



LAW AND ADMINISTRATION IN POST-SOVIET EUROPE

THE JOURNAL OF KOLEGIUM JAGIELLOŃSKIE TORUŃSKA SZKOŁA WYŻSZA
VOL. 1/2016: 10–17

DOI: 10.1515/lape-2016-0002

Alexander Dzhurynskyi

Legislative Institute of the Verkhovna Rada of Ukraine

Some Problems of Adjudication of Administrative – Legal Disputes with the Participation of Legal Entities in Ukraine

Key words: administrative-legal dispute, securing an administrative claim, urban development.

Introduction

Significant executive and prescriptive state influence on the functioning of legal entities causes the need for the existence of effective machinery of adjudication of administrative-legal disputes. Despite the abundance of scientific research in the sphere of administrative judicial proceeding, a number of issues regarding the participation of legal entities in administrative-legal disputes still remain unresolved. Current problems may lead to decrease in protection of legal entities' rights that will affect in negative way the functioning of the whole state machinery because of important role of legal entities in promotion of the public interests, achieving security and prosperity in society. This paper deals with some of these issues in a context of particular category of administrative-legal disputes – namely the disputes concerning the ensuring of sustainable urban development and land use.

Securing an Administrative Claim

Current legislation of Ukraine does not provide for automatic suspension of administrative determination

while it is appealed. Therefore the administrative courts primarily should deal with a problem of securing an administrative claim that is an element of protection of the rights and lawful interests of human and legal entities from illegal actions of administrative authorities.

Terms and procedure for taking measures of securing an administrative claim are provided by the articles 117 and 118 of the Administrative Procedural Code of Ukraine¹. Analysis of these articles reveals the following elements of securing an administrative claim: a) initiator (the plaintiff; the trial court; appellate court); b) the form of judicial decision on taking measures of securing a claim (court determination); c) terms of taking measures of securing an administrative claim (the obvious danger of violation of rights of the plaintiff before the court makes a decision in administrative case; protection of the rights, freedoms and lawful interests will be impossible without taking of such measures; restoration of these rights will require considerable efforts and expenses; if the signs of illegality of administrative determination are obvious); d) methods of securing an administrative

¹ Кодекс адміністративного судочинства України від 06.07.2005 № 2747-IV, <http://zakon4.rada.gov.ua/laws/show/2747-15>, [05.V.2015].

claim (suspension of administrative determination or its individual provisions, which are appealed; prohibition to perform certain actions); e) procedure of enforcement of a court decision (the court determination must be sent immediately after it was made; mandatory enforcement of court determination by the administrative authority, which passed an illegal decision); f) prohibition of taking measures of securing an administrative claim to certain administrative authorities (Parliament of Ukraine, President of Ukraine, the High Council of Justice, the Deposit Guarantee Fund, General authority of civil aviation) or to certain categories of administrative-legal disputes (disputes concerning the appointment, training and conducting of elections); g) the procedure of securing an administrative claim.

By taking measures of securing an administrative claim courts must consider the subject of appeal and avoid a situation in which the case is solved on the merits due to suspension of administrative determination, because it does not correspond to the purpose of the legal institution of securing a claim according to the Resolution of Plenum of the Supreme administrative court of Ukraine². The absence of clearly defined criteria, which the administrative courts should follow by, allows them (administrative courts) to refuse in securing an administrative claim referring to the actual solution of a case prior to its consideration. But such a conclusion is not actually correct.

Every administrative determination has its legal consequences. The suspension of these acts due to the measures of securing an administrative claim should not eliminate its consequences (even temporarily), should not change the measure of rights and obligations of parties, because it does not correspond to the purpose of securing a claim. This conclusion is also found in court rulings³. If the measures of securing an administrative claim don't eliminate the consequences of administrative determination the courts must not refuse in securing a claim arguing that these measures satisfy the claim without consideration on the merits.

Unfortunately there are a great number of such cases. For example in determination of the District Administrative Court of Odessa of 04.22.2014 in the case of cancellation of administrative determination and imposition of a fine for violations in the field of urban development⁴ one of the reasons for refusal in taking measures of securing an administrative claim is that the suspension of impugned determination will lead to claim adjustment before the consideration of a case. However, securing an administrative claim by suspension of administrative determination will not lead to claim adjustment because an impugned determination is not relieved from appropriate legal consequences. If the court refuses in claim adjustment, the penalty will be applied anyway. The grounds for securing an administrative claim provided by part 1 of article 117 of the Administrative Procedural Code of Ukraine⁵ should be assessed in such case. During the consideration of a case about the imposition of a fine for violations in the field of urban development the impugned administrative determination may be executed. But administrative courts under paragraph 1 part 2 of the article 162 of the Administrative Procedural Code of Ukraine have the powers of conversion and compensation for wrongly paid funds from the state budget. Therefore in considered case the reason of refusal of securing a claim is the lack of statutory grounds of securing a claim.

This problem may lead to another – choosing the wrong method of securing an administrative claim. In particular, instead of suspension of impugned administrative determination the courts forbid to perform certain actions. The Administrative Procedural Code of Ukraine does not specify the actions which shall be prohibited by securing an administrative claim. Wide interpretation of legal norm provided by the part 4 of article 117 of the Administrative Procedural Code of Ukraine enables to secure an administrative claim towards: a) the person who has no relation to administration decision-making; b) person who is not involved in the case; c) or even to unspecified juridical entities⁶.

² *Постанова Пленуму Вищого адміністративного суду України про практику застосування адміністративними судами окремих положень Кодексу адміністративного судочинства України під час розгляду адміністративних справ 06.03.2008 № 2*, <http://zakon1.rada.gov.ua/laws/show/v0002760-08>, [05.V.2015].

³ *L'viv Appeal Court Determination of 2nd February 2015 in the case № 876/11326/14*, <http://www.reyestr.court.gov.ua/Review/42647697>, [05.V.2015].

⁴ *Odessa County Administrative Court Determination of 22nd April 2014 in the Case № 815/2094/14*, <http://www.reyestr.court.gov.ua/Review/38351339>, [05.V.2015].

⁵ *Кодекс адміністративного судочинства України від 06.07.2005 № 2747-IV*, <http://zakon4.rada.gov.ua/laws/show/2747-15>, [05.V.2015].

⁶ *Mykolaiv District Court Determination of 5th November 2013 in the Case № 490/8293/13-a*, <http://www.reyestr.court.gov.ua/Review/35560782> [05.V.2015].

This can lead to the abuse of procedural rights by the parties of administrative-legal dispute. In legal disputes concerning the ensuring of sustainable urban development and land use the customers of construction (or contractors) are mostly legal entities, which are involved in the case as a third party to the litigation without own claims as to the subject-matter of the dispute. Securing an administrative claim towards a legal entity with such procedural status is an encumbrance in economic or other activity of legal entities.

In accordance with the Administrative Procedural Code of Ukraine (articles 3, 6, 11, 117)⁷ we can conclude that administrative courts should secure an administrative claim exclusively against the administrative determination and actions of administrative authorities that are the subject of appeal in administrative legal proceedings.

Thus taking measures of securing an administrative claim in a way that prohibits certain actions of private legal entity does not meet the administrative procedural law. The measures of securing an administrative claim shall deal only with participants of a trial, should not violate the rights and lawful interests of third parties and should not extend beyond the legal administrative dispute.

It is quite another matter if the court prohibits performing of certain actions of administrative authorities, which are involved in the case (as a defendant or a third party). For the purpose of the similar application of a procedural law by administrative courts and for the purpose of protecting the rights and lawful interests of private legal entities from unreasonable taking measures of securing an administrative claim we consider that it is necessary to supplement the administrative procedural law of Ukraine (part 4 of article 117 of the Administrative Procedural Code of Ukraine) as follows: "Administrative claim in addition to the method provided by the part three of this article may be secured by prohibition to perform certain actions by administrative authorities, which are involved in the case".

The grounds for the Cancellation of Building Declaration

There are a lot of problems of adjudication of administrative-legal disputes concerning the ensuring of sustainable urban development and land use that arise in

activity of administrative courts. These problems reduce the effectiveness of protection of the rights and lawful interests of legal entities from violations of the administrative authorities.

One of these problems is determining of the grounds for the cancellation of registration of building declaration (building license)⁸. Quite a frequent occurrence is the registration of a building declaration with gross violations of the law that violates social, cultural and economic rights, including the right to freedom of movement throughout the territory of common use. The building declaration is registered by one of the Central executive authorities of Ukraine, which implements government policy on state architectural and construction control and supervision, which is the State Architectural and Construction Inspectorate of Ukraine. Illegal registration of a building declaration is the ground for the initiation of an administrative-legal dispute, subject of which is the legality of the administrative determination and the claim is cancellation of such a registration.

The cancellation of registration of building declaration means that the customer of construction (contractor) did not have the right to perform a construction. The absence of building declaration (building licence) signifies the unauthorized construction. According to the article 30 of Construction Procedure confirmed by the Cabinet of Ministers of Ukraine⁹ the performing of construction without an appropriate document, which gives the right to perform construction, is unauthorized construction and entails liability. Therefore the cancellation of registration of building declaration may result in the demolition of an unauthorized construction according to the article 38 of the Act on the regulation of urban planning¹⁰ if the State Architectural and Construction Inspectorate takes a case to administrative court. This is one of the forms of liability for submission of building declaration with invalid data. Unessential error or contradiction of declaration data may be corrected anytime after it is investigated and does not entail liability if the initiator of alteration is the customer of

⁸ Building declaration or building license gives the right to perform a construction.

⁹ *Постанова Кабінету Міністрів України деякі питання виконання підготовчих і будівельних робіт від 13.04.2011 № 466*, <http://zakon2.rada.gov.ua/laws/show/466-2011-%D0%BF/page>, [05.V.2015].

¹⁰ *Закон України про регулювання містобудівної діяльності 17.02.2011 № 3038-VI*, <http://zakon4.rada.gov.ua/laws/show/3038-17>, [05.V.2015].

⁷ *Кодекс адміністративного судочинства України від 06.07.2005 № 2747-IV*, <http://zakon4.rada.gov.ua/laws/show/2747-15>, [05.V.2015].

construction (contractor). This does not have to lead to the cancellation of registration of building declaration.

Ukrainian legislation does not provide for clear grounds for cancellation of building declaration. Only part 2 of article 39-1 of the Act on the regulation of urban planning makes a provision that: “in the case of an investigation by the State Architectural and Construction Inspectorate of facts of representation of invalid data, which is contained in the building declaration and is a ground for listing a constructed object to unauthorized construction, particularly if it is built or being built on land that has not been set aside for this purpose; or without appropriate document that gives the right to perform construction; or without duly approved project or building passport, – the registration of such a declaration must be abolished by the State Architectural and Construction Inspectorate of Ukraine in the order established by the Cabinet of Ministers of Ukraine”¹¹. The language of this article does not note that cancellation of registration of building declaration is already a ground for listing a constructed object to unauthorized construction. The cancellation of declaration means that the customer of construction (contractor) does not have the right to perform construction and it was performed without lawful occasions. Therefore it is not quite clear exactly which grounds are the grounds for cancellation of building declaration. Clearly is only time frame requirement (obligatory ground for cancellation of building declaration is a violation at the moment of registration of this declaration). In our opinion the list of grounds for cancellation of registration of building declaration should not be limited, but the conditions of inadmissibility of cancellation of declaration should be provided by the law.

The analysis of judicial opinion in cases concerning cancellation of registration of building declaration¹² allows us to make the following conclusion: contradiction of declaration data, which does not violate the rights of third parties and may be corrected in the due date in order established by law, as well as contravention of construction standards and regulations by the customer of construction or contractor (if the building was realized under the duly approved declaration) can't be the grounds for judicial cancellation of such a declaration.

¹¹ Закон України про регулювання містобудівної діяльності 17.02.2011 № 3038-VI, <http://zakon4.rada.gov.ua/laws/show/3038-17>, [05.V.2015].

¹² Supreme Administrative Court Determination of 15th January 2015 N K/800/29725/13, K/800/29026/13 <http://www.reyestr.court.gov.ua/Review/42458958>, [05.V.2015].

In view of this we consider that the grounds for cancellation of registration of building declaration should be provided by law (article 39-1 of the Act on the regulation of urban planning) in abstract manner: “In the case of investigation of gross violation (one that cannot be corrected and violates the right, freedoms and lawful interests of third parties) of current legislation with registration, submission or execution of declaration that existed at the time of registration of this declaration, such a declaration must be cancelled within five days from the date of the detection of violations by the State Architectural and Construction Inspectorate on its own initiative or on the motion of those people whose rights have been violated with illegal registration. After arrival at a decision to abolish a declaration the customer of construction (contractor) is given sufficient period for elimination of violation of legislation. Then Inspectorate may restore the registration of declaration. The Inspectorate under the provisions of the article 38 of this Act resorts to a court with a request for demolition of unauthorized construction with cost recovery on account of law-violators”.

Principle of Administrative Justice: Clarification of all Circumstances of a Case

Judges do not always take legally provided measures that are essential for clarification of all circumstances of a case, including discovery of evidence on their own initiative. One of the reasons is incorrect interpretation of the law that leads to mistrial and rescission of judgment.

Legal requirements (articles 7 and 11 of the Administrative Procedural Code of Ukraine¹³) oblige administrative courts to take legally provided measures that are essential for clarification of factual background. Also the article 159 of the Administrative Procedural Code of Ukraine makes a provision that judicial decision must be allowable and substantiated. Allowable is a decision, which is passed by the court according to the substantive law with following the adjectival law. Substantiated is a decision, which is passed by court under the authority of complete and thorough clarification of facts in a case that are corroborated by evidence. Breach of justice, including the principle of clarification of all circumstances of a case, legal irregularities concerning

¹³ Кодекс адміністративного судочинства України від 06.07.2005 № 2747-IV, <http://zakon4.rada.gov.ua/laws/show/2747-15>, [05.V.2015].

justness of court decisions lead to adjudication of disputes without consideration all of the facts in a case that are influential for correct adjudication of disputes.

For example, one of these facts in cases concerning the ensuring of sustainable urban development and land use is a fact of second submission of building declaration and second registration of declaration. The Supreme Administrative Court of Ukraine in its own determination¹⁴ noted that the customers of construction (contractors) do not have to accept responsibility for completeness and adequacy of declaration data if such a declaration was sent back, because it is not supposed to be entered. Therefore the courts should find out if the declaration was entered again and registered by the State Architectural and Construction Inspectorate. Without finding of the fact of the second submission and registration of declaration the court does not have high grounds for arrival at a decision if the matter of dispute is an administrative determination about making accountable for furnishing of invalid data.

Administrative courts do not always fully clarify all circumstances of a case concerning the registration of building declaration¹⁵. Therefore a norm of the law (part 5 of article 36 of the Act on the regulation of urban planning¹⁶) is not effectuated. This precept of law makes a provision that if the State Architectural and Construction Inspectorate does not register the building declaration or does not pass a refusal decision in legally provided time (10 days), the right to perform construction appears on the eleventh day since the day when the declaration ought to have been registered or sent back. Then the declaration is supposed to be registered.

The absence of registration of declaration data in building register isn't a ground for cancellation of declaration of putting a construction into operation. Also it is not a ground for making a customer of construction accountable.

According to the part 2 of article 71 of the Administrative Procedural Code of Ukraine the burden of aducing evidence lies on a defendant, who must prove a case effective of refusal in registration of declaration. If

such a fact is proved, it means that the customer of construction didn't have the right to perform construction and the State Architectural and Construction Inspectorate had all grounds for the cancellation of declaration.

Thus adjudication of administrative-legal dispute over the nullity of decision of cancellation of declaration of putting construction into operation must embody the identification of: facts of submission of declaration by the customer of construction (contractor) to the State Architectural and Construction Inspectorate; circumstances that affirm the acceptance or disallowance of building declaration.

If the fact of submission of declaration holds up in court (it is proved by the plaintiff) and if defendant (the State Architectural and Construction Inspectorate) does not prove the fact of disallowance the registration of building declaration, then the claim for cancellation of registration of declaration of putting a construction into operation through the absence of the right to perform a construction (without the registration of building declaration) cannot be answered. Such a conclusion is supported by the Supreme administrative court of Ukraine¹⁷.

Another problem of adjudication of administrative-legal disputes concerning the ensuring of sustainable urban development and land use is evaluation by administrative court not all the circumstances of a case. One of these circumstances is the necessity of justification by the State Architectural and Construction Inspectorate of its decision to send back the declaration, even if the grounds for sending back the declaration are confirmed during the consideration of a case. Administrative courts do not always share this attitude¹⁸.

According to the part 6 of article 39 of the Act on the regulation of urban planning¹⁹ the State Architectural and Construction Inspectorate must substantiate the decision to send back the declaration. The Constitution of Ukraine (part 2 of article 19)²⁰ obligates the

¹⁴ *Supreme Administrative Court Determination of 15th January 2015 N K/800/19300/14 in the case N 816/6499/13-a*, <http://www.reyestr.court.gov.ua/Review/42590812>, [05.V.2015].

¹⁵ *Kyiv Administrative Appeal Court Determination of 23rd October 2014 in the Case N 810/7062/13-a*, <http://www.reyestr.court.gov.ua/Review/41431179>, [05.V.2015].

¹⁶ *Закон України про регулювання містобудівної діяльності 17.02.2011 № 3038-VI*, <http://zakon4.rada.gov.ua/laws/show/3038-17>, [05.V.2015].

¹⁷ *Supreme Administrative Court Determination of 18th March 2015 N K/800/65069/14 in the Case N 810/7062/13-a*, <http://www.reyestr.court.gov.ua/Review/43308722>, [05.V.2015].

¹⁸ *Khmel'nytskyi County Administrative Court Determination of 24th October 2013 on the Case N 822/3729/13-a*, <http://www.reyestr.court.gov.ua/Review/34415108>, [05.V.2015].

¹⁹ *Закон України про регулювання містобудівної діяльності 17.02.2011 № 3038-VI*, <http://zakon4.rada.gov.ua/laws/show/3038-17>, [05.V.2015].

²⁰ *Конституція України від 28.06.1996 № 254к/96-ВР*, <http://zakon4.rada.gov.ua/laws/show/254к/96-вр>, [05.V.2015], English version available at: http://www.justice.gov/sites/default/files/coir/legacy/2013/11/08/constitution_14.pdf, [03.V.2015].

administrative authorities to act strictly within the law. And if a decision of the State Architectural and Construction Inspectorate does not contain the grounds for sending back the declaration, then such a decision may be adjudged as illicit.

Administrative courts during examination of administrative determination or administrative authorities' action should follow the criteria provided by the part 3 of article 2 of the Administrative Procedural Code of Ukraine²¹. Failure to assess just one of these criteria brings to mistrial. Therefore even if the grounds for sending back the declaration are confirmed, but the State Architectural and Construction Inspectorate will not argue in favor of its position, such a decision should be disannulled by administrative court. By satisfying a suit for disaffirmation of a decision and commitment to act administrative court can also oblige the State Architectural and Construction Inspectorate to register a declaration under the provisions of article 105 of the Administrative Procedural Code of Ukraine.

The matter in administrative-legal dispute, which based on illegal disallowance of building declaration, is lawfulness of administrative determination. Pursuant to this the circumstance in proof is unlawfulness of administrative determination. Competent evidence (in other words the evidence that corresponds to the circumstance in proof and is essential for confirmation of dispute base) in this case is such documentary evidence as building declaration or building license and declaration of putting a construction into operation. Decisive part in claim adjustment takes a letter, which is a form of decision of sending back the declaration passed by the State Architectural and Construction Inspectorate. For the purpose of debarment of registration of declaration, which was drew up with the violation of law, it is necessary to amend the text of a governmental regulation²² viz. pursuant to part 6 of article 39 of the Act on the regulation of urban planning to provide for the form and the content of decision of the registration (sending back) of declaration that is passed by the State Architectural and Construction Inspectorate. The Inspectorate must substantiate the disaffirmation of registration of declaration.

²¹ *Кодекс адміністративного судочинства України від 06.07.2005 № 2747-IV*, <http://zakon4.rada.gov.ua/laws/show/2747-15>, [05.V.2015].

²² *Постанова Кабінету Міністрів України питання прийняття в експлуатацію закінчених будівництвом об'єктів від 13.04.2011 № 461*, <http://zakon4.rada.gov.ua/laws/show/461-2011-п>, [05.V.2015].

The State Architectural and Construction Inspectorate's activity, in particular concerning arrival at a decision about the registration (sending back) of declaration, should comply with legal requirements (the Act on the licensing system in economic activity²³). Part 5 of article 4-1 of this Act provides for the grounds for rejection of issuing of a licence. The grounds for rejection of issuing of a licence, which are not legally provided, are prohibited. Therefore the decision of sending back of building declaration (building licence) should contain the grounds for rejection of issuing of a licence, which are provided by the part 5 of the article 4-1 of the Act on the licensing system in economic activity or by other Acts. Provision of strict structure of the State Architectural and Construction Inspectorate's determination of registration (sending back) of declaration will allow us to circumvent some difficulties, when the court obligates to register the declaration, which was submitted for approval with gross defects. This may cause an administrative-legal dispute concerning the cancellation of registration of the declaration.

There is also practice of groundless refusal of registration of building declaration that is adjudicated during the consideration of a case. In other words the building declaration complied with legal requirements at the moment of arrival at a decision of sending it back by the State Architectural and Construction Inspectorate. Regulation of the form and the content of decision of the registration (sending back) of declaration will compel the administrative authorities to draw up clearly the grounds for refusal thereby it will not allow to abuse official position and to violate the rights not only of customers of construction (contractors), but also those people who are interested in using of this construction as soon as possible.

Conclusions

The analysis of current legislation of Ukraine and court rulings concerning the ensuring of sustainable urban development and land use allows us to make the following conclusions:

a) Taking measures of securing an administrative claim leads to claim adjustment without consideration of a case only in that case, if impugned administrative

²³ *Закон України про дозвільну систему у сфері господарської діяльності від 06.09.2005 № 2806-IV*, <http://zakon4.rada.gov.ua/laws/show/2806-15>, [05.V.2015].

determination is deficient of its consequence in law. And if taking measures of securing an administrative claim does not quash the impugned administrative determination, does not change measure of rights and obligations of the contending parties, but only temporarily prohibits execution of a decision, then the court cannot refuse in securing an administrative claim referring to the actual solution of case prior to consideration of a case.

b) Methods of securing an administrative claim (as suspension of administrative determination so prohibition to perform certain actions) must conform to subject of suit and cannot step outside the administrative-legal dispute.

c) Measures of securing an administrative claim should fall within public juridical relationships and only those juridical entities, who participate in the case. Thereby we propose to insert amendments to the text of the Administrative Procedural Code of Ukraine. It is necessary to make provisions in the part 4 of article 117 of this Code that only actions of administrative authorities, which participate in the case, may be prohibited by the court.

d) Courts should take into consideration that the grounds for cancellation of registration of building declaration must be a gross infraction of regulation offended at the moment of registration of declaration (that cannot be cured and violates rights and lawful interests of third parties). Herewith the infringement of construction standards and regulations that was offended after the registration of declaration cannot be a ground for cancellation of declaration.

e) For the purpose of adherence to principle of clarification of all circumstances of a case the administrative courts should take into account the following. Disallowance the registration of building declaration means that such a declaration is not submitted. Therefore the courts must find out if the declaration was submitted for the second time and if it was duly registered. The absence of data about registration of building declaration in a building register is not a ground for cancellation of declaration of putting a construction into operation. The courts should ascertain the fact of submission of declaration and the fact of disallowance the registration of building declaration.

f) The absence of reasonable decision about the refusal of registration of declaration is a ground for cancellation such of a decision by the administrative court. The court can also oblige the State Architectural and Construction Inspectorate to register declaration even if

the grounds for refusal of registration of declaration are confirmed. Therefore we propose to bring into regulation the form and content of the decision of registration (sending back) of building declaration, which is passed by the State Architectural and Construction Inspectorate of Ukraine.

References

LEGAL SOURCES:

- Khmel'nytskyi County Administrative Court Determination of 24th October 2013 on the Case No. 822/3729/13-a*, <http://www.reyestr.court.gov.ua/Review/34415108>, [05.V.2015].
- Kyiv Administrative Appeal Court Determination of 23rd October 2014 in the Case No. 810/7062/13-a*, <http://www.reyestr.court.gov.ua/Review/41431179>, [05.V.2015].
- L'viv Appeal Court Determination of 2nd February 2015 in the Case No. 876/11326/14*, <http://www.reyestr.court.gov.ua/Review/42647697>, [05.V.2015].
- Mykolaiv District Court Determination of 5th November 2013 in the Case No. 490/8293/13-a*, <http://www.reyestr.court.gov.ua/Review/35560782> [05.V.2015].
- Odessa County Administrative Court Determination of 22nd April 2014 in the Case No. 815/2094/14*, <http://www.reyestr.court.gov.ua/Review/38351339>, [05.V.2015].
- Supreme Administrative Court Determination of 15th January 2015 No. K/800/29725/13*, <http://www.reyestr.court.gov.ua/Review/42458958>, [05.V.2015].
- Supreme Administrative Court Determination of 15th January 2015 No. K/800/19300/14 in the Case N 816/6499/13-a*, <http://www.reyestr.court.gov.ua/Review/42590812>, [05.V.2015].
- Supreme Administrative Court Determination of 18th March 2015 No. K/800/65069/14 in the Case N 810/7062/13-a*, <http://www.reyestr.court.gov.ua/Review/43308722>, [05.V.2015].
- Конституція України від 28.06.1996 № 254к/96-ВР [The Constitution of Ukraine of 28th June 1996 No. 254к/96-BP*, English version available at: http://www.justice.gov/sites/default/files/eoir/legacy/2013/11/08/constitution_14.pdf, <http://zakon4.rada.gov.ua/laws/show/254к/96-вр>, [05.V.2015], [03.V. 2015].
- Кодекс адміністративного судочинства України від 06.07.2005 № 2747-IV [The Administrative Procedural Code of Ukraine of 6th July 2005 N 2747-IV]*, <http://zakon4.rada.gov.ua/laws/show/2747-15>, [05.V.2015].
- Закон України про регулювання містобудівної діяльності 17.02.2011 № 3038-VI [The Act of 17th February 2011 N 3038-VI on the Regulation of Urban Planning]*, <http://zakon4.rada.gov.ua/laws/show/3038-17>, [05.V.2015].
- Закон України Про дозвільну систему у сфері господарської діяльності 06.09.2005 № 2806-IV [The Act of 6th September N 2806-IV on the Licensing System in Economic Activity]*, <http://zakon4.rada.gov.ua/laws/show/2806-15>, [05.V.2015].
- Постанова Кабінету Міністрів України деякі питання виконання підготовчих і будівельних робіт від 13.04.2011 № 466 [Government Regulation on Some Issues of Performing Construction of 13th April 2011 N 466]*, <http://zakon2.rada.gov.ua/laws/show/466-2011-%D0%BF/page>, [05.V.2015].
- Постанова Кабінету Міністрів України питання прийняття в експлуатацію закінчених будівництвом об'єктів від 13.04.2011 № 461 [Government Regulation on the Putting a Con-*

struction into Operation of 13th April 2011 N 461], <http://zakon4.rada.gov.ua/laws/show/461-2011-п>, [05.V.2015].

Постанова Пленуму Вищого адміністративного суду України про практику застосування адміністративними судами окремих положень Кодексу адміністративного судочинства України під час розгляду адміністративних справ 06.03.2008 № 2 [Resolution of the Plenum of the Supreme Administrative Court of Ukraine of 6th March 2008 No. 2 on the Practice of Substantive the Administrative Procedural Code of Ukraine by Administrative Courts], <http://zakon1.rada.gov.ua/laws/show/v0002760-08>, [05.V.2015].

Alexander Dzhurynskyi – Legislative Institute of the Verkhovna Rada of Ukraine, postgraduate student. E-mail: dzhurynsky@gmail.com