PROBLEMS AND JUDGEMENTS

L. Yukhtenko

Judge of Odessa District Administrative Court

PROCEDURE OF CONCILIATION IN ADMINISTRATIVE JUSTICE: CONTROVERSIAL ASPECTS OF THE USEFULNESS OF APPLICATION

One of the legal institutions of administrative justice is "conciliation". In civil proceedings such institution is the "settlement agreement of the parties" (Art. 175 of the Civil Procedure Code of Ukraine).

Despite the fact that the administrative proceedings, as well as civil proceedings, are based on the principles of equality of the parties, their competitiveness and discretionarity, and provide the right of the parties for their reconciliation, the judicial practice of administrative courts shows that in the courts of administrative jurisdiction the institute of "conciliation" almost does not work because of the operation of a similar institution "settlement agreement of the parties" in the civil proceedings. Less than 1% of administrative cases for the year could end by reconciliation of the parties.

The author concludes that the current difficulties of practical application of the legal institution of "conciliation" in administrative proceedings is more false than real. They can be overcome, and the legal institution of "conciliation" in administrative proceedings can be subjected to further research and theoretical elaboration, as well as practical expansion. The conducted analysis shows that an expedient step is introduction of appropriate amendments to the procedural legislation to simultaneously test a brand new subinstitute of "conciliation" in jurisprudence – pre-trial settlement of a dispute with the help of a judge. After all, one of the objectives of science is apprehension and analysis of practices to establish positive and negative trends in the implementation, application and development of various legal ideas.