried out is formed. The international legal standards for the protection of the rights of an aggrieved person consist of a combination of such components as: 1. Recognition and implementation of fundamental human rights and freedoms in all spheres of life; 2. Observance of human rights and freedoms without any discriminatory restrictions; 3. State responsibility for violation of human rights and freedoms; 4. Continuous improvement of the legal mechanism for protecting rights; 5. The introduction of effective state control to restore violated rights.[5]

III. Results and discussion

The social state under the rule of law is founded on the dignity of the human person and can not therefore be structured or operate based on ignorance of the rights of individuals. Subjecting legal procedures to the fundamental principles of law is the

5 Serhii Ablamskyi. *Ensuring Protection of the Rights of the Aggrieved Person in Criminal Proceedings through the Prism of Requirements of International Law Acts*. JOURNAL OF LEGAL, ETHICAL AND REGULATORY ISSUES 23. 2020. Available at: https://www.abacademies.org/articles/Ensuring-protection-of-the-rights-of-the-aggrieved-person-1544-0044-25-SI-540.pdf.

safest way to avoid failures or violations of rights that subsequently generate the state's obligation to assume responsibility and repair damages by means of compensation for damages, whether these are patrimonial or extra-patrimonial.[6]

The quality of public administration has always been related to the positive impact of the subject of such management (in this case, the state represented by its representative bodies) on the object of management (in our case, the object is private individuals). According to the theory of public administration, an individual is an object of public administration that has both positive and negative managerial influence of the subject of public administration. In this case, the individual is obliged to comply with the legal requirements of the subject of public administration.[7]

According to V. Kolpakov, administrative law is characterized by a significant number of private entities with different powers, status, structure and legal characteristics. Among the subjects of administrative law — individuals who are participants in administrative relations and whose legal status is characterized by a lack of power in the field of public administration, should be mentioned: Individuals — citizens of Ukraine, foreigners, stateless persons; individuals — entrepreneurs; legal entities of private ownership (enterprises, institutions, companies); public associations; trade unions; political parties; bodies of self-organization of the population; religious organizations, etc.[8]

French administrative scholars believe that public administration is an administrative activity of the subjects of public administration, carried out in order to satisfy the public interest. They negatively separate from public administration, firstly, legal activities aimed at satisfying private interests, and secondly — the legislative and judicial activities of the state.[9] The classic of German administrative law, O. Mayer, believed that public administration is the activity of subjects of public administration related to the performance of executive functions. At the same time, he separated from such activities the performance of political functions by the executive[10].

6 Andrea del Pilar Ramírez Rivas. *Tendencia actual de la responsabilidad estatal en procesos de privación injusta de la libertad proferidos por la Sección Tercera del Consejo de Estado en los años 2016 a 2017*. DIXI 30. July-December 2019. Pg. 1-16. https://doi.org/10.16925/2357-5891.2019.02.04.

7 F. Thompson *The New Public Management*. JOURNAL OF POLICY ANALYSIS AND MANAGEMENT 1. 1997. Pg. 165.

8 V. Kolpanov, O. Kuzmenko & I. Pastukh. COURSE OF ADMINISTRATIVE LAW OF UKRAINE. Yurinkom Inter. (2018).

9 *Le Droit Administratif*. Available at http://static.luiss.it/erasmuslaw/francia/amm_intro.htm.

10 Mayer Otto. *Deutsches Verwaltungsrecht*. BD 1. 1895. Available at: http://www.deutschestextarchiv.de/book/show/mayer_verwaltungsrecht01_1895/

V. Kuzmenko, Ukrainian legal scholar, notes that the main category of individual private persons, according to administrative law, are citizens of Ukraine. Citizens are the largest group of subjects of administrative and legal relations. The Constitution of Ukraine stipulates that rights and freedoms of men are the highest value. Recognition, observance and protection of human and civil rights and freedoms is the duty of the state. Every citizen of Ukraine has all the rights and freedoms on its territory and has equal responsibilities under the Constitution of Ukraine. These constitutional provisions are the starting point for the administrative and legal status of citizens, the content of which is a set of their rights, freedoms and responsibilities enshrined in administrative law in the field of public administration, as well as the establishment of citizens' responsibility to public authorities. This status of citizens of Ukraine is part of their general legal status, which is determined by the Constitution and laws of Ukraine, in particular the Law "On Ukrainian Citizenship" of 18.01.2001, international treaties and other legislation of Ukraine.[11]

In this aspect, it is necessary to cite the requirements of Article 56 of the Constitution of Ukraine, which provides that everyone shall have the right to compensation, at the expense of the state authorities or local self-government bodies, for material and moral damages caused by unlawful decisions, actions, or inactivity of state power, local self-government bodies, officials, or officers while exercising their powers.

Entities of public administration (state authorities) of Ukraine have the opportunity to build public relations among individuals, as well as between individuals and public authorities, but only if the three main groups of rights and freedoms of individuals are properly protected. Such groups (categories) include personal, political and socio-economic rights of individuals.

As U. Pastukh rightly notes, the ability to "satisfy their own personal needs" should be considered as personal rights and freedoms of individuals. The category of personal rights, according to the above scientist, includes: The right to dignity, the right to liberty and security of person, freedom of movement, the right to freely choose one's place of residence, the right to leave the territory of Ukraine freely; the right to secrecy of correspondence, telephone conversations, telegraph and other correspondence; the right to refute inaccurate information about oneself and one's family members, etc.[12]

11 On Ukrainian Citizenship: Law of Ukraine of 18.01.2001 № 2235-III. Information of the Verkhovna Rada of Ukraine. 2001. № 13. Article 65.

12 I. Grytsenko, R. Melnyk & A. Pukhtetska. GENERAL ADMINISTRATIVE LAW: A TEXTBOOK. Yurinkom Inter. (2015).

Moreover, the political rights and freedoms of individuals have the right to exist. This legal category includes the opportunity for citizens to participate in public administration, to realize their will to unite in political parties, public organizations and movements, to hold peaceful assemblies, mitings and demonstrations, and so on. At the same time, the socio-economic rights of citizens are those that can be realized through the use of administrative instruments. This includes ensuring the ability of individuals to do business, to realize their rights to work, leisure, social protection, a sufficient standard of living, and to obtain an adequate level of education and health. In addition to the rights mentioned above, which every individual in a country claiming the rule of law should have, every person also has certain responsibilities. These usually include requirements for individuals by the state and other individuals, which are to protect the independence and territorial integrity of Ukraine, respect for its state symbols, military service, without harming nature, cultural heritage.

Such requirements for individuals are compensation of damages caused by them, submission of annual declarations to the tax inspections at the place of residence on personal property and income for the previous year in the manner prescribed by law, as well as reporting on e-declaration according to anti-corruption legislative requirements, payment of taxes and fees.[13]

According to the position of the Ukrainian jurist Y. V. Grydasov, in order to achieve a positive state of ensuring the rights and legitimate interests of individuals, as well as real protection of their fundamental rights and freedoms during the processes related to the implementation of public administration, it is necessary to reform the domestic law in several directions. First of all, it is necessary to leave in the domestic administrative law the initial provisions formed in the early twentieth century, among which the main were the principles of the rule of law and the subordination of the rule of law; to reject the negative accumulations of the totalitarian era; to fill it with the provisions of public European and international legal sources. The scholar points out that only a creative combination of personal initiative of objects in respect of whom public administration is carried out, namely individuals and, at the same time, the effective activity of executive authorities and local governments, based on perfect laws with a fair system of justice, can provide reliable protection of the rights, freedoms and legitimate interests of individuals in public administration.

One of the elements of protection of private individuals in the public sphere is the procedure of demand and receipt by them of appropriate compensation of damage caused by public authorities during their public administration in the manner

13 A. Pasichnyk. ADMINISTRATIVE LEGAL PERSONALITY OF LEGAL ENTITIES OF PRIVATE LAW. Mriia-1. (2014).

prescribed by domestic law. According to Article 56 of the Constitution of Ukraine, everyone has the right to compensation, at the expense of the state authorities or local self-government bodies, for material and moral damages caused by unlawful decisions, actions, or inactivity of state power, local self-government bodies, officials, or officers while exercising their powers. The basis for compensation of damage caused by the public administration is any decisions, actions, omissions, committed both within the limits set by law and in excess of the powers granted to the subject of public administration, which (decisions, actions, omissions) have caused restrictions or loss of material or moral character regarding his/her rights, freedoms, interests[14].

According to V. Bevzenko, the extrajudicial (administrative) procedure for compensation provides for the relevant features. First, it is carried out on the basis of an administrative act that documents the decision on the content and features of compensation of damage, which is transferred to the administrator of the relevant budget. Secondly, the direct implementation of the administrative act through the transfer from the relevant budget of a certain amount to the person who was harmed. Thus, the administrative procedure for compensation of damage caused by public administration entities consists of two main stages, which are divided into certain phases and administrative actions: Receipt and transfer to the relevant administrator of budget funds of the administrative act which documents the decision on the content and features of compensation; and direct compensation by the administrator of the damage due to the transfer from the budget of a certain amount to the individual who was harmed[15].

Thus, the administrative procedure for compensation for damage caused by public administration entities consists of two main stages, which are divided into certain phases and administrative actions:[16]

1. Receipt and transfer to the relevant administrator of budget funds of the administrative act, which documents the decision on the content and features of compensation of damage;
2. Direct compensation by the administrator of the damage due to the transfer from the budget of the certain amount to the person who was harmed.

14 R. Golovenko, D. Kotliar & D. Slyzkonis. ACCESS TO PUBLIC INFORMATION: A GUIDE. TsPSA. (2014).

15 S. L. Vdovichenko. *A Separate Opinion of a Judge of the Constitutional Court of Ukraine Regarding the Resolution of the Constitutional Court of Ukraine of 21.05.2015 № 21-u*. 2015. Available at: http://zakon2.rada.gov.ua/laws/show/na21d710-15.

16 V. Galunko, P. Dikhtiievskyi & O. Kuzmenko. ADMINISTRATIVE LAW OF UKRAINE. FULL COURSE. OLDI-PLUS. (2018).

According to the provisions of Article 1173 of the Civil Code of Ukraine, damage inflicted to a physical or legal person as a result of illegal decisions, actions or inactivity of the state government, the governmental body of the Autonomous Republic of Crimea or the local self-government while implementing their authorities shall be indemnified by the state, the Autonomous Republic of Crimea or the local self-government body irrespective of the guilt of these bodies. Interpretation and further implementation of the commented article should be carried out in the context not only of other provisions of the Civil Code of Ukraine, but also of a number of constitutional provisions. These are, in particular, such provisions of the Basic Law of Ukraine:

- The responsibility of the state to the individual (Article 3);
- The duty of the state to ensure protection of rights of all property rights holders and economic operators (Article 13);
- The right of everyone to compensation, at the expense of the state authorities or local self-government bodies, for material and moral damages caused by unlawful decisions, actions, or inactivity of state power, local self-government bodies, officials, or officers while exercising their powers (Article 56). These provisions are supplemented by such provisions of the Constitution as the duty of the state to compensate the material and moral damages caused by the groundless conviction in the event of revocation of a court verdict as unjust (Article 62);
- The duty of the state to compensate for material or moral damage caused to individuals or legal entities by acts and actions deemed to be unconstitutional (Article 152).[17]

Article 22 of the Civil Code of Ukraine states that a private person "who incurred losses as a result of destruction or damaging things shall have a right to the indemnification therefore"[18]. Losses, according to the comments of Ukrainian jurists, are: Losses incurred by a person as a result of destroying or damaging things as well as expenses, which a person has incurred or must incur in order to restore its violated rights (real losses); incomes that a person could receive under ordinary circumstances if his/her right would have not been violated (the lost profit). Damages shall be indemnified in full unless any other extent of indemnification is provided by the agreement or the law. If a violating person receives incomes with this connection, the amount of the

17 Y. V. Zubchyk. SUBJECTS OF LEGAL RELATIONS: THEORETICAL INTERPRETATIONS. Krajina Mriy. (2013).

18 S. V. Magda. ENSURING THE RIGHTS, FREEDOMS AND IMPLEMENTATION OF DUTIES OF CITIZENS IN TERMS OF EMERGENCY ADMINISTRATIVE AND LEGAL REGIMES. Pravo. (2015).

lost profit to be indemnified to a person whose right was violated may not be less than incomes received by a violating person. Upon the request of a person who incurred the loss and in accordance of the circumstances of the case, the property damage may be indemnified in other way, in particular, in kind. For example, by transferring the thing of the same type and quality, repairing the damaged thing, etc.[19]

The conditions of administrative and civil liability of the state for the adoption of illegal acts by bodies (institutions and departments) of state power have a large number of characteristics that allow them to be classified as a separate tort, i.e. a separate category of compensation of damages. Domestic legislation, as well as the case law of Ukraine, emphasizes that the damage caused to an individual through a legal act, which was later considered illegal (invalid), shall be compensated from the state budget in the manner prescribed by law. It should be noted that this practice originates in part from the successful experience of developed Western European countries in this area, in particular, from the German legal system.

As R. S. Melnyk points out in this context, an example of the close connection of the Ukrainian administrative and legal system, and, with it, the sphere of domestic public administration, with the German model of administrative and legal regulation is also the fact that many of those terms, which we use today (rule of law, administrative act, administrative contract, administrative discretion, administrative coercion, etc.), came to us from Germany.

One example of the historically close connection between the domestic system of public administration and German administrative law is, according to experts, that the content of pre-revolutionary textbooks on administrative law almost completely reflected the content of the relevant German educational literature of the time. With the help of written and unwritten legal provisions, German administrative law system regulates, on the one hand, administrative activity, administrative procedures and the organization of the administration, and on the other — the relationships between public authorities and individuals, as well as the definition of the rights and duties of private persons in relation to public administration bodies. Thus, it should be emphasized that German administrative law system is built taking into account the task assigned to this branch of law in a legal and social state, and consists in a reliable and comprehensive legal regulation of public relations between individuals and public administration, which arise in the course of the functioning of the latter. Promoting the proper interaction of these processes is the main goal of the public administration system.[20]

19 N. P. Kamenska, *supra*, note 7.

20 R. S. Melnyk & V. M. Bevzenko. GENERAL ADMINISTRATIVE LAW: A TEXTBOOK. Vaite. (2014).

In the developed countries of North America and Western Europe, state intervention in the affairs of the society occurs in cases of violation of values and rationally defined institutions of the society (i.e. violation of rules, norms, mechanisms in the public sphere), so it occurs, as a rule, as necessary, since private individuals carefully monitor the observance of their interests by state bodies and prevent the interference of public authorities from the position of the state interests.

In countries where public administration is an integral part of public life, a wide range of public administration methods are currently being introduced, including strategic management and strategic planning, public management, policy analysis, priority programs, financial management, and public audit aimed to ensuring rights, freedoms and interests of individuals. The introduction of public administration as an institutional system of governance of a united society requires the search for new content and forms of interaction between individuals and community, community and society, society and public administration, public administration and state, institutions and institutes of state and human mechanism.

In the Republic of Albania, in the early existence of the state in 1912, the state administration has taken responsibility for the damage caused to citizens. More than civil liability, the state is trying to punish or prosecute against its employees for damages caused by the fault of the third. While the real legal regulation of this institution was introduced in Albania after the change from a communist to a pluralist regime after 1991. The principle of responsibility of the state administration against citizens or foreigners in Albania is provided in Article 44 of the Constitution, in Article 14 of the Administrative Procedure Code of 1999 and in Article 15 of the Administrative Procedure Code that was expected to enter into force on 29 May 2016. In their summary of the provisions, they listed the cases when the state takes administrative responsibility. However, this list is not exhaustive and there are cases in which any special law may add new variants of liability in the scope of its activity. Article 14 of the Constitution of the Republic of Albania provides that: "The public administration bodies and their employees are responsible for the damages that they cause to private people through: 1) Illegal decisions; 2) Unlawful refusal to take decisions; 3) Issuing inaccurate written information to private people, or due to any other case provided by law"[21].

As we can see from the study, the principle of legality is important, which is a fundamental legal category that is a criterion of the legal life of society and citizens. It is a complex political and legal phenomenon that reflects the legal nature of the organization of public life, the organic connection between law and power, law and

21 Rezarta Mataj. *The Compensation of Non-contractual Damages Caused by Administrative Bodies in Albania*. ACTA UNIVERSITATIS DANUBIUS 1. 2016. Pg. 106-117.

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Universidad Cooperativa de Colombia

the state. Legality has several dimensions: As a principle of state powers implementation (requirement of legislative consolidation of the competence of power structures, decision-making within the competence and on the basis of law, respect for the constitutional human rights and freedoms in the activity of state structures); as a principle of behavior of individuals in the field of law (a real opportunity for the subject of law to exercise the rights granted to him/her only in strict compliance with the duties assigned to him/her, the constitutional consolidation of the legal status of the individual, the ability to apply for judicial protection of his/her rights and the availability of effective means of legal responsibility); as a principle of constructing a system of normative acts (the hierarchy of this system, the compliance of laws and by-laws with the constitution of the state); as a mode of socio-political life (the requirement of exact and strict implementation of laws and by-laws based on them by all subjects of law), which determines the reality of written law and the degree of its implementation.[22]

The principle of legality in Ukraine belongs to the constitutional principles. Part Two of Article 6, Part Two of Article 19, Paragraph 12 of Part One of Article 92 of the Constitution of Ukraine[23] provide that bodies of state power and local self-government act only on the grounds, within the powers, and in the way determined by the Constitution and the laws of Ukraine. This means that only the law determines the powers, organization and procedure of public authorities and local self-government. These bodies operate in accordance with a regime under which they are allowed only what is provided by law. Considering the principle of legality as a principle of administrative procedure, it is necessary to take into account that in accordance with the Constitution of Ukraine only laws determine human rights, freedoms and main duties (Paragraph 1 of Part One of Article 92).

IV. Conclusions

Such a public-state phenomenon as the mechanism of compensation of damage to persons caused by public authorities in the course of their activities in public administration is regulated by national legislation, and should always act clearly and effectively, thereby protecting the rights, freedoms and legitimate interests of all individuals without exception. The prime examples of how Ukraine should build its own

22 O. F. Andriiko & V. M. Bevzenko. scientific and practical commentary on the draft law of ukraine "on administrative procedure". FOP Myshalov D. V. (2019). Pg. 45; Y. S. Shemshuchenko. large encyclopedic dictionary. Legal Thought. (2007). Pg. 274-275.

23 *Ibidem*.

mechanism of compensation of damage by state bodies is Germany, as well as other developed countries of Western Europe, which already have such a mechanism in a perfect state.

Given the importance of the international documents in the field of protection of the rights of the aggrieved person, it is advisable for the Ukrainian government: 1. To review national legislation in relation to its compliance with international principles of protection of the rights of aggrieved persons; 2. To adopt a law in which to normalize issues on redress (compensation) of harm caused by a crime for aggrieved persons; 3. To create a special fund for redress (compensation) of harm to aggrieved persons and establish the amount of funds to solve these problems.[24]

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24 Serhii Ablamskyi, *supra*, note 9.

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