17. Об электронной цифровой подписи : Закон Украины от 22.05.2003 № 852-IV [Електронний ресурс]. – Режим доступу : http://zakon3.rada.gov.ua/laws/show/852-15

18. О судебном сборе : Закон Украины от 08.07.2011 № 3674-VI [Електронний ресурс]. – Режим доступу : http://zakon2.rada.gov.ua/laws/show/3674-17

19. О доступе к судебным решениям : Закон Украины от. 22.12.2005 № 3262-IV [Електронний ресурс]. – Режим доступу: http://zakon3.rada.gov.ua/laws/show/3262-15.

20. Решение Совета судей Украины от 26.11.2010 года № 30 [Електронний ресурс]. – Режим доступу.: http://pravo-ukraine.org.ua

21. Новый Кодекс административного судопроизводства: какие изменения нам приготовили [Електронний ресурс]. – Режим доступу : http:protokol.com.ua/ru/noviy_kodeks_administrativnogo_//udoproizvodstva_kakie_izmeneniya_nam_prigotovili/s

ИНФОРМАЦИЯ ОБ АВТОРЕ

Кравченко Константин Владимирович – судья Одесского апелляционного административного суда

INFORMATION ABOUT THE AUTHOR

Kravchenko Konstantin Vladimirovich – Judge of the Odessa Appeal Administrative Court

olgast1@bigmir.net

UDK 340.1

LEGAL EFFECTS OF UNLAWFUL LOCAL GOVERNMENT ACTS

Nataliya KUZMENKO,
Posgraduate Student of Taras Shevchenko National University of Kyiv

Summary

The article deals with the analysis of Ukrainian and foreign legislation in terms of determining the legal effect of unlawful local government acts. It defines three types of violation of law that lead to unlawfulness of local government decisions and may cause their invalidity. Ukrainian legislation does not contain any legal guidelines on determining the legal effect of unlawful acts. By contrast, in foreign legislation and legal science depending on the legal effect of defective acts, they are divided into void and voidable. Although some defects of an act may not affect its validity at all.

Key words: unlawfulness, invalidity, acts of local governments, void acts, voidable acts.

ЮРИДИЧЕСКИЕ ПОСЛЕДСТВИЯ НЕЗАКОННЫХ РЕШЕНИЙ ОРГАНОВ МЕСТНОГО САМОУПРАВЛЕНИЯ

Н. КУЗЬМЕНКО,
аспирант
Киевского национального университета имени Тараса Шевченко

Аннотация

Статья посвящена анализу украинского и зарубежного законодательства на предмет определения юридических последствий незаконных решений органов местного самоуправления. Определено три типа нарушений законодательства, которые ведут к незаконности решений органов местного самоуправления и могут приводить к недействительности. Законодательство Украины не содержит каких-либо правовых указаний по определению юридических последствий незаконных актов. В то же время в зарубежном законодательстве и юридической науке в зависимости от юридических последствий дефектных актов они делятся на ничтожные и оспоримые акты. При этом некоторые дефекты могут не влиять на действительность акта вообще.

Ключевые слова: незаконность, недействительность, акты органов местного самоуправления, ничтожные акты, оспоримые акты.

Problem statement. In the process of adoption of decisions in the field of regulation of land relations the local government can make certain errors or knowingly violate legal requirements. As a result, such decisions may acquire signs of unlawfulness. Considering the fact that in the judicial practice there are a lot of cases when local government decisions related to land management are challenged on grounds of violation of legal requirements by mentioned authorities in the process of decision making, the research into legal effects of unlawful decisions of local governments has an important theoretical and practical significance.

An issue of unlawfulness (defectiveness) and invalidity of certain legal acts was researched by such national and foreign scientists as D.S. Andreiev, N.I. Dehtiareva, A.A. Zhdanov, O.M. Kamenieva, V.F. Melashchenko, A.M. Miroshnychenko, S.V. Nikitin, V.I. Novosyolov, V.P. Tymoshchuk, O.O. Uvarova, D. Feldman, Ch. Forsayt, K. Frumarova, M.R. Shabanov, and others. However, in the current legal science there is no single approach to determination of effects of non-compliance with the legal requirements in the adoption of decisions by, in particular, local governments, which determines the urgency of this scientific work.

The purpose of the article is to determine legal effects of those local government decisions that were adopted with violation of the Ukrainian legislation requirements.

Research results. First of all we should note that within this paper un-

lawfulness is considered as inconsistency and/or direct contradiction of the content, form or adoption procedure of a local government decision to the requirements of Ukrainian legislation (laws and subordinate legal acts). Therefore, any violation of legal requirements will indicate the unlawfulness of a decision adopted by the local government. Now it is necessary to find out to what effects such unlawfulness leads because the determination of legal effects of unlawful local government decisions in the field of land relations has important significance to the law enforcement and selection of relevant remedies to protect rights of subjects of legal relations who have been or may be negatively affected by such decisions. At the same time, unlawfulness is sometimes used in the meaning of invalidity, especially in the context of the judicial challenging of local government decisions in the field of land relations. Thus, we will first analyze the existing legal regulation of these issues in order to determine the legal nature and effects of unlawfulness and invalidity.

In the first place, it is worth paying attention to the inconsistence in the usage of the terms in the legislation in the context of the issues researched. As you can see Article 152 of the Land Code of Ukraine [1] (hereinafter – LCU) applies the term "declaring decisions of local governments invalid" as one of the remedies to protect the rights of citizens and legal entities in land plots. At the same time Article 16 of the Civil Code of Ukraine [2] (hereinafter – CCU) and Article 67 of the Law of Ukraine "On Prevention of Corruption" [3] employ with respect to such acts a collocation "declaring unlawful", which leads to contradictions both in legal science and in law enforcement activities. The situation is getting more complicated because the Code of Administrative Proceedings of Ukraine [4] (hereinafter – CAPU) contains completely different terminology regarding contestation of the decisions that are in their legal nature regulatory legal acts or administrative acts. Thus, Part 4 of Article 105 of the CAPU reads that the administrative legal action may contain claims, in particular on cancellation or recognition of the respondent's (the subject of authority) decision as ineffective as a whole or in part. At the same time in accordance with Part 2 of Article 162 of the CAPU, administrative court has powers to recognize the decision of a subject of authority or separate provisions of the decision illegal and to cancel or to declare the decision or any of its provisions ineffective. Instead, according to Part 8 of Article 171 of the CAPU the court may rule the legal act as unlawful or such that does not conform to the legal act of a higher legal force as a whole or in part. Still, the issue of legal effects of such a ruling remains open.

As A.M. Miroshnychenko states, the term "declaring unlawful" ("such as does not conform to a legal act of higher legal authority") used in the legislation by itself does not provide an answer on the issue of legal effects of such declaring: ineffectiveness from the moment of the rendering of court's decision on "unlawfulness", ineffectiveness from the moment of adoption of a decision, from some other moment (for instance, from the moment adoption of a legal act of higher legal authority), statement of the already existing ineffectiveness (in other words voidness). The same applies to declaring a legal act "ineffective" or "invalid". It is not clear if this is the prospective change of the legal relation (lat. ex nunc) or with the retrospective effect from the very beginning (lat. ex tunc), or just the statement of fact of the already existing invalidity [5].

It is worth noting that in the draft new edition of the CAPU [6] (hereinafter – draft) adopted by the Verkhovna Rada of Ukraine in the first reading on 20.06.2017 it is suggested to resolve this issue at least partially. Thus, pursuant to Part 2 of Article 265 of the draft the legal act becomes ineffective as a whole or in in part from the moment of entry into force of the relevant court decision. At the same time, in accordance with Part 1 of Article 245 of the draft, courts' powers include, in particular, declaring a legal act or its part illegal and ineffective, or declaring and cancelling an individual act or its part illegal (Article 245). Essentially, the draft suggests embodying in the legislation so called "prospective" model of unlawful legal acts becoming ineffective. At the same time, the draft does not provide an answer to the question of to what effects declaring illegal and cancelling an individual act will lead. Only Part 3 of Article 245 of the project contains a provision according to which in case of cancellation of a legal or individual act the court may oblige the subject of authority to take necessary actions in order to restore rights, freedoms or interests of the claimant for the protection of which the claimant applied to the court. However, landmarks regarding the moment when an individual act becomes ineffective are absent in the draft. In addition, the draft does not intend to unify the terminology concerning the formulation of the legal remedy against unlawful decisions of government bodies and local government bodies in other legal acts, which is undoubtedly a disadvantage of draft.

As you can see, neither now nor in the near future will the issue of determining the legal effects of unlawful acts, including acts adopted by local government bodies, be fully resolved at the legislation level. It makes actual the need for the scientific research into these issues in order to develop a unified model of determining the effects of unlawfulness that could become a basis for future legislative initiatives. Thus, existing terminological inconsistency and lack of law enshrining the effects of unlawfulness of certain acts negatively influence the state of ensuring of the proper protection of rights of a person in case of their violation and point to a low level of legislative technique, which is extremely negative. As N.A. Chechyna aptly mentions, it is inadmissible that the same concepts (phenomena) in different codes are designated differently [7, p.117-118].

Judicial practice has a well-established approach according to which a normative act in case of being challenged becomes ineffective from the moment the judicial decision becomes effective, which seems quite reasonable. As A.M. Miroshnychenko states, referencing to the position of M.B. Gusak, the annulment of normative acts only for the future can, from the theoretical point of view, be explained in such a way that in case of cancellation of normative acts with retrospective effect legal consequences would be unpredictable; in other words, the principle of legal certainty would be undermined [5]. Thus, in accordance with the approach established in Ukraine it is only after

declaring the normative act unlawful (invalid, ineffective) that it cannot be applied.

Concerning individual legal acts, legal effects of their unlawfulness are not so unambiguous. Some decisions of the Supreme Court of Ukraine (hereinafter – SCU) suggest a position that in case of declaring an individual act unlawful (illegal) the act is not in force from the moment of its adoption [8]. However, a question arises of whether the affirmation of unlawfulness and respectively ineffectiveness of such an act affects the relations that arose on its basis. In our point of view, declaring an individual legal act as unlawful (illegal, invalid) cannot be considered as a relevant proper remedy where such legal act has already been performed and certain legal relations arose on its basis. Obviously, it is more appropriate to apply such remedies as termination or change of legal relations, return of property from unlawful possession of another, compensation of damages caused by an unlawful act etc.

Analysis of decisions of local government bodies makes it possible to distinguish the following groups of violations which occur during their adoption, namely: 1) violation of the form; 2) violation of the procedure for adoption of decisions; 3) violation of rules of substantive law.

Adoption of legal acts by the local council in the form other than the form of decisions, for instance, resolutions, may be attributed to the first group of violations. Thus, the requirement of Part 1 of Article 59 of the Law of Ukraine "On Local Governance in Ukraine" [9] is systematically violated by the Lviv local council, which adopts resolutions, not decisions [10; 11]. In our opinion, although such practice is negative, as it shows disrespect of the local government body to legislation requirements, this violation should not affect the validity of the decision itself provided that there were no other violations of law during its adoption. Within this aspect it is important to note that traditionally the form of an act is considered as a way of expression of the will of persons who adopt certain act. In this sense there are written, oral or electronic forms, in which acts may be adopted. However, in current Ukrainian legislation specific types of legal acts (orders, regulations, decisions, instructions etc.) are considered as their forms, as well. This is confirmed by the above-mentioned provision of Part 1 of Article 59 of the Law of Ukraine "On Local Governance in Ukraine", in accordance with which the council within the scope of its authority adopts legal and other acts in the form of decisions.

The second group contains violations where the local governments adopt decisions with the violation of time-limits established by law. For instance, they may adopt a decision on approval of the land management plan regarding the land plot allocation and granting ownership of the land to a citizen under the procedure of free-of-charge privatization not in a two-week term as provided for in Part 9 of Article 118 of the LCU, but in a month term, or approves amendments to the master plan of a settlement exceeding the three-month term established by Part 10 of Article 17 of the Law of Ukraine "On Regulation of Urban Development Activities". In our point of view, the procedural violations, unless they have affected the substance of the adopted decision, should not lead to the invalidity of the decision. Thus, Sub-paragraph 2 of Paragraph 2 of the Clarification of the Presidium of the Supreme Arbitration Court of Ukraine of 26.01.2000 №02-5/32 "On certain issues of the dispute resolution practice related to declaring legal acts of the state or other bodies invalid" contained a landmark according to which non-compliance with requirements of legal provisions which regulate the procedure for adoption of decisions, including form, time-limits etc., may be the basis for declaring such an act as invalid only if the corresponding violation has resulted in the adoption of a wrong legal act. If a legal act in general conforms to the requirements of the legislation and is adopted in accordance with the circumstances (in other words, the content is true), the violations of the established procedure of adoption of the legal act may not be the basis for declaring it invalid, unless it is otherwise provided for by law [12]. However, the force of this sub-paragraph was temporarily suspended in accordance with the Recommendation of the Higher Economic Court of Ukraine №04-5/934a of 16.02.2002 due to the issues arising regarding the practice of its application [13]. However, in our opinion, initially the court laid the right approach according to which in each individual case the court must take and individual approach to resolving the dispute on challenging one or another legal act and to determining whether violations affected its substance. If such violations were formal and their presence or absence was not significant, such legal acts shall not be declared invalid just on the formal basis.

The largest number of unlawful decisions which are challenged in court is related to the violation of rules of substantive law. Thus, unlawful are decisions adopted by the inappropriate subject, in particular, in case of adoption of a decision on the transfer of a land plot into ownership by the executive committee rather than by the corresponding council at the plenary meeting; a decision of the local council on the transfer of land plots which belong to communal ownership and which, pursuant to Part 4 of Article 83 of the LCU, cannot be transferred into private ownership exactly; decisions of the local council on the disposal of state owned lands; decisions of local council on the transfer in ownership or for use of land plots of community property without conducting land auctions where such auctions are mandatory; decisions on approval of the master plan of a settlement, territory zoning plans, detailed territory plans without conducting public hearings regarding consideration of public interests (Part 2 of Article 21 of the Law of Ukraine "On Regulation of Urban Development Activities" [14]) etc.

Since the seriousness and obviousness of violations of the law in the adoption of certain acts may be different, in legal literature, including foreign literature, defective legal acts in general or their specific types (for example, administrative acts) depending on their effect are traditionally divided into void (invalid from the very beginning) and voidable (valid until successfully challenged in the legally prescribed order). In this context, depending on the type of invalidity which has the dominant value in a certain legal system there can be defined monistic (all acts adopted in violation of the law are considered to be either null and void or voidable) and du-

alistic (it is determined at the legislation level under what conditions a defective act is void and under what – voidable) models. As Gabriel Bocksang Hola mentions, the extension of each type of invalidity depends on the specific country, although it seems irrefutable that dualistic systems seem inclined to prefer voidability as their principal choice for invalidity [15]. There is also division of invalid acts in foreign literature into absolutely invalid and relatively invalid [16, p.81-83], though absolute invalidity is nothing more than voidness, and relative invalidity – voidability.

At the same time it should be mentioned that in some cases the defectiveness of an act may not affect its validity at all, for example, formal procedural violations that do not affect the substance of the decision. As David Feldman rightly observes, it would be extremely inconvenient if every error which infringed a legal requirement in the making or implementation of a rule or decision were to deprive it of legal effect. The error might be minor, or do no harm to anyone. It might not make the decision inappropriate or deprive it of social and political legitimacy. The damage caused by refusing all legal effect to it might then be out of all proportion to the seriousness of the error [17, p. 275].

Taking into account that in practice it may be difficult for ordinary persons or even governing institutions to define the right type of certain unlawful act, the question arises in determining the criteria for assigning acts to void or voidable.

A well-established legal literature has the approach according to which acts are considered to be void when they contain so rude and obvious errors that from the moment of adoption they do not give rise to any legal effects, and, therefore, any person to whom such acts are addressed may refuse to recognize them and independently and directly refuse to perform them. Furthermore, since such acts are considered ineffective and never legally existent, there is no need for the issuance of other acts that would make them devoid of legal effect. Such acts may in certain cases only be declared invalid [16, p. 81-82; 18, p.160, 162; 19, p.20-21; 20, p.78]. Examples of void acts in the land relationship sphere may be the following: decisions of the local council on the abolition of land tax, the abolition of all privileges for payment of land tax, the obligation of the owner of a certain land plot to transfer it free of charge to the ownership of a territorial community, the establishment of land servitude regarding a land plot that is privately owned etc. As a general rule, it is unnecessary to recognize such decisions as unlawful or invalid in court. At the same time we agree with A.M. Miroshnychenko, who states that a simple statement of unlawfulness of a void act that has defects in content or was adopted in violation of the procedure (if the law establishes voidness as a consequence of such violation) may be a remedy only in cases where the person concerned has a certain "legitimate interest" in court's confirming such unlawfulness. There may be a situation that the protection of right lies precisely in the elimination of uncertainty which significantly impedes the realization of the right, and the rights cannot be exercised by applying another remedy (an obligation to take certain actions, to compensate damages, etc.). These criteria will be met, for example, when an act has not yet been performed, and the person is "in danger" of its performance [5].

By contrast, voidable acts, as they do not have obvious defects incompatible with their nature, are initially assumed to be legal and giving rise to legal effects and remaining in effects until duly terminated for the reason of revealing violation of any conditions of their legality. An example of such acts is a decision of the local council on providing land tax benefits or on transfer of ownership of land plot or on transfer of a land plot for use with violation of statutory procedure provided that such violation affected the substance of the decision. Other examples are decisions on approval of the master plan of a settlement adopted without holding public hearings, or decisions on changing the purpose of land use with infringement of the procedure established by the LCU etc.

Notice also that in foreign countries, deprivation of voidable acts of their validity is allowed both from the moment of adoption of such act and prospectively depending on circumstances of each individual case. In this part Christopher Forsyth states that in European Law prospective overruling is permitted in order to protect "legal certainty". In his point of view where the court makes a ruling that overrules a previous decision and there are many transactions entered into in good faith on the basis that the previous decision was good law, it is understandable that the court may wish to avoid the disruption of all those transactions by holding that its ruling applies for the future only [21]. David Feldman also points out that EC law was (and is) much more flexible in this regard, allowing a court to decide whether a flaw takes effect *ex nunc* (i.e. prospectively only) or *ex tunc* (depriving the rule of effect from the moment it was purportedly made) [22]. According to Article 48 of Administrative Procedure Act of Germany [23] an unlawful administrative act may, even after it has become non-appealable, be withdrawn wholly or in part either retrospectively or with effect for the future. Herewith, an unlawful administrative act may not be withdrawn when beneficiary`s reliance on such act deserves protection relative to the public interest in a withdrawal, for instance, when he has made financial arrangements which he can no longer cancel. At the same time beneficiary cannot claim reliance when: 1) he obtained the administrative act by false pretences, threat or bribery; 2) he obtained the administrative act by giving information which was substantially incorrect or incomplete; 3) he was aware of the illegality of the administrative act or was unaware thereof due to gross negligence. In such cases the administrative act shall in general be withdrawn with retrospective effect.

It should be mentioned that in many countries criteria for attributing unlawful acts (at least administrative acts) to void or voidable are enshrined at the legislative level – see, for example, Article 77 of the Code of Administrative Procedure of Czech Republic [24], Chapter 13 of the Code of Administrative Procedure of Poland [25], Articles 115-119 of the Code of Administrative Procedure of the Republic of Albania [26], Article 68 of the General Administrative Procedure Act of Austria [27]. Thus, according to Paragraph 1 of Article 44 of Administrative Procedure Act of Germany an administrative act shall be invalid where it is very gravely erro-

neous and this is apparent when all relevant circumstances are duly considered. Regardless of the conditions laid down in paragraph 1, German legislation refers to an invalid administrative act that meets the following conditions: 1) it is issued in written or electronic form but fails to show the issuing authority; 2) by law it can be issued only by means of the delivery of a document, and this method is not followed; 3) it has been issued by an authority acting beyond its powers as defined in section 3, paragraph 1, no. 1 and without further authorization; 4) it cannot be implemented by anyone for material reasons; 5) it requires an action in contravention of the law incurring a sanction in the form of a fine or imprisonment; 6) it offends against morality.

Moreover, in Germany there are legislative provisions according to which in some cases defects of an administrative act do not influence its validity. In accordance with Paragraph 3 of Article 44 of the Administrative Procedure Act, an administrative act shall not be invalid merely because: 1) provisions regarding local competence have not been observed, except in a case when an administrative act has been issued by an authority acting beyond its powers in matters relating to immovable assets or to a right or legal relationship linked to a certain place; 2) a person excluded under section 20, paragraph 1, first sentence, nos. 2 to 6 is involved; 3) a committee required by law to play a part in the issuing of the administrative act did not take or did not have a quorum to take the necessary decision; 4) the collaboration of another authority required by law did not take place. At the same time, if the invalidity applies only to part of an administrative act, it must be invalid in its entirety where the invalid portion is so substantial that the authority would not have issued the administrative act without the invalid portion.

In Ukraine, attempts were also made to settle these issues at the level of the Administrative-Procedural Code taking into account, in particular, German experience, but registered bills were withdrawn, and new legislative initiatives in this part are not yet available. Although, in our opinion, the establishment at the legislative level of cases in which at least unlawful administrative acts are void and the cases in which defects do not influence the validity would help to reduce the number of unnecessary disputes and would significantly ease the work of the judicial system.

Conclusions. On the basis of all above mentioned it is possible to make a conclusion that all decisions of local government bodies adopted in the land law sphere which are inconsistent with and/or directly contradict legal requirements are unlawful. Ukrainian legislation does not contain any legal guidelines on how to determine the legal effect of unlawful acts including local government decisions. At the same time, depending on the seriousness of violation of law such decisions at least theoretically may be qualified as void (invalid from the very beginning) or voidable (valid until successfully challenged in the legally prescribed order with retrospective or prospective effect depending on certain circumstances), which should be enshrined at the legislative level with setting out legal effects of each kind of invalidity. Herewith, it should be taken into account that some defects related to the violations of the procedure which do not influence the substance of the act should not affect the validity of the adopted decision per se.

List of references:

1. Земельний кодекс України від 25.10.2001 р. зі змінами та доповненнями // Офіційний вісник України. – 2001. – № 46. – Ст. 2038.

2. Цивільний кодекс України від 16.01.2003 р. зі змінами та доповненнями // Відомості Верховної Ради України. – 2003. – № 40. – Ст. 356.

3. Про запобігання корупції: Закон України від 14.10.2014 № 1700-VII зі змінами та доповненнями // Відомості Верховної Ради України. – 2014. – № 49. – Ст. 2056.

4. Кодекс адміністративного судочинства України від 06.07.2005 р. зі змінами та доповненнями // Відомості Верховної Ради України. – 2005. – № 35, / 35-36, 37. – Ст. 446.

5. Мірошниченко А.М. Правові наслідки незаконних адміністративних актів [Електронний ресурс] / А.М. Мірошниченко // Право і громадянське суспільство. – 2013. – № 1(2). – Режим доступу: http://lcslaw.knu.ua/index.php/arkhiv-nomeriv/1-2-2013/item/99-pravovi-naslidky-nezakonnykh-administratyvnykh-aktiv-miroshnychenko-a-m.

6. Проект Закону України «Про внесення змін до Господарського процесуального кодексу України, Цивільного процесуального кодексу України, Кодексу адміністративного судочинства України та інших законодавчих актів» № 6232 від 23.03.2017 [Електронний ресурс]. – Режим доступу : http://w1.c1.rada.gov.ua/pls/zweb2/webproc34?id=&pf3511=61415&pf35401=419014.

7. Чечина Н.А. Рассмотрение судами дел, возникающих из административно-правовых отношений / Н.А. Чечина // Правоведение. – 1994. – № 5-6. – С. 115.

8. Постанова Верховного Суду України від 08.12.2009 р. [Електронний ресурс]. – Режим доступу : http://www.reyestr.court.gov.ua/Review/7417986.

9. Про місцеве самоврядування в Україні: Закон України від 21.05.1997 № 280/97-ВР зі змінами та доповненнями // Відомості Верховної Ради України. – 1997. – № 24. – Ст. 170.

10. Ухвала Львівської міської ради 8-ї сесії 7-го скликання від 08 червня 2017 року №2121 «Про надання Львівській обласній раді дозволу на виготовлення проекту землеустрою щодо відведення земельної ділянки на вул. Кульпарківській, 95» [Електронний ресурс]. – Режим доступу : http://www8.city-adm.lviv.ua/inteam/uhvaly.nsf/(SearchForWeb)/505ED5E38D3D10B3C22581400034EEB9?OpenDocument.

11. Ухвала Львівської міської ради 7-ї сесії 7-го скликання від 25 травня 2017 року №1999 «Про продаж ПП ЮФ «Аміда» земельної ділянки на вул. М. Некрасова, 36» [Електронний ресурс]. – Режим доступу : http://www8.city-adm.lviv.ua/inteam/uhvaly.nsf/(SearchForWeb)/C7AA177518E12A6CC2258137004C98BF?OpenDocument.

12. Роз'яснення Президії Вищого арбітражного суду України від 26.01.2000 №02-5/32 «Про деякі питання практики вирішення спорів, пов'язаних з визнанням недійсними актів державних чи інших органів» [Електронний ресурс]. – Режим доступу : http://zakon0.rada.gov.ua/laws/show/v5_35800-00.

13. Рекомендації Президії Вищого господарського суду України від 16.08.2002 №04-5/934а «Про зупинення дії абзацу другого пункту 2 роз'яснення президії Вищого арбітражного суду України від 26.01.2000 N 02-5/35 «Про деякі питання практики вирішення спорів, пов'язаних з визнанням недійсними актів державних чи інших органів»» [Електронний ресурс]. – Режим доступу : http://zakon0.rada.gov.ua/laws/show/v934a600-02.

14. Про регулювання містобудівної діяльності : Закон України від 17.02.2011 № 3038-VI зі змінами та доповненнями // Відомості Верховної Ради України. – 2011. – № 34. – Ст. 343.

15. Gabriel Bocksang Hola. Administrative Invalidity in the Western Tradition: Anglo-American, European, and Latin American Approaches / Gabriel Bocksang Hola [Електронний ресурс]. – Режим доступу : https://law.yale.edu/system/files/area/conference/compadmin/compadmin16_bocksang_administrative.pdf.

16. Abduli Entela. Invalidity of Administrative Acts / Entela Abduli // European Journal of Research and Reflection in Management Sciences. – 2015. – Vol.3. – No. 3. – P. 80-85. – P. 81-83.

17. David Feldman. Error of Law and Flawed Administrative Acts / David Feldman // Cambridge Law Journal. – Volume 73. – Issue 2. – July 2014. – Pp. 275-314. – P.275.

18. Тимощук В.П. Адміністративні акти: процедура прийняття та припинення дії: Монографія / В.П. Тимощук. – К. : «Конус-Ю», 2010. – 296 с. – С. 160, 162.

19. Яхин Ф.Ф. Действие административно-правовых актов : автореф. дис. на соиск. уч. степени канд. юр. Наук : спец: 12.00.14 «Административное право ; Финансовое право ; Информационное право» / Ф.Ф. Яхин. – М.,2004. – 24 с.

20. Frumarová K. Nullity and Other Defects of Administrative Decisions in the Czech Republic / Kateřina Frumarová // Baltic Journal of European Studies. Tallinn University of Technology. – 2015. – Vol. 5. – No. 2(19). – P. 70-89. – P.78.

21. Christopher Forsyth. The Rock and the Sand: Jurisdiction and Remedial Discretion [Електронний ресурс] / Christopher Forsyth // Legal Studies Research Paper Series. – 2013. – № 31. – Режим доступу : https://poseidon01.ssrn.com/delivery.php?ID=068096001126024103066083114114125117122011005035010028104088096024123025074007076091031007000042033007027069118103124003118064049007088022007111083102116122092111105024020000022070020123002070094083114092072014002004104101102089090122116088108116073091&EXT=pdf.

22. David Feldman. Error of Law and the Effects of Flawed Administrative Decisions and Rules [Електронний ресурс] / David Feldman // University of Cambridge Faculty of Law Legal Studies Research Paper Series. – 2014. – № 18. – P. 48. Режим доступу : https://poseidon01.ssrn.com/delivery.php?ID=805083115115086066014094102125103124020009058049034037091095013006029076088001024124013048012118102116115019091103015005025074026033071081039083109027118115118112019023022010091070092079105089103001102119003015120066110092115103115116001025077090017003&EXT=pdf.

23. Administrative Procedure Act (Verwaltungsverfahrensgesetz, VwVfG) [Електронний ресурс]. – Режим доступу : http://www.iuscomp.org/gla/statutes/VwVfG.htm.

24. Code of Administrative Procedure of 24th June 2004 [Електронний ресурс]. – Режим доступу : http://www.nssoud.cz/docs/cap2004.pdf.

25. Code of Administrative Procedure of 14 th June 1960 [Електронний ресурс]. – Режим доступу : http://www.asylumlawdatabase.eu/sites/www.asylumlawdatabase.eu/files/aldfiles/EN%20-%20Code%20of%20Administrative%20procedures%20Poland%20.pdf.

26. Code of Administrative Procedure № 8485 of 12th May 1999 [Електронний ресурс]. – Режим доступу : http://www.erru.al/doc/Code_on_Administrative_Procedures.pdf.

27. General Administrative Procedure Act 1991 [Електронний ресурс]. – Режим доступу : https://www.ris.bka.gv.at/Dokumente/Erv/ERV_1991_51/ERV_1991_51.pdf.

ИНФОРМАЦИЯ ОБ АВТОРЕ

Кузьменко Наталия Олеговна – аспирант Киевского национального университета имени Тараса Шевченко

INFORMATION ABOUT THE AUTHOR

Kuzmenko Nataliya Olegovna – Posgraduate Student of Taras Shevchenko National University of Kyiv

n.o.kuzmenko@gmail.com