



UDC: 342.591

[https://doi.org/10.32689/2617-2224-2020-2\(22\)-102-115](https://doi.org/10.32689/2617-2224-2020-2(22)-102-115)

**Kolesnyk Volodymyr Anatoliyovych**,  
Senior Lecturer, Department of Public Administration, PJSC “Higher Educational Institution “Interregional Academy of Personnel Management”, 03039 Kyiv, 2 Frometivska Str., tel. (095) 279 7117, e-mail: [geniykva@gmail.com](mailto:geniykva@gmail.com), <https://orcid.org/0000-0002-3395-9205>

**Колесник Володимир Анатолійович**,  
старший викладач кафедри публічного адміністрування ПАТ “Вищий навчальний заклад “Міжрегіональна Академія управління персоналом”, 03039 Київ, вул. Фрометівська, 2, тел. (095) 279 7117, e-mail: [geniykva@gmail.com](mailto:geniykva@gmail.com), <https://orcid.org/0000-0002-3395-9205>

**Колесник Владимир Анатольевич**,  
старший преподаватель кафедры публичного администрирования ЧАО “Высшее учебное заведение “Межрегиональная Академия управления персоналом”, 03039 Киев, ул. Фрометовская, 2, тел. (095) 279 7117, e-mail: [geniykva@gmail.com](mailto:geniykva@gmail.com), <https://orcid.org/0000-0002-3395-9205>

---

## SUBJECT OF THE AUTHORITY POWERS AS A PARTY OF THE PUBLIC-LEGAL DISPUTES: PUBLIC-ADMINISTRATIVE ASPECT

**Abstract.** The article deals with the problem of using the public-legal disputes as a possible mechanism for establishing, forming and exercising the powers of the public authorities. In particular, it refers to the notion of “subject of the authority powers” from the point of view of analyzing its institutional and status substantive characteristics as one of the parties to a public-legal dispute with a view to possible further application in the field of establishing, delineating and exercising competencies, and in the narrow sense of the powers of the public authorities.

The article provides a generalized description of the subject matter of the public-legal disputes. In particular, it concerns the status of the subjects of the authority powers, which is one of the main features of the issues of identifying, analyzing and studying the ways of resolving the public-legal disputes. The public-legal disputes arise between the individuals and the legal entities, on the one hand, and the public authorities, on the other. The article raises the problem of defining the

subjective component of the public-legal disputes as executive bodies, local self-government bodies, their officials, and other entities exercising the administrative functions on the basis of legislation, including the exercise of the delegated powers. Functional traits have identified institutions that are endowed with representative functions, while other entities have administrative functions, indicating that they have the authority power to exercise them.

Attention is drawn to the position under which the protection of the interests of the state should be exercised by the respective subjects of the authority powers and the cases of impossibility of such protection are considered. Generalization of the legal basis of the activity of the subject of the authority powers as one of the parties in the consideration of the public-legal disputes allowed to reveal the peculiarities and shortcomings of the institutional and status character in the formation of the subjective composition of the legal relations in the public-legal disputes.

**Keywords:** public-legal dispute, public authorities, powers, subject of the authority powers, public administration.

### **СУБ'ЄКТ ВЛАДНИХ ПОВНОВАЖЕНЬ ЯК СТОРОНА ПУБЛІЧНО-ПРАВОВИХ СПОРІВ: ДЕРЖАВНО-УПРАВЛІНСЬКИЙ АСПЕКТ**

**Анотація.** Порушена проблематика застосування публічно-правових спорів як можливого механізму встановлення, формування та реалізацій повноважень органів публічної влади. Зокрема, йдеться про поняття “суб'єкт владних повноважень” з позиції аналізу його інституційних та статусних змістових характеристик як однієї зі сторін публічно-правового спору з метою можливого подальшого застосування у сфері встановлення, розмежування та реалізації компетенцій, а у вузькому значенні повноважень органів публічної влади.

У статті здійснено узагальнену характеристику суб'єктного складу публічно-правових спорів. Зокрема, йдеться про статус суб'єктів владних повноважень, який є однією з основних ознак для питань визначення, аналізу та вивчення способів вирішення публічно-правових спорів. Публічно-правові спори виникають між фізичними та юридичними особами, з одного боку, та органами публічної влади, з іншого. У статті піднято проблематику визначення суб'єктної складової публічно-правових спорів як органів виконавчої влади, органів місцевого самоврядування, їх посадових чи службових осіб та інших суб'єктів, які здійснюють владні управлінські функції на основі законодавства, в тому числі на виконання делегованих повноважень. За функціональною ознакою виявлено інституції, які наділені представницькими функціями, у той час як інші суб'єкти володіють управлінськими функціями, що вказує на наявність владних повноважень для їх реалізації.

Акцентовано увагу на такій позиції, за якою захист інтересів держави мають здійснювати відповідні суб'єкти владних повноважень та розглянуто випадки неможливості здійснення такого захисту. Узагальнення норматив-

но-правової основи діяльності суб'єкта владних повноважень як однієї зі сторін у розгляді публічно-правових спорів дозволило виявити особливості та недоліки інституційного та статусного характеру у формуванні суб'єктного складу правовідносин у публічно-правових спорах.

**Ключові слова:** публічно-правовий спір, органи публічної влади, повноваження, суб'єкт владних повноважень, державне управління.

## **СУБЪЕКТ ВЛАСТНЫХ ПОЛНОМОЧИЙ КАК СТОРОНА ПУБЛИЧНО-ПРАВОВЫХ СПОРОВ: ГОСУДАРСТВЕННО-УПРАВЛЕНЧЕСКИЙ АСПЕКТ**

**Аннотация.** Рассматривается проблематика применения публично-правовых споров как возможного механизма установления, формирования и реализаций полномочий органов публичной власти. В частности, речь идет о понятии “субъект властных полномочий” с позиции анализа его институциональных и статусных содержательных характеристик как одной из сторон публично-правового спора с целью возможного дальнейшего применения в сфере установления, разграничения и реализации компетенций, а в узком смысле полномочий органов публичной власти.

В статье осуществлено обобщенную характеристику субъектного состава публично-правовых споров. В частности, речь идет о статусе субъектов властных полномочий, который является одним из основных признаков для вопросов определения, анализа и изучения способов решения публично-правовых споров. Публично-правовые споры возникают между физическими и юридическими лицами, с одной стороны, и органами публичной власти, с другой. В статье поднята проблематика определения субъектной составляющей публично-правовых споров как органов исполнительной власти, органов местного самоуправления, их должностных или служебных лиц и других субъектов, осуществляющих властные управленческие функции на основе законодательства, в том числе на выполнение делегированных полномочий. По функциональному признаку обнаружено институции, которые наделены представительскими функциями, в то время как другие субъекты обладают управленческими функциями, что указывает на наличие властных полномочий для их реализации.

Акцентируется внимание на такой позиции, согласно которой защита интересов государства должны осуществлять соответствующие субъекты властных полномочий, а также рассмотрены случаи невозможности осуществления такой защиты. Обобщение нормативно-правовой основы деятельности субъекта властных полномочий как одной из сторон в рассмотрении публично-правовых споров позволило выявить особенности и недостатки институционального и статусного характера в формировании субъектного состава правоотношений в публично-правовых спорах.

**Ключевые слова:** публично-правовой спор, органы публичной власти, полномочия, субъект властных полномочий, государственное управление.

**Formulation of the problem.** Problems of the application of the public and private law are manifested in different spheres of the relationship between the state and the society. In the domestic sphere of the public law there is a process of formation of the administrative justice, which requires scientists and practitioners of scientific methodological and practical development of the topical issues. One is the possibility of using the public-legal disputes as a way of establishing, delineating and exercising competencies, and in a narrower sense – the powers of the public authorities. Administrative law, as part of the public law, to a certain extent provides for the consideration of the public-legal disputes, but there remain questions of organizational-legal, methodological, procedural character that require settlement and resolution. In particular, identifying the peculiarities and deficiencies of the institutional and status character in the formation of the subjective composition of the legal relations in the public-legal disputes will allow to open the possibilities of their effective application in practice.

**Analysis of the recent research and publications.** The problem of the nature of the public-legal disputes has been largely explored from the point of view of the application of the public law in general. Thus, the main essence of the public-legal disputes, their scope, their use as a way to establish, differentiate and realize the competencies of the subjects in the field of the public administration are presented by scientists in the works of V. B. Averyanov, Yu. P. Bytyak, I. L. Borodin, T. O. Kolomoyets, V. K. Kolpakov, A. T. Komzy-

uk, O. V. Kuzmenko, T. O. Matselyk, O. I. Mykolenko, O. P. Ryabchenko and a number of other scientists. Summarizing the research of the scientists we can conclude that there is no single approach to the interpretation of the essence of the public-legal dispute both among practitioners and theorists. It is argued that theorists, based on the distribution of the law to private and public, attach more importance to the theoretical division of the national law. At the same time, practitioners place greater emphasis on the procedural issues and issues of methodological support for the public-legal disputes. The problem of jurisdiction of the concepts applied to the public-legal disputes is actively investigated. Thus, the Doctor of Laws O.P. Ryabchenko examines the problem of delimitation of the constitutional and the administrative jurisdictions of the category “public-legal dispute” [1].

For the most part the ways of establishing, delineating and exercising the competences of the subjects of the authority powers are within the practitioners’ view. Thus, the Judge Ya. Sidey focuses on the problems of delimitation of the administrative jurisdiction with other types of jurisdiction in the area of judicial competence, analyzes the problems of delimitation of the jurisdiction of the administrative and commercial courts [2].

The normative-legal component of the definition of the concept of the public-legal dispute and legal support for their consideration is raised by the judge of the Zhytomyr District Administrative Court I.E. Chernyakhovych, who also considers other related concepts: such as “public-legal conflict”,

“state-legal conflict”, “administrative-legal dispute” [3].

**Formulation of the purposes (goal) of the article.** The study aims to uncover the notion of the “subject of authority powers” from the point of view of analyzing its institutional and status content characteristics as one of the parties to a public-legal dispute with a view to its possible further application in the sphere of establishing, delineating and exercising competencies, and in the narrow sense of the powers of the public authorities. To achieve this goal, the following tasks have been set:

- to make a generalized description of the subject matter of the public-legal disputes;

- to consider the normative-legal basis of the subject of the authority powers as one of the parties to the public-legal disputes in the sphere of the public administration;

- to identify the peculiarities and deficiencies of institutional and status character in the formation of the subjective composition of the legal relations in the public-legal disputes.

**Presentation of the main material.**

Article 4 of the Code of Administrative Judiciary of Ukraine (hereinafter referred to as CAJU) states that a public-legal dispute is a dispute in which:

- at least one party performs public-administrative functions, including the exercise of the delegated powers, and the dispute arises in connection with the execution or non-execution by such party of such functions; or

- at least one party provides administrative services under a law authorizing or obliging to provide such services solely the subject of the authority powers and the dispute arose in connection

with the provision or non-provision by such party of those services; or

- at least one party is the subject of the electoral process or the referendum process and the dispute arose over the violation of its rights in such process by the subject of the authority powers or another person [4].

In the domestic jurisprudence the public-legal disputes include the appeal of the administrative decisions, actions or inaction of the public-administrative institutions by natural or legal persons who use this mechanism as a way of protecting their rights. In particular Article 17 of the CAJU stipulates that the jurisdiction of the administrative courts extends to public-legal disputes, in particular, disputes of the natural or legal persons with the subject of the authority powers over the appeal of its decisions (normative-legal acts of individual action), actions or inaction [4].

In the CAJU the concept of “subjects of authority powers”, its substantive load, characteristics are covered in many articles. In particular, Article 4 specifies that the subject of the authority powers is a public authority, a local self-government body, their officials, another entity in the exercise of their public-power administrative functions on the basis of legislation, including the performance of the delegated powers, or often narrow it down to administrative services. The concept of “subject of the authority powers” as defined by the CAJU is considered to be quite general. There is an opinion that in case the list of the subjects of the authority powers is exhaustive, it is advisable to form it with the possible establishment of competence characteristics. This would then make it possible to distinguish the

subject matter in the areas of identification, analysis and application of the methods of resolving the public-legal disputes.

The normative field defines a list of those subjects of the authority powers that may be challenged in the administrative courts. On the basis of the presence of the authority powers, it is possible to make a generalization that the following entities may be referred to: the President of Ukraine (Article 102 of the Constitution); legislative body, that is, the Verkhovna Rada of Ukraine (Article 75 of the Constitution); bodies of executive power: Cabinet of Ministers of Ukraine, central and local bodies of the executive power (Articles 113, 118 of the Constitution, Law of Ukraine “On the Cabinet of Ministers of Ukraine”, Law of Ukraine “On Local State Administrations”); bodies of the judiciary (Article 124 of the Constitution, laws of Ukraine “On the Constitutional Court of Ukraine”, “On the Judiciary and Status of the Judges”); the Prosecutor’s Office of Ukraine (Article 121 of the Constitution); Authorities of the Autonomous Republic of Crimea: The Verkhovna Rada, the Council of Ministers; ministries of the Autonomous Republic of Crimea, Republican committees of the Autonomous Republic of Crimea; bodies of the local self-government: village, settlement, city, district, regional councils (Article 140 of the Constitution of Ukraine, Law of Ukraine “On Local Self-Government in Ukraine”) [5–10].

Particular attention should be paid, in particular, to the competences and scope of their implementation, to the following entities: officials of the above bodies; other entities in the exercise of

their administrative functions, such as house, street, quarterly and other bodies of self-organization of the population, public formations for the protection of the public order and state border, etc. In their activities it is necessary to differentiate the separation between administrative and other functions and take into account the presence of these functions in their status characteristics.

The practice of the public-legal disputes indicates that parties to the public-legal disputes are usually the public authorities, in particular state authorities and their officials. However, given the norm of Article 6 of the Constitution of Ukraine it is known that the state power is exercised on the basis of its division into legislative, executive and judicial, and Article 7 establishes that the local self-government is recognized and guaranteed in Ukraine [5]. Accordingly the public authorities will belong to the bodies with relevant competencies (legislative, executive or judicial), including powers. The subjects with authority (executive) powers under the Constitution of Ukraine according to the organizational and legal criteria are divided into higher, central and local bodies of the executive power. The supreme body of the system of the bodies of the executive power is the Cabinet of Ministers of Ukraine, which is responsible for ensuring the state sovereignty and economic independence of Ukraine, the implementation of the internal and foreign policy of the state, the implementation of the Constitution and laws of Ukraine, acts of the President of Ukraine. Article 37 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” discloses the relations of the Cabinet of Ministers of Ukraine

with the courts of the general jurisdiction. In particular, it is stated that the Cabinet of Ministers of Ukraine may be the plaintiff and the defendant in the courts, in particular, to apply to the court if it is necessary for the exercise of their powers in the manner stipulated by the Constitution and laws of Ukraine. The interests of the Cabinet of Ministers of Ukraine are represented in the courts by the Ministry of Justice of Ukraine, unless otherwise provided by the laws of Ukraine or by the acts of the Cabinet of Ministers of Ukraine [6].

Other subjects of the authority powers that can be a party to the public-legal disputes are all central executive bodies, which include ministries, public services, agencies, central executive bodies with special status, which are directly subordinated to the Cabinet of Ministers of Ukraine. To date 15 ministries, 23 services, 13 agencies, 4 inspections, 7 Central Executive Bodies with special status, 6 other Central Executive Bodies, and 27 local executive bodies are in the executive power in Ukraine [11].

According to the Law of Ukraine "On the Cabinet of Ministers of Ukraine" the Cabinet of Ministers of Ukraine may form governmental bodies of the state administration (agencies, services, inspections). The powers of the governmental bodies of the state administration include the issues of administration of the individual sub-sectors or spheres of activity, control-supervisory functions, regulatory and permitting-registration functions for the individuals and legal entities. There are more than 30 such bodies. The actions of the mentioned state authorities, their officials that violate the rights,

freedoms and interests of the natural persons, rights and interests of the legal entities, may be appealed in the courts in the order of the administrative proceedings. Central executive bodies with special status include bodies with specific tasks and powers, defined by the Constitution and legislation of Ukraine. Among them the Antimonopoly Committee of Ukraine, the State Committee for Television and Radio Broadcasting of Ukraine, the State Property Fund of Ukraine, the National Agency of Ukraine for Prevention of Corruption, the State Bureau of Investigation, the National Agency of Ukraine for the detection, search and management of the assets obtained from corruption and other crimes, Administration of the State Service for Special Communications and Information Protection.

One of the parties to the public-legal dispute may be the local executive authorities, that is, the regional and district state administrations, as well as the local (territorial) bodies of the central executive authorities. Taking into account the norm of the law in Article 118 of the Constitution of Ukraine, the local state administration is headed by a chairman, who is appointed by the President of Ukraine upon the submission of the Cabinet of Ministers of Ukraine. The National Bank of Ukraine and the Central Election Commission are also subject of the authority powers, whose competence is valid throughout Ukraine and decisions, actions or inaction may be challenged in the public-legal disputes with the use of the administrative justice.

Local self-government bodies, as subjects of the authority powers may be a party to a public-legal dispute. In

accordance with the Law of Ukraine of May 21, 1997 № 280/97-BP “On Local Self-Government in Ukraine” [10], the local self-government bodies include: district and regional councils representing the common interests of the territorial communities of the villages, settlements, cities; executive bodies of the village, settlement, city councils; village, settlement, city heads. Article 5 of the Law of Ukraine of May 21, 1997 № 280/97-BP “On Local Self-Government in Ukraine” defines the system of the local self-government to which the territorial community and bodies of the self-organization of the population belong. The Law of Ukraine of 11.07.01 № 2625-01 “On the Bodies of Self-Organization of the Population” [12] defines the forms of participation of the members of the territorial communities of the villages, settlements, districts in the cities in solving particular issues of the local self-government.

That is, improper execution, non-execution, inaction, and other offenses related to the exercise of the above functions, competences and powers by the public authorities can be considered a potential subject of consideration of the public-legal disputes.

The possibility of involving the self-organization bodies of the population as a subject of the authority powers remains controversial in the national government, since their power component is limited by the basic powers specified in the normative field. Among the public institutions that are bodies of self-organization are the house, street, quarterly committees, committees of districts, committees of districts in the cities, village and settlement committees. The body of self-organization of

the population within the territory of its activity during its formation may be granted such powers as representation together with the deputies of the interests of the residents of the house, street, neighborhood, village, settlement, city in the relevant local council and its bodies, local bodies of the executive power. Thus, these institutions are endowed with representative functions, while other entities have administrative functions, which indicates the existence of authority powers within their core functions.

The term “official” is normatively defined in the Law of Ukraine “On Service in the Local Self-Government Bodies”. Article 2 of the Law of Ukraine “On Service in the Local Self-Government Bodies” stipulates that a local government official is a person who works in the local self-government bodies, has the relevant official authority to perform organizational, administrative and advisory functions and receives wages at the expense of local budget [13].

Discussions arise regarding the membership of the organizational-administrative and advisory-consultative functions to the public-governmental administrative functions, which the party should be empowered in the case of referring the dispute to as public-legal. Since the appeal should take place in administrative decisions, actions or inaction of the public-administrative institutions, it is appropriate to take into account the status characteristics and competencies of the subjects of the authority powers with regard to the possibility of carrying out or not performing such actions.

The Grand Chamber of the Supreme Court has clarified that administrative



courts are considering disputes that are based on public-legal nature, that is, they derive from power-administrative functions or executive-administrative activities of the public bodies. If a person acquires a substantive right as a result of a decision, then the dispute concerns private-legal relations and is subject to consideration in the civil or commercial proceedings, depending on the subject composition of the parties to the dispute.

In addition, the Grand Chamber of the Supreme Court drew attention to the fact that, in accordance with the law, a deputy of the local council may exercise the right to participate in the activities of the council and in taking the relevant decisions by the council. The rules of the current legislation set a special way for the deputy to influence both the decision-making by the local self-government body and the life of the residents of the respective administrative-territorial unit. However, the competence of the deputy should be taken into account, since he is not empowered to directly represent the interests of the territorial community in the public-legal disputes [14].

According to the status characteristics, the prosecutor cannot be considered as an alternative subject to the court and to replace a proper subject of the authority powers, who can protect the interests of the state and has such competence.

The ruling in Case № 822/1169/17 of July 19, 2018, clarified that a prosecutor could represent the interests of the state in court in only two cases:

1) if the protection of these interests is not exercised or improperly exercised by a public authority, a local self-gov-

ernment body or other subject of the authority powers having the relevant powers;

2) in the case of absence of such an authority [15].

The administrative judiciary emphasizes the position on which the protection of the interests of the state should be exercised by the respective subjects of the authority powers. Only when such protection cannot be exercised does the prosecutor exercise such protection within their competence.

In order to keep the interests of the state out of protection, the prosecutor takes a subsidiary position, that is, the judicial authority is replaced by a subject of the authority powers that does not protect or improperly exercise it. In such cases the prosecutor must indicate the reasons that impede the protection of the interests of the state by the relevant subject of the authority powers and to go to court on these grounds.

It is clear that a prosecutor cannot substitute for a person of the subject of the authority powers who has the competence and desire to protect the interests in the courts. Pursuant to part four of Article 23 of the Law of Ukraine “On the Prosecutor’s Office”, the presence of grounds for representation must be substantiated by the prosecutor in the court [16].

The generalization of the subjective composition of the authority powers in the public-legal relations, according to experts, indicates the need for the distribution of the subjects of the authority powers by their types, status characteristics, ways of resolving the public-legal disputes [17].

In the absence of a subject of the authority powers to which the protec-

tion of the legitimate interests of the state is entrusted, as well as in the case of the representation of the interests of the citizen or the representation of the interests of the state in cases of recognition of unfounded assets and their collection in the state revenue in order to establish the existence of grounds for representation, then the prosecutor may represent the interests of the relevant entities in the state.

It is reasonable to take an approach whereby one of the essential features of the public-legal disputes is that they have a public interest as a matter of the dispute.

As to the nature of the dispute, the existence of the public interest is poorly understood. This issue develops in the direction in which the competent disputes in the sphere of activity of the public authorities have a public-legal nature, since they are intended to resolve conflicts in the part of the public interest and in the presence of one of the parties as a subject of the authority powers [18].

**Conclusions and prospects for further research.** On the basis of the conducted research and in accordance with the tasks set, the following conclusions were drawn:

1. The paper determines that the subjective composition of the public-legal disputes is characterized by different institutional and status content. The subject of the authority powers acts as one of the parties to a public-legal dispute, and is involved in publicly legal relations. The status of the subjects of the authority powers is one of the main features of the issues of identifying, analyzing and exploring the ways to resolve the public-legal disputes.

The public-legal disputes arise between the individuals and legal entities, on the one hand, and the public authorities, on the other. The legislator defined the subject constituent as an executive body, local self-government body, their officials, or other entity exercising the administrative power based on legislation, including the exercise of the delegated powers. Therefore, public-legal disputes may also arise in the internal-organizational activity of the public authorities, affecting not only the competence of a public institution but also the competences of the public servants.

2. The subjective component of the implementation of the public-legal relations is determined, which is a prerequisite for the emergence of the public-legal disputes on the issues of authority powers. The analysis of the normative-legal framework of the subjects of the authority powers as one of the parties to the public-legal disputes has revealed the basic basis in the current legislation for the consideration and resolution of the public-legal ones. The subjects of the authority powers that may be a party to the public-legal disputes are all central executive bodies, which include ministries, public services, agencies, central executive bodies with special status, which are directly subordinated to the Cabinet of Ministers of Ukraine; local executive authorities; local governments; and public servants (officials) that are endowed with relevant competencies. The competence of the prosecutors as subjects in the consideration of the public-legal disputes is analyzed. It was found that the prosecutor could not be considered as an alternative subject to the court and to replace a proper subject of the authority po-

wers who can protect the interests of the state and has such competence.

3. Some peculiarities and shortcomings of the institutional and status character in the formation of the subjective composition of the legal relations in the public-legal disputes are revealed in the work. It was found that the parties to a public-legal dispute may be in different statuses, which implies different substantive content of the public-legal relations in the part of the subject composition. It is concluded that the status characteristics of an individual or a legal entity, bodies of the self-organization are not always endowed with administrative functions, authority powers, but functionally they can be filled. The status characteristics of the subjective composition of the legal relations in the public-legal disputes regarding the acquisition and realization of the delegated powers need clarification.

The actual direction of further scientific research is determined by the way in which the problem of the contractual relations, outsourcing in the context of the exercise of the delegated powers influences the formation of the subjective composition of the legal relations, shifts the essence of the concept of the subject of the authority powers to the side of persons with other status-rights, as a consequence another competence with the participation of the subject as a party to a public-legal dispute.

Generalizing the characteristics of the subjective composition of the authority powers in the exercise of the public-legal relations, it is necessary to separate the subjects of the authority powers by certain criteria, namely: type, status characteristics, ways of resolving the public-legal disputes.

## REFERENCES

---

1. Riabchenko O. P. (2011). Katehoriia “publichno-pravovyi spir”: rozmezhuvannia konstytutsiinoi ta administratyvnoi yurysdyktsii [“Public-legal dispute” category: delineation of constitutional and administrative jurisdictions]. *Visnyk Konstytutsiinoho Sudu Ukrainy – Bulletin of the Constitutional Court of Ukraine*, 4–5. Retrieved from [http://ir.nusta.edu.ua/jspui/bitstream/doc/580/1/541\\_IR.pdf](http://ir.nusta.edu.ua/jspui/bitstream/doc/580/1/541_IR.pdf) [in Ukrainian].
2. Sidei Ya. (2018). Rozmezhuvannia administratyvnoi yurysdyktsii z inshymy vydamy yurysdyktsii u sferi sudovoi kompetentsii [Differentiation of administrative jurisdiction with other jurisdictions in the area of judicial competence]. *Administratyvne pravo i protses – Administrative Law and Process*, 6, 196–200. Retrieved from <http://pgp-journal.kiev.ua/archive/2018/6/36.pdf> [in Ukrainian].
3. Cherniakhovych I. E. (2018). Poniattia publichno-pravovoho sporu ta yoho rozmezhuvannia iz sumizhnymy poniattiamy “publichno-pravovyi konflikt”, “derzhavno-pravovyi konflikt”, “administratyvno-pravovyi spir” [The concept of public-legal dispute and its separation with related concepts of “public-legal conflict”, “state-legal conflict”, “administrative-legal dispute”]. *Pryvatne ta publichne pravo – Private and Public Law*, 2, 108–112. Retrieved from [http://nbuv.gov.ua/UJRN/prpulaw\\_2018\\_2\\_25](http://nbuv.gov.ua/UJRN/prpulaw_2018_2_25) [in Ukrainian].
4. Kodeks administratyvnoho sudochynstva Ukrainy : vid 06.07.2005, № 2747-IV [Code of Administrative Procedure of Ukraine from 06.07.2005, № 2747-IV]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/2747-15> [in Ukrainian].

5. Konstytutsiia Ukrainy : vid 28.06.1996, № 254k/96-VR [Constitution of Ukraine from June 28, 1996, № 254k/96-VR]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <http://zakon3.rada.gov.ua/laws/show/254k/96-vr> [in Ukrainian].
6. Zakon Ukrainy “Pro Kabinet Ministriv Ukrainy” : vid 27.02.2014 № 794-VII [Law of Ukraine “On the Cabinet of Ministers of Ukraine” from 27.02.2014, № 794-VII]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/794-18> [in Ukrainian].
7. Zakon Ukrainy “Pro mistsevi derzhavni administratsii” : vid 09.04.1999, № 586-XIV [Law of Ukraine “On Local State Administrations” from April 9 1999, № 586-XIV]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/586-14> [in Ukrainian].
8. Zakon Ukrainy “Pro Konstytutsiinyi Sud Ukrainy” : vid 13.07.2017, № 2136-VIII [Law of Ukraine “On the Constitutional Court of Ukraine” from 13.07.2017, № 2136-VIII]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/2136-19> [in Ukrainian].
9. Zakon Ukrainyvid “Pro sudoustrii i status suddiv” : 02.06.2016, № 1402-VIII [Law of Ukraine “On the Judiciary and Status of Judges” from 02.06.2016, № 1402-VIII]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/1402-19> [in Ukrainian].
10. Zakon Ukrainy “Pro mistseve samovriadvannia v Ukraini” : vid 21.05.1997, № 280/97-VR [Law of Ukraine “On Local Self-Government in Ukraine” from 21.05.1997, № 280/97-VR]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/280/97-vr> [in Ukrainian].
11. Ofitsiinyi veb-sait Kabinetu Ministriv Ukrainy [Official Website of the Cabinet of Ministers of Ukraine]. *www.kmu.gov.ua*. Retrieved from <https://www.kmu.gov.ua/catalog> [in Ukrainian].
12. Zakon Ukrainy “Pro orhany samoorganizatsii naselennia” : vid 11.07.2001, № 2625-III [Law of Ukraine “On bodies of self-organization of the population” from 11.07.2001, № 2625-III]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/2625-14> [in Ukrainian].
13. Zakon Ukrainy “Pro sluzhbu v orhanakh mistsevoho samovriadvannia” : vid 07.06.2001, № 2493-111 [Law of Ukraine “On service in bodies of local self-government” from 07.06.2001, № 2493-111]. (n.d.). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/2493-14> [in Ukrainian].
14. Postanova Velykoi Palaty Verhovnoho Sudu vid 30 sichnia 2019 roku u spravi № 803/413/18 [Order of the Grand Chamber of the Supreme Court of 30 January 2019 in Case № 803/413/18]. (n.d.). *www.reyestr.court.gov.ua*. Retrieved from <http://www.reyestr.court.gov.ua/Review/79958176> [in Ukrainian].
15. Prokuror ne zavzhdy mozhe zvernutyisia do sudu zamist subiekta vladnykh povnovazhen [A prosecutor may not always go to court instead of a subject of power]. (2018). *jurliga.ligazakon.net*. Retrieved from [https://jurliga.ligazakon.net/ua/news/178650\\_prokuror-ne-zavzhdimozhe-zvernutisya-do-sudu-zamstsubkta-vladnykh-povnovazhen](https://jurliga.ligazakon.net/ua/news/178650_prokuror-ne-zavzhdimozhe-zvernutisya-do-sudu-zamstsubkta-vladnykh-povnovazhen) [in Ukrainian].
16. Zakon Ukrainy “Pro prokuraturu” : vid 14.10.2014, № 1697-VII [Law of Ukraine “On the Prosecutor's Office” from 14.10.2014, № 1697-VII]. (n.d.). *zakon.rada.gov.ua*. Retrieved

- from <https://zakon.rada.gov.ua/laws/show/1697-18> [in Ukrainian].
17. Yakovenko Ye. O. (2010). Subiekty vladnykh povnovazhen ta yikh vydy [Authorities and their types]. *Visnyk Zaporizkoho natsionalnoho universytetu – Bulletin of Zaporizhzhya National University*, 4, 171–177. Retrieved from <http://web.znu.edu.ua/herald/issues/2010/jur-2010-4/171-177.pdf> [in Ukrainian].
  18. Карпа М. І. (2017). Publichno-pravovyi spir yak sposib vstanovlennia ta rozmezhuvannia kompetentsii orhaniv publichnoi vlady [Public-Legal Dispute as a Method of Establishing and Differentiating the Competencies of Public Authorities]. *Derzhavne upravlinnia ta mistseve samovriaduvannia – Public Administration and Local Self-Government*, 3 (34), 26–34 [in Ukrainian].

## СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

---

1. Рябченко О. П. Категорія “публічно-правовий спір”: розмежування конституційної та адміністративної юрисдикцій // Вісн. Конституційного Суду України. № 4–5. 2011. [Електронний ресурс]. Режим доступу : [http://ir.nusta.edu.ua/jspui/bitstream/doc/580/1/541\\_IR.pdf](http://ir.nusta.edu.ua/jspui/bitstream/doc/580/1/541_IR.pdf)]
2. Сідей Я. Розмежування адміністративної юрисдикції з іншими видами юрисдикції у сфері судової компетенції. 2018. [Електронний ресурс]. Режим доступу : <http://pgp-journal.kiev.ua/archive/2018/6/36.pdf>
3. Черняхівич І. Е. Поняття публічно-правового спору та його розмежування із суміжними поняттями “публічно-правовий конфлікт”, “державно-правовий конфлікт”, “адміністративно-правовий спір” // Приватне та публічне право. 2018. № 2. С. 108–112. [Електронний ресурс]. Режим доступу : [http://nbuv.gov.ua/UJRN/rpplaw\\_2018\\_2\\_25](http://nbuv.gov.ua/UJRN/rpplaw_2018_2_25)
4. Кодекс адміністративного судочинства України : Кодекс України; Кодекс, Закон від 06.07.2005 № 2747-IV. [Електронний ресурс]. Режим доступу : <https://zakon.rada.gov.ua/laws/show/2747-15>
5. Конституція України : Закон від 28.06.1996 №254к/96-ВР. [Електронний ресурс]. Режим доступу : <http://zakon3.rada.gov.ua/laws/show/254к/96-вр>
6. Про Кабінет Міністрів України : Закон України від 27.02.2014 № 794-VII. [Електронний ресурс]. Режим доступу: <https://zakon.rada.gov.ua/laws/show/794-18>
7. Про місцеві державні адміністрації : Закон України від 09.04.1999 № 586-XIV. [Електронний ресурс]. Режим доступу : <https://zakon.rada.gov.ua/laws/show/586-14>
8. Про Конституційний Суд України : Закон України. [Електронний ресурс]. Режим доступу : від 13.07.2017 № 2136-VIII <https://zakon.rada.gov.ua/laws/show/2136-19>
9. Про судоустрій і статус суддів : Закон України від 02.06.2016 № 1402-VIII. [Електронний ресурс]. Режим доступу : <https://zakon.rada.gov.ua/laws/show/1402-19>
10. Про місцеве самоврядування в Україні : Закон України від 21.05.1997 № 280/97-ВР. [Електронний ресурс]. Режим доступу : <https://zakon.rada.gov.ua/laws/show/280/97-вр>
11. Офіційний веб-сайт Кабінету Міністрів України. [Електронний ресурс]. Режим доступу : <https://www.kmu.gov.ua/catalog>
12. Про органи самоорганізації населення : Закон України від 11.07.2001 № 2625-III. [Електронний ресурс]. Режим доступу : <https://zakon.rada.gov.ua/laws/show/2625-14>

13. Про службу в органах місцевого самоврядування: Закон України від 07.06.01 №2493-111. [Електронний ресурс]. Режим доступу: <http://www.rada.gov.ua>. УДК 349.4: 342.52 (477)
14. Постанова Великої Палати Верховного Суду від 30 січня 2019 року у справі № 803/413/18. [Електронний ресурс]. Режим доступу: <http://www.reyestr.court.gov.ua/Review/79958176>
15. Прокурор не завжди може звернутися до суду замість суб'єкта владних повноважень. ЛІГА : ЗАКОН 21.08.2018. [Електронний ресурс]. Режим доступу: [https://jurliga.ligazakon.net/ua/news/178650\\_prokuror-ne-zavzhdi-mozhe-zvernutisya-do-sudu-zamst-subkta-vladnikh-povnovazhen](https://jurliga.ligazakon.net/ua/news/178650_prokuror-ne-zavzhdi-mozhe-zvernutisya-do-sudu-zamst-subkta-vladnikh-povnovazhen)
16. Про прокуратуру : Закон України від 14.10.2014 № 1697-VII. [Електронний ресурс]. Режим доступу : <https://zakon.rada.gov.ua/laws/show/1697-18>
17. Яковенко Є. О. Суб'єкти владних повноважень та їх види. [Електронний ресурс]. Режим доступу: <http://web.znu.edu.ua/herald/issues/2010/jur-2010-4/171-177.pdf>
18. Карпа М. І. Публічно-правовий спір як спосіб встановлення та розмежування компетенцій органів публічної влади // Державне управління та місцеве самоврядування (текст): зб.наук.пр. ДРІДУ НАДУ, 2017. Вип. № 3 (34). С. 26–34.