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ADMINISTRATIVE LAW AS A MACRO-SYSTEM PHENOMENON

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Annotation. *The article analyses macro-occurrences of the administrative law. Implementation of macro-normative legal regulation is based on systematic evaluation of the phenomena in macro-environment and using of possibilities presented by this evaluation in legislation. Macro-norms are created by the Parliament of the Republic of Lithuania, on the basis of legislative powers that are legitimate to this subject of the law. It is considered that the Lithuanian Parliament takes use of the social legal technologies insufficiently. Voluntarism is practiced in parliamentary legislative process; marginal provisions of drafting legislation and a ruling behavioural nihilism prevents the legislators from applying the scientific legal doctrines. It is underlined in the article that macro-administrative law devotes its main attention to defining the legal models of social behaviour and social position of the people belonging to certain social classes and structures, large social groups, and state institutions. The author of this article claims that it is necessary to use the macro-administrative law as a tool for construction of social structures. If this is not being considered, disabled law is being created, which can destroy the modern economic and social life system. In this regard, it is necessary to apply the provisions on micro-administrative legal procedures.*

Keywords: *macro-norm, macro-law and macro-administrative law, macro-legal regulation, administrative legal regulation of human relations.*

Introduction

Administrative law as an outcome of macro-system phenomena has never been analysed in the theory of law. In theory, there are no special provisions on macro-norm, macro-law and macro-administrative law, macro-administrative regulation. Analysis of these administrative legal problems allows to reveal specific social management possibilities, underlines the importance of learning about interaction of social environment phenomena and legal phenomena. The Constitution, Codes, laws, and regulations are products of this social-legal interaction. Macro-normative legal regulation is implemented on the basis of a macro-norm, while individual legal regulation is implemented on the basis of a micro-norm. It is known that legal norms constitute one of the essential elements of law, together with principles and doctrines. Individual legal regulation of public relations is based on micro-norms of law, which are being created by its subject in the process of application of the law, by transforming the requirements of a macro-norm at a micro-legal personified level. In our opinion, such view is important while creating macro-legal scientific doctrines, which serve as a basis for establishing strategic legislative purposes, objectives, legal instruments and their interaction with other social, economic regulators of separate fields. It could be claimed that creation of a macro-legal norm is an important model of legal regulation strategy, the main and essential model as regards the law that empowers adequate regulation of public relations. Disabled law can destroy modern economic and social life system, to push people into social exclusion groups, and limit their subjective right to participate in rapid socio-economic events, such as management of social-economic crisis. Administrative law should empower a person to realise himself as a member of a civil society and not to impede this process. The Parliament, which performs the legislative function, cannot understand it literally as a politically absolute right, but must and is obliged to make a legal effect on human behaviour, by causing as little social conflicts that result in social tension macro-situations as possible, because only the Parliament can create laws and implement social compromise in the society.

The purpose of this article is to reveal the scientific and practice development problem of administrative law as a macro-system phenomenon

Meta-analysis method has been used for the purposes of this article; it has been used to analyse interactions of social theories' and administrative law transition on a comparative level, from macro to micro and from micro to macro, by establishing interdependence of social management actions.

1. Macro-Normative Legal Regulation and Administrative Law

The society and its separate members are often unsatisfied with the legislative products of the Seimas. What are these products, what is the essence and purpose of these legal products? These legal products according to their initial external form a set of one-purpose legal norms: the Constitution, Codes, laws, regulations... It is clear that they

are intended for normative and individual legal regulation consumption. It is necessary and possible to understand the purpose of such legal consumption through realization of the purpose of the consumption of these legal normative phenomena. Respectively, two types of legal norms should be analyzed: macro-norms and micro-norms.

Macro-normative legal regulation is implemented on the basis of a macro-norm, while individual legal regulation is implemented on the basis of a micro-norm. It is known that legal norms constitute one of the essential elements of law, together with principles and doctrines.

Normative legal regulation relies on legal macro-norm regulation of public relations. Macro-norms are created by the Seimas on the basis of legislative powers that are legitimate to this subject of the law. Individual legal regulation of public relations is based on micro-norms of law, which are being created by its subject in the process of application of the law, by transforming the requirements of a macro-norm at a micro-legal personified level. In this way, the subject of application of a law within the legal regulation framework depends on provisions on application of the legal regulation by a micro-norm and its limitations, the applied set of legal instruments, and characteristics of the consistency of model rights and obligations. For instance, not only macro-legal norms apply to jurisdictional subjects of law, but also micro-legal norms formed at the level of legal practice, provided that their micro-transformation does not contradict macro-norms, e. g., the Constitutions or a certain law. Without analyzing the further process of legal regulation, it could be claimed that creation of macro-legal norm is an important legal model of legal regulation strategy, the main and essential model of the law that empowers regulation. The law must be capable. The people aided by it must be capable to have a real and undoubted influence on the political, economic, and social life by using (contemplating, proving, calculating) the reasonable facts of social reality. Disabled law may destroy the modern economic and social life system and to an uncanny extent, to push people into social exclusion groups by taking away their subjective right to participate in fast-pace social economic events, e. g., crisis management. Disability of law is increased by failure to follow the doctrine of law and consequent establishment of macro-legal regulation effects.

An effect of scientific doctrine on the Seimas as the legislator is practically inexistent, and even such model of macro-behaviour is untraceable. Narrow group interests under fancy title “lobbying” have replaced the legislative process in practice. Legal nihilism under an intellectual cover could be noticed both in legislative process, and in opposing each other in discussions by denying everything, even the well-known doctrines, without suggesting anything new. Scornful denying of the legislative scientific doctrines resulted in collapse of the doctrines and conceptions created by the legislator. Only high level of legal culture, which is the basis of a deep respect for legal concepts and values formed as the civilization progresses, present a possibility for scientific doctrines to be the form and the source of law. Voluntarism, marginality and nihilism of the Seimas’ members prevent the usage of legal scientific doctrines.

The law should empower a person to realise himself as a member of a civil society and not to impede this process. It must rely on the principle of freedom – the right to do

whatever that does not inflict the freedom of others (in our view, the right of another). This provision is established in article 28 of the Constitution: “While implementing his rights and freedoms, the human being must observe the Constitution and the laws of the Republic of Lithuania and must not restrict the rights and freedoms of other people.”¹ This also applies to macro-legal relations. Both the Seimas and the Government must not violate the interests of social strata and social groups while drafting macro-legal provisions. At a macro-legal level, disabled legal norms may fatally result in social exclusion of certain social strata and social groups, they cannot function at a level of macro-subjective rights and there is no possibility to protect social, economic and other rights of human beings. Thus, marginal macro-law is being created and it restricts rights and freedoms of social strata and groups that have the natural basis: anything that does not restrict others is allowed. These are the essential legal duties of the Seimas and the Government because article 5 of the Constitution establishes “The scope of power shall be limited by the Constitution. State institutions shall serve the people.” These are the macro-legal principles that establish the limitations of the legal powers of the Seimas and the Government. Lawlessness exists behind these limitations. Therefore the Seimas, which performs the legislative function, cannot understand it literally as a politically absolute right, but must and is obliged to make a legal effect on human behaviour, by causing as little social conflicts that result in social tension macro-situations as possible, because only the Seimas can create laws and implement social compromise in the society. This is the functional goal of the Seimas, which it cannot reach alone, as experience of all countries shows. The legislator, as a subject of law that is particularly responsible to the society, must improve not only the reality of social relations, but must improve itself, have an adequate sense of this reality and create.

In our view, administrative law that regulates public relations at a macro-social level, must have an adequate dictionary of terms and categories. Thus, the “administrative law” is such a concept definition (and category), which analyses the a spectrum of social phenomena that can be regulated and are regulated, at a level of social systems and social structures. A social structure means a peculiar anatomic skeleton of the society. Each part of this skeleton is marked by terms that gain legal meaning in legal texts – the status (legal status), the role (meaning, importance, legal effect, objective side of activity and etc. of legal participation in public relations). A social structure is also an object of macro-administrative legal effects. It is a sum of statuses and roles that are functionally inter-related.

In this regard, it is purposeful to analyse the essence and purpose of the regulatory powers of the administrative law, the interaction of social, economic, management and legal regulatory instruments and strategic provisions, and the characteristics of legal regulation in separate fields of social management. Macro-administrative law devotes its main attention to defining the models of social behaviour and social conditions of the people belonging to certain social classes and structures, large social groups, and state institutions. These models apply to different structural public institutes, like family,

1 Constitution of the Republic of Lithuania. *Official Gazette*. 1992, No. 31–953.

school, public service, public safety, public administration, as well as political, economic, legal and other social conditions. People are drawn into the existing system of social structures from birth and are intensely affected by it. Creators of macro-law must pay most attention to maintaining the positive elasticity of mutual relations of different parts of society, as well as connecting the change of these relations with the quality of legislation. For instance, while adopting laws against drinking, the legislators must relate them to the social-economic structure of the society, to establish possible economic and legal and other social factors of changes of applications of the laws, which could raise unforeseen changes of the legal conditions. The example of adoption of the dry law in the U.S.A. is widely known², where application of the law „frustrated“ the former relations of social economic structure, created new dysfunctional public institutes that gained from newly created illegal economy, based on smuggling and sale of alcohol. There are also plenty of examples of the marginal law drafting in the practice of legislation of Lithuania. For instance, liquidation of the public structures of soviet farms instead of their gradual transformation, e. g., to limited liability companies, by application of legal acts caused the physical, economic and moral destruction of villages. All immovable property has been destroyed, wasted, buildings turned into ruins, people into unemployed, and men into drunkards. People in villages have become unsafe and turn victims of crimes more often.

Modern examples of tax legal reforms that are based on wrongful social prognoses also accelerate the destructive role of public structure and strengthen the effects of the global crisis. All of this shows that the legal bases of social reforms can be adequate and inappropriate instruments of macro-changes. It seems that the legislators should know that macro-law is related to other macro-social phenomena. In one case, macro-law can accelerate the promotion of inter-relations of public macro-social structures, and in another case, quite the contrary – it can destroy them. This applies as regards macro-law that is adequate to the society and connects its structures. What should be the level of this adequacy? The pre-war professor Petras Leonas had often underlined the purpose of the law by emphasizing its role in coordination of interests. However, coordination of interests requires high level of professionalism, analytic insightfulness, and verification of experts in specific fields of social management. It is necessary to identify the attempts to manipulate the interests. Without this identification, public interest may serve as a cover for allowing implementation of objectives of a narrower level, which are aimed at serving illegal private of corporate interests.

2 On 1 July 1919 in all territory of the USA the production of spirits was banned. On 16 January 1920, the Eighteenth Amendment to the United States Constitution came into force. Anti-alcohol measures were very unpopular and essentially aggravated the national economics and increased organized crime. Groups of gangsters (bootleggers) profited from smuggling and un-taxed shadow trade. Due to the public pressure, in December 1933, the Twenty First Amendment to the Constitution was adopted, which repealed the „dry law.“

2. Macro-Administrative Law as an Instrument for Construction of Social Structures

Macro-legal measures can be used in legal regulation procedures as instruments for the construction of social structures, aimed at the prospects of the structure through social legal change. The analysis of separate cases and facts allows to make a conclusion that structure and regularity of large derivatives and occurrences, the development, changes and interactions of social processes are the objects of macro-administrative law. The value cognition therein forms a basis for changing the social legal reality by adopting legal acts that establish conceptions (outlines), programs, strategic planning documents, as well as the laws and regulations aimed at that social legal reality.

1. Macro-legal regulation may have an effect on social demographic structure developments, provided that legal provisions establishing setting favourable conditions (economics, management and other social conditions) for young families, gender preferences of employers, which relate to workforce of women is less “useful” and more cost-demanding. This stereotype has some deep social-cultural roots emphasizing that in the modern world, with all the benefits and guarantees provided to working women, it is harder for them to work. The stereotype is reinforced by the fact that main household activity and responsibility for children upbringing falls on women. In this case, the level of negative consequences is revealed when a woman creates a family, and soon loses social mobility and professional development rates because of her dual employment. Such women less often improve their qualifications and become a low level workforce, or so-called “second-sort” workforce. Observations reveal that most of the businessmen think that work quality depends on gender at a large extent, and not on specific education and qualification indicators; the model of a socially passive woman is being established. Gender mainstreaming helps to realize the causes of inequality of men and women, which is common in our society and to look for strategic instruments to improve the situation. The purpose of the mainstreaming is to seek the equality of women and men. Thus, macro-legal regulation must be aimed at solutions of undesirable gender problems.

2. Macro-legal regulation may have an effect on legal solutions of *social-ethnic problems*. For instance, much attention is being paid to creation and testing of a mechanism for the integration of Roma to labour market. Legal regulation mechanism solves the complex legal-economic-social-education problems of Roma. The effect forecasted is: increased public experience and effectiveness of work with Roma; a changed public view of the Roma and their problems; employers and employees of public institutions will get to know the Roma and will be enabled to meet their needs better; increased employment of Roma; decreased social exclusion of Roma and social tension among Roma and society.³

3 Development of Support Mechanism of Roma Integration into Labour Market [interactive]. EQUAL, Project code No. EQ/2004/1130-01 [accessed 2009-08-03]. <<http://www.equal.lt/en/pages/view/?id=112>>.

3. Macro-legal regulation may have an effect on the structure of *professional employment of the population*. It is being understood as a composition of employed residents in various public and private management fields, according to the nature of activity and professions (according to qualifications and education). First consistent ideas on development of state and citizens could be found the “The Republic” by Plato.⁴ The idea on professionalism that is adequately developed was only unfolding in Greece of Plato times. Plato correctly understood that the issue is much wider than militarization of soldiers and orators. The knowledge is needed more than anything else. Plato related requirements established for professionalism (artistry) to the requirements applied to scientific knowledge, which reveals the originality of his theory on high-education explained in “The Republic.” Plato tried to accomplish something like that by establishing the Academy.

Lack of competence is the fault characteristic to democratic states, but there is also another defect that Plato saw in all forms of governance – the extraordinary rage and egoism of the parties’ wars, which results in different groups’ considering own benefit as more important than the state interests.

It is possible to overcome the incompetence in the society, provided that next to other measures and through legal regulation, the structure of the supply and demand relation of professional qualification⁵ workforce is balanced (mostly indirectly) within the labour market. For instance, decisions adopted by public authorities have a significant effect on the environment of professionalism, and the society continues to increase the demands for the workers of this system in respect of their professionalism, responsibility, publicity of activities and other aspects. Legal acts on civil service have a certain instrumental role while analyzing the theoretic aspects of professionalism, qualification, competence and expression thereof of public servants in the Lithuanian civil service. Professional competence of public servants is one of the most important management guarantees of state governance; professional officials constitute the gold fund of the state, as M. Weber said. They implement what the politicians have schemed. This management facilitates the development of democracy, creation of the legal state, developing economics, and ensuring the stability of social life. Pursuing profession activities relates with public servants’ right and obligation to serve their duties loyally and trustworthy. The classifier of professions of Lithuania⁶ describes the concept of “profession” recognized at the

4 Platonas. *Valstybė*. [Plato. The Republic]. Vilnius: Pradai, 2000.

5 Qualification means knowledge, skills, experience, and general abilities that every person needs to undertake a certain task or work. *Kvalifikacijų analizės vadovas darbo rinkos mokymo paslaugoms tobulinti*. [Manual of Qualification Analysis on Improvement of Labour Market Training Services]. Drafted in cooperation with AMU International, ASPEKT and Carl Bro International. Lietuvos darbo rinkos mokymo tarnyba. Vilnius: Agora, 2003.

6 *Ibid*. For instance, subgroup of professions, code 5162, title – police officers. Description: police officers protect public safety, ensure observance of laws and regulations. Tasks performed: (a) protection of public order and observance of the laws; (b) protection of persons and property and it’s safeguarding against danger and illegal actions; (c) detention of persons for violations of laws; (d) regulation of road traffic and undertaking certain authority in cases of accidents; (e) performance of similar tasks; (f) supervision of other workers. Examples of attributable professions: 5162 01 Police patrol 5162 02 Police officer 5162 03 Port police officer 5162 04 River police officer.

international level, which relates to work performed by one person. The state and the society constantly increase the legal requirements to the workers of this system, as regards their professionalism, responsibility, publicity of their work and other aspects. For instance, the classifier of professions of Lithuania distinguishes 10 main groups. One of the highest-qualified groups is the group of legislators, senior state officials, heads of enterprises, institutions and other organisations. This group includes the professions that involves tasks like setting, formation and consultation on the government's target actions, district or local authority; drafting of laws, normative and regulatory documents; representing the government and authority at other levels, as well as acting on its behalf; monitoring of state politics and implementation and interpretation of the laws; implementation of analogous tasks on behalf of political parties, labour unions or other special organizations. This group also includes professions that are aimed at management and coordination of companies, institutions and enterprises, and activities of their internal departments and sectors.⁷ The Council of the European Union, in creation of macro-models to increase the employment and to modernize and strengthen the European social model, underlines the importance of "good practice" and its main principles, i.e. rights and participation of employees, equal opportunities, safety and protection of health of workers, and organization of work favourable to family. Reinforced view on work as in whole-lifelong cycle is also necessary in order to improve the possibilities to participate in labour market and to prolong professional life and professional mobility throughout the cycle.⁸

4. Macro-legal regulation may have an effect on *confessional civil system*. This macro-legal regulation must rely on provisions of article 26 (2) – (5) of the Constitution, which provide: "Each human being shall have the right to freely choose any religion or belief and, either alone or with others, in private or in public, to profess his religion, to perform religious practices, to practice and teach his belief. No one may compel another person or be compelled to choose or profess any religion or belief. Freedom of a human being to profess and spread his religion or belief may not be limited otherwise than by law and only when this is necessary to guarantee the security of society, the public order, the health and morals of the people as well as other basic rights and freedoms of the person. Parents and guardians shall, without restrictions, take care of the religious and moral education of their children and wards according to their own convictions."

3. Why is the Management of Macro-Administrative Legal Processes Necessary?

Administrative law at a macro-process level is a legal phenomenon, which is a certain part of the social phenomena. Thus attention should be paid to manifestations of

7 Annual Report on Available Workplaces, *LDV-02, Annex 2*. Department of Statistics to the Government of the Republic of Lithuania. Report approved by 29 May 2007 Order of General Director No. DJ – 138.

8 *We Create Europe Together*. Presentation of Pöttering, H. G. in the Council of the European Union. Brussels, 2007-02-03.

administrative law as a certain macro-social phenomenon, which can be achieved by improving the macro-administrative legal regulatory powers, so that not only lawyers comprehend its regulatory extents, but also the politicians, specialists from various fields of public administration institutions and heads of these institutions. At the moment the former group on one hand, and the lawyers on another hand, do not have a common public agreement. Politicians and representatives of various fields are drafting administrative law acts on the basis of their experience that is often erroneous because due to political or professional limitations, these persons cannot take use of the strategic administrative law provisions. Therefore, lawyers and administrative law strategy experts do not receive social orders on management of administrative law regulatory processes. Moreover, not all lawyers understand the administrative law as a macro-legal phenomenon that interacts with an ongoing economic, management, social–psychological process, and various other social processes of globalization. Thus, the social macro-legal contacts of these lawyers and public representatives remind of a total miscommunication of a patient and a doctor. Before going to a doctor, a patient establishes the features of the supposed sickness, as well as its diagnosis and treatment. Therefore while communicating with a doctor, patients who believe the correctness of their insights do not even try to analyze the meaning of the questions given by the doctors, and ignore their professional experience in setting the real and not pre-supposed diagnosis of sickness and its treatment procedure. A dialogue between a patient and a doctor is like this:

Patient to doctor:
It hurts...
My diagnosis is...
I think the treatment I need is...

Doctor to patient:
The why did you come to me?
Patient:
I need a prescription...
With stamp...

Having in mind this example of patient-doctor miscommunication, we observe a similar, only social scene, in the legislative process.

The patient's, i. e. the served person's (the Seimas, the Government, other public administration subjects) task is to identify correctly the purpose of the social issue to be solved, to set the objectives for its implementation, and to provide a clear and concise topic of the information needed. It is a matter for professional experts and researchers to choose the methods and methodology.

However, similar to these patients, politicians and public administration specialists from various fields, some intuitively and others based on social (usually routine) practise, realise that current and newly drafted administrative law provisions do not have the necessary macro-regulatory powers and thus behave like the patient who tries to cure himself. The Seimas sets the diagnosis on legal regulation of public life itself,

determines the treatment, but is forced to go the “doctor,” because certain instruments (prescriptions and medicines) are not available without him. At a macro-administrative law level, the situation is even more paradox, considering that new social technologies are ignored. Social science could be seen as socially excluded from the society and the state. As regards reforms, expensive experts from abroad are being invited for fostering of the political image, although it would be cheaper to invite our scientists, especially in case of a public tender. On the other hand, our scientists are inconsiderate as regards social technology supply, because the real supply is only provided at a theory level and without marketing of possibilities to use social technologies. In this way, social conditions favourable for opposition, disagreement, arguments due to miscommunication, are being established. Nevertheless, politicians and public administration specialists of various fields are somewhat intimidated by the existing thorough social theories that they fail to understand, because in case the theories are applied, the pronounced reforms are postponed to a certain strategic stage in the future. In their opinion, reforms always come late and thus they define the terms for implementing reforms by the shortage of set time. Ever since the old times, scientists have claimed that the practice without theory is close and inaccurate, and that the theory without practice is fruitless and lifeless. Despite the lack of interaction between the practice and the theory, in my opinion this contradiction is further fostered by legal positivism (to be precise, its relapse) of politicians, concerned public administration specialists and lawyers in the field. Therefore legislative conditions, defined by politicians’ tossing between increasing flow of mass-production of laws and lack of comprehension of stable edition of a law, could be constantly observed. Moreover, constant change of editions of new laws does not help to determine the effectiveness of laws in force, because as the research shows, the effectiveness of laws can only be determined in 3 years after their application. Analysis of this situation leads to a conclusion that the legislation based purely on legal positivism is not progressive. Macro-legal approach allows to evaluate the legislative process in consideration of the aspect of legal processes’ management. Creation of macro-norms at the initial legislative stage must be related with sociological position of the conception of law. It takes into consideration the unity of interests and needs of a human being, society and state. At final stage of the legislative process, a positivist legal norm is “connected” with the sociologic content of the conception of law.

4. Administrative-Legal Regulation of Human Relations

The essence of human relations relates closely with the concept of administrative law, where the person and legally significant information on the person prevails. Administrative law means forms and methods of legally significant human behaviour in the field of public administration, related to cognition, regulation and protection of social and legal value objects of individuals, society, and state from negative effects and results of human behaviour, while using objective legal standards – legal principles and legal

norms, applying administrative legal instruments, and combining them with other social, economic and management instruments on regulating human behaviour.

Legally significant information on persons directs administrative law to other social sciences and social practice, where human beings, society and state are the objects of cognition. As regards implementation of these provisions, the author of the article aims at showing that science of administrative law analyses human relations not only on the basis of the constitutional provision that “State institutions shall serve the people” but also cannot be distinguished from other branches of law. On the contrary, administrative law in regards of human relations’ cognition must rely on other sciences – philosophy, philology, logics, psychology, sociology, social psychology, social work, management, public administration and so on. Therefore, consolidated social legal thinking of lawyers will rely on establishing closer connections of administrative law and administrative procedure law with other social sciences and humanities, and use of the scientific knowledge for implementation of more effective macro-administrative legal regulatory system.

Heads of public administration institutions who are clever in their work have begun realizing one of the major shifts in social fluctuation – the increasing attention to humans and human relations based on cooperation – as the main capital of a public administration organization. Prof. V. Baršauskienė has accurately pointed out that one truth is acceptable to everybody: a human is the most complicated being in Earth and human interaction with another human is the most complicated process. However, another truth is that it is very important in life to be able to express complicated facts in simple words. What are human relations? Even to this date in Lithuania there is no one scientific opinion that describes concepts like human relations, interactions, communication, business communication, and so on.⁹

Human macro-relations are related to human interactions. Further development of legal regulation at a macro-level is related with three important social aspects, as regards which the regulatory powers of administrative law should be improved. The first legal challenge is the necessity to improve the legal possibilities of power of individuals in Lithuania. The second legal challenge is to increase the accessibility of capital, both financial and human resources, by adequate regulation of development of human resources, particularly in relation with economic growth and social cohesion. The third legal challenge is to improve the system’s legal regulation of public administration.

It is known that society is divided into three fields or so-called sectors: state institutions, business / economics and civil society. Each of them give rise to macro-legal regulation objectives and problems relevant only for that sector.

The democratic authority has to be further improved through implementation of principle of subsidiarity, equal distribution of authorities, decentralization of institutional system from centre to territorial community, improvement of administrative justice,

9 Baršauskienė, V.; Janulevičiūtė, B. *Žmoniškieji santykiai*. [Barsauskiene, V.; Januleviciute, B. Human Relations]. Kaunas: Technologija, 1999, p. 9–11.

ensuring the harmony between supremacy of laws and the rule of law in the legislative and administrative discretion of application of law, and so on.

Powers of individuals is one of the main aspects in every one of these three fields of macro-legal regulation. Sectors of business and non-governmental organizations' have a very similar role in promoting individual activism. Obviously, the purpose of businessmen is to receive profits and distribute them among owners, meanwhile non-governmental organizations do not generate or divide profits, and are aimed at solving social problems and encouraging people to participate in common activities. Business companies and non-governmental institutions provide the counterbalance to the government, but they also have surprisingly similar needs, objectives and concerns. Certain conditions are needed in order to make their activities useful. The conditions first of all involve effective laws. The laws must be dynamic, non-controversial and clearly establish rational requirements. The main purpose is to draft laws that correspond to human interests and needs. This facilitates participation of individuals in governance because the government does not have to employ any special activities that would promote individual activism. It is enough to draft legal bases favourable to individual initiatives. Small business enterprises will be taking up new production lines and create additional work places, and non-governmental organizations will soon be able to react to social problems. And on the contrary, complex and controversial laws (as regards cohesion of interests) produce the opposite results – they preclude initiatives, and people are forced to look for bypasses and thus waste their time and resources.

In our opinion, the concept of legally educated staff should be interpreted widely because it includes not only application of knowledge while performing legal tasks in a cabinet-environment, but also their application with the use of inter-disciplinary knowledge and skills and human interaction in macro-environment by motivating their behaviour. Moreover, it is impossible to ensure adequate preparing of young specialists (as regards quantity and especially quality). Having regard to the EU and national science strategy, the Faculty of Law of Mykolas Romeris University has chosen such strategy on postgraduate studies, which allows credible implementation of the purposes of human resources development in the field of human resources and innovations. Analysis of the ES and Lithuanian science strategy allows to emphasize the main inter-disciplinary fields, development of which is important for the creation of knowledge-based economic system and bigger social coherence in Lithuania. This means that an administrative law graduate must meet the demands of the new and constantly changing labour market, which relate to macro-environment of diverse human relations.

Public administration involves constant change of interests and motives of citizens, officials, and heads of institutions, and competition of legal expectations, legal certainty and legal safety of different persons and institutions. Competitive nature of human interactions in administrative law results in situation, where a lawyer must act as a mediator (intermediary) with inter-disciplinary knowledge and skills. Mediatory method is better known in international, criminal law and arbitration. In our opinion, knowledge on mediation can be applied in solving administrative conflicts, avoiding the risk of such conflicts, filling the gaps of post-graduate students of Mykolas Romeris University

in fields of entrepreneurship¹⁰ and horizontal skills. Specific use of forms and methods of mediation is possible in different legal contexts. It is also a legal idea, which can be implemented in different legal forms: recommendations, rules, legal principle applied in solving an administrative conflict.

Conclusions

1. Normative legal regulation relies on legal macro-norm regulation of public relations. Macro-norms are created by the Seimas on the basis of legislative powers that are legitimate to this subject of the law. Creation of a macro-legal norm is an important model of legal regulation strategy, the main and essential model as regards the law that empowers adequate regulation of public relations. Disabled law can destroy modern economic and social life system, to push people into social exclusion groups, and limit their subjective right to participate in rapid socio-economic events, such as management of social - economic crisis. An effect of scientific doctrine on the Seimas as the legislator is practically inexistent, and even such model of macro-behaviour is untraceable.

2. The structure and regularity of large derivatives and occurrences, the development, changes and interactions of social processes are the objects of macro-administrative law. The value cognition therein forms a basis for changing the social legal reality by adopting legal acts that establish conceptions (outlines), programs, strategic planning documents, as well as the laws and regulations aimed at that social legal reality.

3. Macro-administrative law devotes its main attention to define the models of social behaviour and social conditions of the people belonging to certain social classes and structures, large social groups, and state institutions. Therefore macro-administrative law can be viewed as a tool for constructing of social structures. Macro-legal regulation may influence changes of social demographic structure, legal solutions of social ethnic problems, structure of vocational employment structure, confessional layering of the citizens, and etc.

4. Understanding administrative law as a certain macro social phenomenon may become a starting point in seeking to improve the macro administrative law regulative powers, so that its scope of regulation would be comprehended not only by lawyers, but also by politicians, managers and experts of public administration institutions of various fields.

10 Trustworthy entrepreneurship means voluntary business strategies undertaken together with the EU Corporate social responsibility program for the purposes of consistent development. Corporate Social Responsibility programa, siekiant nuoseklios raidos. [Corporate Social Responsibility Program for the Purposes of Consistent Development]. *Euroverslo naujienos*. 2003, 32.

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ADMINISTRACINĖ TEISĖ KAIP MAKROSISTEMINIS REIŠKINYS

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Santrauka. *Administracinės teisės makroapraiškos nagrinėtinis kaip sisteminis teisinis reiškinys, kurio socialinei struktūrai gali daryti poveikį įstatymų leidėjas. Makronorminio teisinio reguliavimo įgyvendinamas remiasi sisteminiu makroaplinkos reiškinų vertinimu ir to vertinimo galimybių panaudojimu įstatymų leidyboje. Makronormos kuriamos Lietuvos Respublikos Seime, remiantis įstatymų leidybos, legitimiomis šiam teisės subjektui, galiomis, kurias tikslinga racionaliai panaudoti. Manoma, kad Seimas nepakankamai vertina mokslininkų parengtas socialines teises technologijas. Seimo narių įstatymų leidyboje pasireiškia subjektyvizmas, įstatymų rengimo konvejerinės nuostatos ir elgsenos arogancinis nihilizmas užkerta kelią įstatymų leidėjams naudotis teisinėmis mokslo doktrinomis. Makronorminis teisinis reguliavimas įgyvendinamas makronormos, o individualus teisinis reguliavimas – mikronormos pagrindu. Teisės normos yra esminis, kaip ir principai bei doktrina, teisės elementas. Norminis teisinis reguliavimas remiasi administracinės teisės makronormos visuomeninių santykių reguliavimu. Individualus teisinis visuomeninių santykių reguliavimas remiasi teisės mikronormomis, kurias teisės taikymo procese kuria jos subjektas, transformuodamas makronormos reikalavimus mikro- teisiniu personifikuotu lygmeniu. Galima tvirtinti, kad makroadministracinės teisinės normos kūrimas yra teisinio reguliavimo strategijos pagrindinis ir esminis įgaliojantis reguliuoti teisės modelis. Administracinė teisė privalo būti įgali.*

Žmonės, jos padedami, turi būti teisiškai igalūs, naudodamiesi (samprotaujant, įrodinėjant, skaičiuojant) pagrįstais socialinės tikrovės faktais, tikrai, neabejotinai paveikti politinį, ekonominį, socialinį gyvenimą. Neigali teisė gali griauti šiandienos ekonominę ir socialinę gyvenimo sistemą. Ir gali griauti tokiu mastu, kad net kraupu, varyti žmones į socialinės atskirties grupes, atimant jiems subjektinę teisę dalyvauti sparčiuose socialiniuose ekonominiuose, pavyzdžiui, krizės įveikimo pokyčiuose.

Makroadministracinė teisė pirmiausia sekia nustatyti žmonių, priklausančių tam tikriems socialiniams sluoksniams ir struktūroms, didelėms socialinėms grupėms, valstybės institutams, socialinio elgesio ir socialinės būklės modelius. Todėl makroadministracinė teisė gali būti vertinama kaip socialinių struktūrų konstravimo priemonė. Makroteisinis reguliavimas gali daryti poveikį socialinės demografinės struktūros pokyčiams, socialinių etninių problemų teisiniams sprendimams, profesinio gyventojų užimtumo struktūrai, piliečių konfesinei sanklodai ir kt.

Kodėl būtinas makroadministracinių teisinių procesų valdymas? Administracinės teisės, kaip tam tikro makrosocialinio reiškinio apraiškų, suvokimas gali būti išeities taškas siekiant tobulinti pačios makroadministracinės teisės reguliacines galias, kad apie jos reguliavimo mastus suvoktų ne vien teisininkai, bet ir politikai, viešojo administravimo institucijų įvairių sričių vadovai ir specialistai.

Reikšminiai žodžiai: makronorma, makroteisė ir makroadministracinė teisė, makroteisinis reguliavimas, žmogiškųjų santykių administracinis teisinis reguliavimas.

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