

# Educational Governmental Order As An Administrative Contract: Argumentation Of Its Nature, Application Prospects In Ukraine

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**Abstract** : Issue of the legal nature of contracts concluded in the process of educational governmental order is socially necessary, first of all, for all participants of this process to know norms of which branches of law to use or apply in the exercising and especially protection (defense) of their constitutional rights. The purpose of this article is to prove the administrative and legal nature of the contracts concluded in the process of formation, placement and performance of the educational governmental order. The research methodology was formed on the normative concept and the contractual concept of the administrative law. Authors are proved that in the event of disputes when concluding and performing contracts on educational governmental order, the administrative and legal procedures of public law shall be applied to resolve the conflict. Based on the purpose of the institute of educational governmental order, we consider it expedient to change the principles of formation of relations between a governmental customer, educational institution (a performer of the governmental order), a degree-seeking student, focusing on the main idea "invested state funds should be returned to the customer in the form of a benefit (profit) that contributes to meeting a specific state need."

**Index Terms**: Administrative dispute, administrative contract, educational governmental order, educational state contract, educational state needs, higher education.

## 1. INTRODUCTION

Free higher education in Ukraine is one of the priorities of constitutional rights of citizens. The evolution of the development of social relations in post-Soviet countries has led to changes in the principles of enforcement of this constitutional right in different countries, and Ukraine in particular. Today the governmental order is the main mechanism in Ukraine by which the implementation of the mentioned constitutional right for citizens is ensured. It should be noted that in general,

the object of educational governmental order is the needs of three groups: 1) the needs of the state in skilled personnel; 2) the need of the state to increase the educational and scientific potential of the nation; 3) the need of the state to fulfill its constitutional obligation towards citizens to insure their constitutional right to education in accordance with their vocations, interests and abilities (Detyuk, 2018). In the context of social, political and economic changes, now the Constitution of Ukraine contains a rule that guarantees every citizen the right to receive free higher education in state and municipal educational institutions on a competitive basis (Article 53) (Law, 1996), but in 2014 this declaratory norm was specified in another legislative act (the Law of Ukraine "On Higher Education" No 1556-VII), which stipulates a guaranteed quantitative minimum of citizens, to whom this right should be guaranteed by the state itself. This minimum is still vested in the legislative provision of the following content (Article 72): the total volume of the governmental order for training of specialists of such degrees as junior bachelor, bachelor (Master of medical, pharmaceutical and veterinary sciences) for the current year is not less than 51 percent of the number of graduates of general educational establishments, who have complete general secondary education this year; the total volume of the governmental order for training of the master's degree specialists for the current year is at least 50 percent of the number of persons, who will receive the Bachelor's degree under the governmental order this year. the total volume of the governmental order for the training of specialists of the degree of Doctor of Philosophy for the current year is at least 5 percent of the number of persons who will receive the master's degree under the governmental order this year (Law, 2014).

In such situation, from the positive side, competition among those, who wish to obtain higher education at public expense (budgetary funds) increases (selection of the most prepared ones takes place), at the same time, there is a negative tendency to decrease the number of graduating students studied at public expense, who wish to work in the interests of the state that leads to social (sectoral, departmental) and individual (corporate) conflicts. In turn, the practice of resolving disputes between the participants of the educational governmental order process in the absence of an effective

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system of state or even alternative (public) control over the processes of formation and performance of the governmental order for training of specialists for different branches of the country's economy (Pyvovar et al., 2019), is characterized by contradictory results, which first of all, is caused by ambiguous understanding and interpretation of arbitrators (including judges) and namely legal nature parties of the state contract in other agreements concluded in the process of formation, distribution and performance of the educational services order at public expense. The initiators of disputes and the subjects of law enforcement for the settlement of conflicts are oriented and guided by different in legal nature (sectoral affiliation) acts and procedures; certain courts hear cases on violation of the principle of jurisdiction, etc. However, the authors of this work, based on their previous researches, make a hypothesis about the administrative and legal nature of contracts in the field of educational governmental order, insisting on the need to apply administrative and legal procedures of dispute resolution concerning such contracts. Based on the foregoing, the purpose of this article is to prove the administrative and legal nature of the contracts concluded in the process of formation, placement and performance of the educational governmental order. A number of intermediate tasks were solved to achieve the purpose, in particular: outlining the contractual relations that arise in the process of educational governmental order; finding out the nature of contracts in the specified field; the classification of types of administrative contracts in the educational governmental order. The research methodology was formed on the normative concept and the contractual concept in public (administrative) law. The empirical material for the study was the state contracts, contracts, agreements between the participants of the educational governmental order, as well as the results of a sociological survey of the respondents of four groups: representatives of the state customers, administration of state and communal institutions of higher education, degree-seeking students and employers (total 1245 persons).

## 2 DISCUSSION AND ANALYSIS

### 2.1 Features and Types of Administrative Contractual Relations in the Process of Educational Governmental Order

An important issue that will help to clarify the legal nature of contracts concluded in the process of educational governmental order is to characterize the relevant contractual social relations in the mentioned process. In general, based on the nature and content of the process of governmental order in the field of education, it can be certainly said that exactly contractual relations are the quintessence of the whole legal mechanism of achieving the goals in the mentioned process. Indeed, there is no doubt that a chain drawn from the state (a direct customer who "pays" their funds from the state budget to meet their own needs) to a specific performer and degree-seeking student, can be built only if there are participants-representatives of all three groups of this chain (government customer, performer of the governmental order, degree-seeking student) and their consent to participate in this process. Therefore, the fact of formation (fastening) of such a chain is a legal fact in the form of signing the relevant agreements (state contracts, contracts, agreements, etc.). Guided by the main idea of our research, let us further make a legal comparison between contractual relations in the field of

educational governmental order and administrative contractual relations defined in the theory of administrative law. While investigating administrative and contractual relations in the sphere of public administration activities, Bila V. R. identifies two generalized characteristics of them: 1) internal and organizational, security character, mediating through them the organization of interaction between systems of executive authorities, local government bodies and their individual units; 2) their particular form of regulation of behavior of independent entities (in particular, taxpayers, civil organizations, etc.) (2011). The conditions of occurrence and types of such relations this scientist builds on the principle of subjection of the subjects of administrative law. The first type is relations that arise between relatively equal entities on the subject of concerted effect on actions of third parties, who are not parties of the contractual relations; the second one is the relations that arise between public administration bodies and persons as to whom no specific directions and orders can be issued, since these persons are not organizationally subordinated to such bodies (Bila, 2011). Taking into account the scientist's position, we also agree with her conclusion that in the power relations the dominant subject imposes the will of the state to the subject that consciously obeys such will (Bila, 2011). Such a feature of administrative power relations, in our opinion, is characteristic of contractual relations in the field of educational governmental order, because in the current mechanism of legal regulation of the educational governmental order, the state customer as the dominant entity on behalf of the state imposes the will of the latter (determined primarily by the laws and the political decisions) to potential contractors and degree-seeking students (direct recipients of educational services), who are only consciously (intentionally seeking) submit to this will. And if for performers of the order as subordinate to the customer under the departmental principle of subordination, such a state is acceptable and necessary (above all, in order to obtain budgetary allocations and performance of the tasks and functions assigned to it by the founder – central body of executive power), then for degree-seeking students this choice quite often recently becomes the only option to receive a free education, even in a specialty with which a person in the future would not want to connect his professional life (work after graduation by obtained profession). In particular, the latter factor is evidenced by sociological data, according to which, for example, only 9,3% of all students after graduation work by profession (Hanova, 2018); as a result of questioning of the students of the final year of the Bachelor's degree (conducted from January, 10 to July 5, 2019, sample of the research – 934 full-time students of higher education institutions of III-IV accreditation levels of Kyiv region, with miscalculation no more than 3% at a confidence limit of 93%) after graduation, only 34% of students are confident concerning the opportunity to find a job by profession, including in the public sector of the economy, and 44% of students, in general, intend to find a job by profession (a significant proportion of the remaining 66% students plan to change their specialty in the Magistracy). Under these circumstances, we cannot agree with the scientist V.R. Bila concerning the equality of the parties in administrative and contractual relations, based on the consentaneity of interests of the parties, when both governmental and non-governmental entities have the opportunity to choose a behavior within the limits proposed by the law. In the relations under study, the choice is only available to governmental customers, in

particular in determining the educational needs, choosing performers and future specialists under the certain conditions of the state, etc. Other entities, in order to enter into such a contractual relationship, have to fulfill a number of conditions, including those that are put towards applicants for the performance of governmental order and receiving educational services. Degree-seeking students can be conditionally free only in the choice of educational institution, and in cases stipulated by law, and without such a choice at all (for example, in the case of advanced training by governmental order, which can be provided to employees in educational institutions only within the department of their work, in the interests of the service, etc.). As a result of studying the various models of relations that arise in the process of realization of the educational governmental order, we suggest to distinguish two groups of relations that have the features of administrative and contractual relations, namely: 1) administrative and contractual relations that arise and are developing at the stage of placement of educational governmental order (concerning the conclusion of state contracts between state customers and performers of educational governmental order); 2) administrative and contractual relations arising and developing at the stage of educational governmental order (concerning the conclusion and performance of bilateral or trilateral contracts, agreements between governmental customers, performers of the governmental order and degree-seeking students concerning providing of educational services to citizens under the governmental order, and between citizens who have received educational services under the governmental order and employers who are designated by governmental customers).

## **2.2 Concepts and Features of Administrative and Legal Contracts in the Process of Educational Governmental Order**

Before studying the legal nature of contracts in the field of educational governmental order, it should be noted that in the theory of administrative law, scientists treat the legal nature of administrative contracts differently. Thus, among the Ukrainian scientists, for example, S.H. Stetsenko considers a contract as a special method of administrative law (2009); V.K. Kolpakov views it as a system of mutual obligations between the entities named in the act of management, the formulation and performance of which is aimed at solving state-defined tasks (2004); V.V. Halunko (2016), K. Afanasiev (2002), I.M. Shopina (2011) see it as a form of activity of public administration; researcher V. R. Bila treats a contract as a legal form of state administration, understanding the "legal" component as a legal fact, that is the ability to establish, terminate and change administrative legal relations (2011); Yu.P. Bytyak (2000) and A.I. Berlach (2005) consider it as a legal act; O.P. Svitlychnyi (2011) views a contract as a legal basis for the emergence, change and termination of specific administrative contractual relations. In our opinion, the administrative contract in the sphere of relations we are investigating plays the role of the legal fact of establishing, terminating or changing the certain relations, and its form is an act of public administration. In order to make the general characteristics of such contracts, we consider it rational to use the system of features, founded in the theory of administrative law, suggested by the scientist V.D. Strukova (2016). The exception will be only a feature that an administrative contract can be concluded contrary to the will of one of the parties (Strukova, 2016). In our view, this feature contradicts the natural essence of the contract as a

form of an agreement, even in a situation of "no choice". In contractual relations, including administrative (monopolistic), when signing a contract, an entity (even powerless, for example, a degree-seeking student), always has a choice to "agree" or "reject" the conditions of the other party (governmental customer, educational institution), even if such refusal may be grounds for dismissal, reduction in position, deprivation of certain rights, in particular, in cases of a legally determined obligatory requirement for periodic advanced training and practical training, etc. (for example, concerning academic staff, civil servants and others). So, revealing the general characteristics of types of contracts under the study, we note the following. Firstly, in a contractual relations in the field of educational governmental order, the obligatory participant is a representative of the state authority (governmental customer) and/or a participant to whom the state has delegated powers to fulfill state interests (a performer of governmental order). It should be noted that, in the opinion of Professor O.P. Svitlychnyi, the subjects of such contract are public authorities, state-owned enterprises, institutions, organizations, local self-government bodies and other enterprises, institutions, organizations, which for execution of the law or within delegated authority have such a right, their officials and officers, who, in general, are subjects of public administration that always express state will (Svitlychnyi, 2011). Such representative composition of the parties of the administrative contract, including the participation of enterprises in it, institutions and organizations with the existing delegated powers by the state, corresponds with the subjects of educational contractual relations in the mechanism of governmental order (in particular, in the person of performers on the governmental order and other persons). Secondly, the parties to the administrative contract are at non-equal position. Performers of governmental orders in the field of education are mainly subject to the system of the governmental customer. As a rule, in such contracts the degree-seeking student is entrusted with a wider range of obligations, including bearing legal responsibility for breach of the terms of the state contract, while at the same time there is no clear reference in the contracts on the responsibility of the public authority (governmental customer). Such contracts contain conditions that are different from those contained in the private law contracts, where the administration under which has privileges that are not found in the private contracts (Almomni et al., 2019). Thirdly, the governmental customers in the administrative contract are represented as representatives of the public administration and, accordingly, the entities of the administrative law, their legal status is determined by the competence established in the laws and regulations of the government. Fourthly, the purpose of administrative contracts is realization of public (social) interest (provides the state needs for educational services). In addition to the abovementioned arguments of publicity of needs and interests in the institute of governmental order, it is necessary to add a decision of the Supreme Court of Ukraine, which also uses the purpose of such a contract to distinguish an administrative (public) contract from a civil one. In this regard, the position of justice is that the purpose of the administrative (subject to administrative justice) contract is aimed at the implementation of the functions of the state (Resolution, 2009), which in our case corresponds to the implementation of the educational function of the state. Fifthly, the studied administrative contracts have complex in nature and are subject to

simultaneous regulation by the norms of several branches of the law (in particular, financial law – issues of financial obligations at public expense, budgetary and financial statements, etc.; economic law – issues of statements of economic activity of the performer; administrative, labor law, etc.). Sixthly, the basis for the conclusion of the educational administrative contract is the rules of laws and, as a rule, the decision on the administrative acts of the governmental customer and the performer of the governmental order. Seventhly, disputes arising out of the conclusion, performance, termination, cancellation or invalidation of the investigated administrative contracts are resolved out of court (administrative) and in the procedure of administrative justice (although in some cases there is a practice of hearing cases in courts of general jurisdiction). Eighthly, the form and content of these administrative contracts are typical and approved by the normative acts of the executive authorities (governmental customers). For example, a standard form of a contract on education at higher education institutions with specific training conditions that train police officers, approved by the Decree of the Ministry of Internal Affairs of March 01, 2017, No 173, registered at the Ministry of Justice of Ukraine on March 07, 2017, No 321/30189 (Order, 2017). Ninthly, the liability of the parties for non-compliance or improper fulfillment of the terms of the administrative contract in the field of educational governmental order can be both property and non-property, acquiring administrative, labor or civil character.

### 2.3 Classification of Administrative Contracts in the Field of Educational Governmental Order

In addition to the abovementioned features of the general characteristics of administrative contracts in the field of educational governmental order their classification place in the system of administrative contracts should be added. In this case, the basic type division can be considered the existing classifications of administrative contracts in science and in the administrative acts of public administration bodies. Let us present the main ones and outline their relation to the contracts under study. It is known that in recent years the development of contractual theory in administrative law has become quite active. In developing their own positions, scholars make wide use of various concepts, borrowing certain approaches from the theory of common law, other related public areas, private areas of national law, as well as from the progressive doctrines of foreign legal science. As a result, the modern science of administrative law operates with numerous classifications of administrative contracts, which differ in criteria and types of division. As a result of generalization of the most representative of them, we will give a typical classification (the main criteria of which are the legal properties and the subject matter of the contract), in which we define the place of administrative contracts in the field of governmental order. Thus, in the division of administrative contracts by legal properties into title contracts and law enforcement contracts in the field of educational governmental order, they should be classified as a second type, since their main legal consequences are expected to be exercising of the powers of governmental customers, as well as the rights of performers of the governmental order and degree-seeking students. Regarding the subject of regulation, contracts are mainly classified into competence contracts, in which the parties fix the limits of their competence when solving joint tasks in a certain area (for example, contracts between public

authorities and local self-government bodies in road management, etc.); cooperation and exchange of necessary information contracts concerning the proper functioning of the educational sector in particular (joint arrangements are agreed within such administrative contracts, such as the Ministry of Education and Science of Ukraine and the Ministry of Social Policy of Ukraine in addressing issues of education of unemployable citizens); contracts that meet state needs. Concerning the nature of the governmental order, which is based on state needs, which are met in the field of education, the relevant contracts should be attributed to the third type. Additional arguments in favor of our hypothesis about the belonging of contracts in the field of educational governmental order to the number of administrative ones are the proven classifications of types of administrative contracts, outlined in the works of leading scientists. For example, K.K. Afanasiev, dividing administrative contracts by subject matter criterion, distinguishes contracts that meet state needs (state contracts between the central body of executive power and an enterprise on the basis of governmental orders) (2002); D.M. Bakhrakh, according to the same criterion, distinguishes between the Armed Forces service contracts, contracts of internal affairs bodies and other types of civil service; contracts of state educational institutions with citizens on provision of paid educational services, etc. (2008); researchers V.I. Vladymyrova (2017), O.L. Levchyshyna (2015) and O.M. Iliushyk (2014) by the subject matter criterion distinguish contracts that meet state needs; contracts with civil servants, students. In addition to the doctrinal confirmation of our position, the practice of courts should be mentioned. In particular, in resolving the dispute in Case No. 804/7551/16, the Dnipropetrovsk District Administrative Court, in its resolution of March 23, 2017, recognized the contract on training of the defendant at Dnipropetrovsk State University of Internal Affairs under the governmental order as an administrative contract (2017); in Case No. 120/584/19-a, the Vinnytsia District Administrative Court, in its resolution of April 12, 2019, recognized the administrative jurisdiction of the dispute over the contract between the governmental customer (The National Agency of Ukraine on Civil Service) and the citizen about the full-time training of a post-graduate student under the state order (2019); in Case No. 620/525/19, the Sixth Administrative Court of Appeal (Kyiv), according to the rules of administrative justice, initiated proceedings and settled a dispute between a higher education institution (the performer of the governmental order – the Academy of the State Penitentiary Service) and a degree-seeking student on the performance of a state contract on receiving education ("On Full-Time Training under the Governmental Order for the Needs of the State Criminal-Executive Service of Ukraine of a Degree-Seeking Student for the First and Second Levels of Higher Education in the Specialty "Legal Science") (2019) and many other similar decisions of administrative jurisdiction courts. According to the Classifier of categories of administrative cases and Methodological explanations for its application, approved by the Council of Judges of Administrative Courts of Ukraine, disputes on the payment of scholarships to students belong to the category of disputes over the implementation of state policy in the field of education (section 4 of the Classifier), which is confirmed by the position of the Supreme Administrative Court of Ukraine in the Resolution of 19 October, 2010 (2010), and disputes concerning the payment of contracts on the purchase of goods

at public expense belong to the category of disputes concerning the implementation of public procurement (paragraph 5.5 of the Classifier) (Resolution of the Supreme Administrative Court of Ukraine of February 18, 2010 (2010; 2013). Applying the legal analogy, we consider it logical to attribute state contracts that are concluded in the field of educational governmental order and provide for the payment of contracts at public expense to the same classifier. In addition to the abovementioned, an indicative criterion for the classification of administrative contracts is the nature of the relationship between the parties of the contract, according to which in the theory of administrative law the following are distinguished: subordination agreements, that is, contracts between parties in which one party is vested with power over the other; and coordination agreements, that is, contracts between entities that do not have controlling, supervisory or other special authority over each other. Since the relations of the implementation of the governmental order in the educational sphere include a fiscal component at all its stages, that is subject to constant monitoring and control by the authorized state bodies, we consider it expedient to attribute the relevant contracts and agreements to subordination administrative agreements in which every degree-seeking student who receives funds from the state budget is under the control and accountability of the state; each of these participants is subject to specific administrative forms of control, inspections, for example, for the purposeful, efficient use of public funds, compliance with the conditions of the state contract, etc. We consider it proper to attribute contracts that, although are performed within the framework of an educational governmental order, they are not concluded between the main participants of the specified contractual relations (governmental customers, performers of the governmental order, degree-seeking students), and in particular between performers of the governmental order and secondary entities to coordination ones. The latter, for example, include employers, experts, specialists, consultants, who are engaged on a contract basis by educational institutions to the educational process within the framework of a governmental order and, accordingly, receive payment or compensation in other forms from the state (through educational institutions). Coordination agreements of this type may include, for example, agreements between educational institutions on academic exchange of students, including within the framework of performance of the governmental order, agreements between educational institutions and practical training establishments, etc. We are convinced that the division of administrative contracts in the educational governmental order by different criteria should focus on the nature of these contracts, based on clear legislative provisions (norms) and corresponding positions of higher judicial bodies. Taking into account the peculiarities of educational governmental order as a holistic purposeful process, we consider it expedient to classify administrative contracts by stages of the governmental order process (it should be recalled that the main stages of educational state orders are the following: 1) formation of state orders (includes the stages of forecasting and planning); 2) placement of state orders; 3) execution of the state order), namely:

1) at the stage of placement (distribution) of educational governmental order:

– bilateral state contracts, the standard form of which is approved by the governmental customers, and which are

concluded between the governmental customers and higher, vocational and technical educational institutions, institutions of postgraduate education, scientific institutions of state and communal ownership, which have undergone the competitive selection process for training specialists, scientific, teaching and worker staff, advanced training and retraining under the governmental order (Art. 3, para. 3) (Law, 2012; Decision, 2013). At the same time, we should point out such a feature of these contracts as the dependence of their implementation on the presence of degree-seeking students. After all, the signing of such contracts under the law must be carried out before the enrollment and admission of degree-seeking students for training under the governmental order, which may not always be effective. This is why concluded contracts that are not secured by the degree-seeking students may not actually be performed;

2) at the stage of implementation of the educational governmental order:

– trilateral state contracts, the standard form of which is approved by governmental customers, and which are concluded between governmental customers, performers of governmental order and citizens (degree-seeking students). In the context of distinguishing this type of contracts we cannot agree with the scientist Zh.V. Zavaina, who denies the attribution of contracts between higher education institutions and students on training under the governmental order to administrative contracts, justifying it by the fact that such contracts are standard contracts, the possibility of approval of which by the ministries and departments is provided by the Civil Code of Ukraine, and also that the subject matter of these contracts is provision of educational services, which are not administrative services and are also provided to legal entities both under the governmental order and on a commercial basis. At the same time, taking into account the position of this scientist on the recognition of contracts between local self-government bodies on the redistribution of their own budgetary funds, as well as between territorial communities of villages, townships, cities, city-districts or relevant local self-government bodies on local public funds for the implementation of joint projects or for the joint financing (maintenance) of public utility companies, institutions and organizations, as well as for the creation of appropriate bodies and services for this purpose as administrative ones on the basis of the subject matter of contracts – we consider the property in the form of money to be a sufficient argument, and the contracts we are examining also include budget allocation in order to meet primarily public needs, creating a social welfare. In addition, we should take into account the arguments of another scientist, V.R. Bila, who claims that there is a public interest in the content of the contract as the main factor of the special legal regime of the administrative contract, which distinguishes it from a civil contract, the parties of which primarily aim at profit. As follows from the provisions of the legislation on the budget and taxes, performers of educational governmental order are non-profit organizations and the content of state contracts is formed on the directions of administrative legislation, focused on satisfying the state interest;

– bilateral contracts between performers of the governmental order and degree-seeking students (for example, to regulate relations between a postgraduate student or a doctoral student and a higher education institution (scientific institution) (paragraph 5) (Decision, 2016);

– bilateral contracts, contracts between graduates (degree-seeking students under the governmental order) and employers on job by distribution in the interests of the governmental customer (provided solely by laws). Such contracts include, in particular, contracts on law enforcement agencies service, contracts with civil servants on civil service, etc. The same category includes agreements on job by distribution, envisaged by Article 44 of the Law of Ukraine "On Higher Education", which stipulates that the right to the first priority admission to higher medical and pedagogical educational institutions under the governmental order is granted to persons who have concluded an agreement on job by distribution for at least three years in villages or rural areas (Law, 2014). Zh.V. Zavalna has a similar viewpoint, as she clearly states about the administrative and legal nature of the relations to which the contractual regulation may be applied, and these are relations concerning civil service or service in local self-government bodies (2010). Based on such an approach recognized in the theory of administrative law, it becomes evident that all government contracts and agreements concluded within the framework of educational governmental order for the needs of the relevant ministries, departments, local self-government bodies, in particular between performers of the governmental order and degree-seeking students (potential or current servants), undoubtedly, should be referred to administrative contracts, namely contracts concluded at the final stage of performance of the governmental order.

#### 4 CONCLUSION

So, the issue of the legal nature of contracts concluded in the process of educational governmental order is socially necessary, first of all, for all participants of this process to know norms of which branches of law to use or apply in the exercising and especially protection (defense) of their rights. The legal nature of contractual acts is now extremely important in determining the jurisdiction of courts empowered to hear disputes arising from contractual relations in the course of implementing the educational governmental order mechanism. As a result of the research conducted, the features, which are inherent in the contracts in the field of educational governmental order, and sufficient for recognition of these contracts as a type of administrative contracts in particular, and public-legal contracts in general are identified and characterized.

**Based on the mentioned above, the following generalizations are proposed:**

1. The authors have formulated a doctrinal definition that can serve as a scientific basis for legislative work in improving administrative legislation. Thus, the contract in the field of educational governmental order is interpreted as a volitional public-legal agreement based on the rules of administrative law between two or more parties, one of which is endowed by state with powers, the content of which includes mutual obligations aimed at satisfying public needs in education and is implemented within a single legal mechanism of governmental order. In terms of subject matter, this type of contract is an administrative agreement on the order of implementation by the state of its public obligations to citizens, as well as to provide educational state needs at public expense.
2. In the event of disputes when concluding and performing contracts on educational governmental order, the

administrative and legal procedures of public law shall be applied to resolve the conflict. After all, any conflict that arises in these relations directly or indirectly infringes on public (in particular, state) interests, including non-property (public law and order in the field of educational governmental order) and property (public funds).

3. Wide variety of types of contracts in the field of educational governmental order indicates, on the one hand, the inconsistency of legislation in these matters, and, on the other hand, the need to standardize the rules in different legislative acts, establishing uniform approaches to understanding the form and content of relevant contracts concluded by governmental customers of different industries and departments.

4. General classification of contracts in the field of educational governmental order allows to state that such contracts are concluded at two stages of the governmental order (at the stage of placement (distribution) and at the stage of performance of the order); they are law enforcement contracts (primarily aimed at the enforcement of the law), by the subject of regulation they belong to the type of contracts that meet state needs, subordination ones, and by the number of parties they are divided into bilateral and trilateral ones.

To conclude, a number of recommendations for a legislator and judicial authorities are proposed, as follows:

1. It is considered expedient to expand in the legislation the range of branches of the national economy, in which to provide job by distribution in the interests of the governmental customer a mandatory condition for the conclusion of educational state contracts under the governmental order. In addition, it is recommended that a legislator introduces in the legislation (namely into the Law) the term "educational state contract", meaning a trilateral agreement between a governmental customer, performer of the governmental order and a degree-seeking student concluded in the interests of the state, as well as to provide a uniform procedure for the conclusion such contracts at the legislative level. Such an addition is important because it will allow for unification of the approach of all governmental customers to establishing departmental forms and procedures for concluding relevant contracts under the educational governmental order.

2. We recommend to the State Judicial Administration of Ukraine and the Supreme Court to review the General Classifier of Specializations of Judges and Categories of Cases and to further explore the possibility of including cases of dispute settlement on conclusion of all state contracts for training, retraining, and advanced training of specialists for state funds in the specialization of administrative courts, not just educational contracts on governmental order for public service purposes.

3. Based on the purpose of the institute of educational governmental order, we consider it expedient to change the principles of formation of relations between a governmental customer, educational institution (a performer of the governmental order), a degree-seeking student, focusing on the main idea "invested state funds should be returned to the customer in the form of a benefit (profit) that contributes to meeting a specific state need."

4. Taking into account the acuteness and complexity of the problem studied in this paper, we are looking forward to further scientific developments in this area and call upon scholars and practitioners to consolidate efforts to improve the institution of educational governmental order.

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