

## IMPLEMENTATION OF EUROPEAN PRINCIPLES FOR THE PROVISION OF ADMINISTRATIVE SERVICES IN THE FIELD OF PUBLIC ADMINISTRATION: PROBLEMS AND PROSPECTS

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**Abstract:** The article aims to study and outline the legal acts regulating the process for the requirement of administrative services in Ukraine, as well as to identify the primary problematic issues of legal regulation of administrative services in Ukraine and ways to solve them. The analysis includes a set of guidelines for improving the quality of administrative services provided by executive authorities and local governments and identifies specific gaps in the regulatory framework on these issues. The paper analyzes regulatory documents on the organization of the provision of administrative services in Ukraine and their organization's mechanisms and theoretical foundations. The goal is to identify the main problematic issues of legal regulation of the condition of administrative services in Ukraine and ways to solve them. Recommendations for solving these problems have been developed.

**Keywords:** Administrative services, Issues of legal regulation, Legal acts, Public administration, Regulatory documents.

### 1 Introduction

A person's rights and freedoms in Ukraine are recognized as the primary value, and the main task of public administration is providing high-quality administrative services to citizens [11]. Accordingly, citizens concerning the authorities are consumers of services. At the same time, the state, represented by public entities, is guided by the needs of the individual – just as in the private sector, service providers are guided by the needs of the consumer, his requests, and expectations.

Reforming public relations in Ukraine requires a change in the relations system between state executive bodies, institutions subordinate to them, and citizens [6]. The latter is a petitioner even if his indisputable rights and legitimate interests are satisfied. One of the most critical areas of public administration reform is forming and developing a system of administrative services.

The result of the implementation of this direction should be the creation of such a legal framework and its real implementation in administrative and legal practice, in which consumers of administrative services will have broad rights and powers and will not be passive subjects manipulated by civil servants [9]. Specific steps are being taken to achieve the above goal. In the European integration and implementation of the Association Agreement between Ukraine and the European Union and its states, one of the most urgent problems of Ukrainian society is the legal regulation of procedural relations between executive authorities and local governments with individuals and legal entities [1-5]. One of the components of these legal relations, particularly the provision of administrative services, has so far remained a little researched and debatable issue.

One of the criteria for the effectiveness of public authorities is the quality of public services. The attitude of a citizen to the system of public administration and the state largely depends on the completeness and timeliness, the accessibility of receiving public services [7, 8]. Therefore, administrative and legal regulation of administrative services should proceed from the

priority of the interests of citizens and organizations as direct consumers of administrative services. Solving problems in the provision of administrative services is an essential and multifaceted task. That is why the topic's relevance will not be exhausted shortly, even with more studies on administrative services.

### 2 Literature Review

The Encyclopedia of Public Administration interprets the category "administrative services" as a result of the acts of power by an authorized subject, following the law, provides legal registration of the conditions for the activity by individuals and legal entities of rights, freedoms, and legitimate interests upon their application (issuance of permits (licenses), certificates, certificates, registration, etc.) [40].

Before special legislation regulating legal relations in the provision of administrative services, one of the first regulatory legal acts in this area was the Law of Ukraine "On Taxation of Enterprise Profits." According to subparagraph 7.11.13 of paragraph 7.11 of article 7 of the said law, it was provided that the term "administrative services" should be understood as any paid services, the obligatory receipt of which is established by law and which are provided to individuals or legal entities by executive authorities, local governments and created by them and organizations, institutions maintained at the expense of the relevant budgets [6, 42].

Article 3 of the Constitution of Ukraine determines that human rights and freedoms and their guarantees determine the content and direction of the state. Therefore, the assertion and provision of human rights and freedoms is the state's primary duty. To a certain extent, the condition can fulfill this obligation by providing services to the population by executive authorities and local governments. Also, Article 92 guarantees the rights and freedoms of a person and a citizen. However, these rights and liberties are determined exclusively by the laws of Ukraine, the primary duties of a citizen, the organization and activities of executive authorities, and the foundations of local self-government. Therefore, the issue of providing administrative services should be regulated at the legislative level by applying a unified approach [25].

Despite the difficult situation in solving the problems of reforming the system of executive power and taking into account the introduction of market relations, on July 22, 1998, the Concept of Administrative Reform in Ukraine was approved by the Decree of the President of Ukraine; the specified normative act laid the foundation for structural, functional and ideological transformations in the system of executive power. However, by 2006, in the legal documents regulating the activities of various authorities, there was no clear definition of the concept of the services that they provided, and they were noted in multiple sources as "management," "public," "state," "administrative" and so on similar [10, 65].

The Decree of the Cabinet of Ministers of Ukraine dated February 15, 2006, No. 90 "On Approval of the Concept for the Development of the System for the Provision of Administrative Services by Executive Authorities," provided for the main problems to be solved to ensure the development of the system for the provision of administrative services. Among the problems in this area, the concept defines the presence of types of administrative services that are not provided for by laws; division of administrative services into several paid services; requirements from individuals and legal entities of documents that are not defined by law or in a form not provided for by law; shifting the duties of administrative services with the collection of certificates or approval of documents to individuals and legal entities; an unreasonable collection of fees or large fees for the provision of certain types of administrative services; establishment in the administrative body of the schedule for the

reception of citizens at an inconvenient time for them; an unreasonably long period of provision of certain services; limited access to information required to obtain administrative service; inadequate legislative regulation of procedural issues in the provision of services; lack of service delivery standards. Unfortunately, most of these problems are still unresolved today [11, 25, 39].

### 3 Materials and Methods

The implementation of the main provisions of this concept has introduced modern forms of providing administrative services, in particular, through "supermarkets of services," the principle of "single window" and "electronic administrative services" are also offered. Furthermore, the powers of executive authorities and local self-government bodies are enshrined in the laws of Ukraine "On Local State Administrations," "On Local Self-Government," "On the Permit System in the Sphere of Economy," etc., as well as in special laws that directly regulate the conditions for granting specific administrative services, for example: "On State Registration of Rights to Real Estate and Their Encumbrance," "On State Registration of Legal Entities, Individuals – Entrepreneurs and Public Formations," "On Registration of Civil Status Acts," "On Freedom of Movement and Free Choice place of residence in Ukraine," "On Citizenship of Ukraine," Land, Forest, Water Codes of Ukraine and many others determine basic principles, features of procedures and requirements for the quality of activities of public authorities in this area [16].

An essential stage in the development of the AC sector was the approval of the regulation on the Register of Administrative Services by the Decree of the Cabinet of Ministers of Ukraine dated May 27, 2009, No. 532. According to paragraph 1 of this resolution, the registry of administrative services is a single computer database of administrative services provided by executive authorities, state enterprises, institutions and organizations, and local governments in exercising their delegated powers. The introduction of the Register of Administrative Services contributes to the systematization of data on administrative services: accounting and analysis of types of services. Their quantity, efficiency of use are informing individuals and legal entities about the services provided by public authorities and local governments, storage, ensuring prompt access to complete information about the registry objects. [41]

The order of the Cabinet of Ministers of Ukraine dated June 17, 2009, No. 682, which approved the Concept of the Draft Law of Ukraine "On Administrative Services," indicates the main shortcomings of the system for providing services by executive authorities, local governments, as well as enterprises, institutions, and organizations. It belongs to the sphere of their management, in particular, the uncertainty of the criteria by which services are divided into paid and free. The Law of Ukraine "On Administrative Services" (from now on, the Law) of September 6, 2012, was called upon to ensure the implementation of the tasks of introducing democratic principles of management and eliminating the shortcomings in the relevant area, after which the system of providing administrative services acquired a modern state [54].

The Law determined that "administrative service" is the result of the exercise of power by the subject of the provision of administrative services at the request of an individual or legal entity, aimed at establishing, changing, or terminating the rights and obligations of such a person in accordance with the Law [12-15]. The Law also defines such concepts as "the subject of treatment." This is an individual or legal entity that applies for administrative services. "The subject of the provision of public services" is an executive authority, another state authority, an authority of the Autonomous Republic of Crimea, or a local self-government authority, their officials authorized to follow the Law to provide administrative services. In addition, the Law defines the concept and forms of use of "information and technological cards of administrative services," "center for the

provision of administrative services," "Unified State Portal of Administrative Services," and "Register of Administrative Services." This Law introduced the institution of centers to provide administrative services [63].

### 4 Results and Discussion

The center's purpose is to create convenient and accessible conditions for servicing citizens when they apply for services. In 2015, amendments were made to the Law of Ukraine "On Administrative Services," which clarified that the Centers for the provision of administrative services could be formed under the executive body of the city council, city of district significance, settlement, village council if the relevant council makes such a decision [12-15, 17]. However, there is no definition in the Law of complete or incomplete administrative service. Because of this, the implementation of work on the provision of administrative services on the basis of the "single window" and "transparent office" principle is worsening through the formation of the administrative services since it makes it difficult to determine the types and number of benefits that should be provided through such centers, and leads to a violation of the basic principles for their provision, declared in The Law, in particular the principles of equality before the Law, openness and transparency, accessibility and convenience for the subjects of appeals, and the like.

The Law also states that Law determines only the list of administrative services, but, unfortunately, such a list has not yet been approved at the state level. However, such tasks were repeatedly set before the Cabinet of Ministers of Ukraine even before the adoption of the Law [19, 20]. The absence of an approved list also affects the quality of regulatory and administrative documents adopted at the local level since it excludes the full implementation of the tasks defined by the Law of the bodies to bring the regulatory legal acts of executive authorities in line with this Law. In addition, the absence of a procedure for determining the amount of the administrative fee for the received administrative service leads to the establishment by the subject of the provision of the service of the amount of the cost at its discretion. That is, the same service is provided in the country's regions for different amounts of payment of an administrative fee [31].

Depending on the subject that provides administrative services, they are divided into state administrative services and municipal administrative services [22-24]. What is important, first of all, are those classifications of practical importance; that is, they make it possible to make recommendations for improving the system of providing administrative services. One of such classification criteria can be called the establishment of powers to provide administrative services and the legal regulation of the procedure for their provision, in particular:

- Administrative services for centralized regulations (laws, acts of the President of Ukraine, the Cabinet of Ministers, and central executive bodies of Ukraine);
- Administrative services for local regulations (acts of local governments, local executive authorities);
- Administrative services under "mixed" regulations (when both centralized and local regulations are carried out simultaneously).

To date, most of the administrative services in Ukraine are provided by the central executive bodies and their territorial divisions. Therefore, the most demanded administrative services, which almost all citizens face during their life, are considered basic [42].

These include:

- Registration of birth;
- Marriage;
- Death, and other acts of civil status;
- Registration and issuance of passports;
- Registration of residence;

- The appointment of various types of social assistance and subsidies;
- Registration of ownership of the real estate;
- Registration of vehicles and the issuance of driver's licenses;
- Registration of business activities, etc.

2015 was a turning point in decentralization processes. During this period, important laws were passed to transfer significant powers to local governments, including providing administrative services [18].

By order of the Cabinet of Ministers of Ukraine dated April 1, 2014, No. 333, The Concept of reforming local self-government and territorial organization of power in Ukraine was approved. It was stated that the availability and proper quality of public services should be ensured through the optimal distribution of powers between local governments and executive authorities at different levels of the administrative-territorial structure according to the principle of subsidiarity and decentralization [43].

On November 26, 2015, the Law of Ukraine No. 834 VIII "On Amendments to the Law of Ukraine "On State Registration of Rights to Real Estate and Their Encumbrances" (and some other legislative acts of Ukraine on decentralization of powers for state registration of rights to real estate and their encumbrances) were adopted. According to them, from January 1, 2016, the executive bodies of rural, settlement, and city councils, the Kyiv and Sevastopol city administrations, and district state administrations in the cities of Kyiv and Sevastopol are granted the status of subjects of state registration of rights and the corresponding powers to ensure the state registration of the right to real estate and their encumbrances, maintenance of the State Register of Rights, as well as other authorities provided for by law in this area [60].

The organization of legal regulation of the provision of administrative services in modern conditions was regulated systematically and without taking into account the systematization of administrative-legal relations and procedural relations of this branch of law at the level of the law [26-29]. A step toward the legislative regulation of material relations has already been taken, and it remains to adopt the Code of Administrative Procedures. In the new social relations that have now developed in Ukraine, when citizens' rights and freedoms are prioritized, it is necessary to create appropriate administrative and procedural conditions for implementing these rights and freedoms [32-38, 45]. That is why, by the decision of the Cabinet of Ministers of Ukraine, a working group was created to prepare a draft Code of Administrative Procedures, which began to carry out this work back in 1997. But so far, this normative act has not been adopted, and public relations regulating the process of considering citizens' applications have not been fully regulated [21].

Administrative services are provided following the standards approved by the subjects under their powers, taking into account the Methodological Recommendations for the Development of Administrative Services Standards [47-53]. Institutions that have been delegated the management to provide administrative services, assigned by regulatory legal acts to the executive authorities, provide such services per the standards approved by the executive authorities that delegated such powers [44, 64]. Entities providing administrative services on a permanent basis ensure that information on such services is posted on stands, and official websites and clarifications are provided on issues related to these services.

From October 1, 2018, the provision of administrative services in the field of state registration of acts of civil status was introduced through the centers for the provision of administrative services in certain administrative-territorial units, in which they will be provided in pursuance of the order of the Ministry of Justice of Ukraine dated August 29, 2018, No. 2825/5 "On approval amendments to some normative legal acts

in the field of state registration of acts of civil status." Despite the fact that such services will not be provided in all centers for the provision of administrative services but only in those determined by the legislator, this is a progressive change in legislation and a necessary step toward the European integration of Ukraine. But to meet the needs of citizens, the feeling that the state is trying to be a service, it is necessary to introduce the provision of such services in every Center for the Provision of Administrative services, and not just in 20% of those created [30].

Order of the Cabinet of Ministers of Ukraine dated January 30, 2019, No. 37 approved the Action Plan for the implementation of the Concept for the Development of the Electronic Services System in Ukraine for 2019-2020 (from now on, referred to as the Plan). According to paragraph 2 of the Plan, "In 2019-2020, central executive authorities and local state administrations should ensure the introduction of the provision of priority services in electronic form, namely: the introduction of electronic interaction to optimize the procedures for the provision of priority services using the system of electronic interaction of state electronic information resources and relevant changes in the regulatory legal acts governing the provision of priority services, taking into account the requirements of the Law of Ukraine "On Administrative Services". Furthermore, according to paragraph 9 of the Plan, it is envisaged to ensure an annual assessment of the quality of the provision of electronic services, taking into account European requirements. Implementing these measures will provide an opportunity to improve the quality of administrative services [42].

The Decree of the President of Ukraine "On certain measures to ensure quality public services" provides for the regulation of relations to approve the functioning of the service state – the state for citizens and businesses, ensure the proper implementation of the rights of individuals and legal entities in the provision of public, including administrative, services, the creation of modern infrastructure, convenient and accessible electronic services for the provision of such services [25]. The tasks that the President of Ukraine set in 2019 are being implemented and implemented by the Cabinet of Ministers of Ukraine throughout 2020. As a result, the launch of the online GUIDE with a list of public services in August 2020. This is an information portal about all services provided by executive authorities and local governments. It is posted on the DIA portal, which contains information about 1,000 public services, the place, method, timing, and cost of obtaining them. Services are ordered according to 17 criteria depending on the field of activity [55-59]. GUIDE is Ukraine's official source of public services, although the list of services has not been legally approved to date.

## 5 Conclusion

The current state of legal regulation of administrative services in Ukraine is characterized by many shortcomings of an objective and subjective nature. As a result, the process of reforming the entire administrative system is hampered [61, 62]. Therefore, it is necessary to improve the mechanisms for providing administrative services to the subjects of circulation and ensure the implementation of the goals of administrative reform as much as possible. In Ukraine, a sufficient regulatory and legal framework has been created to function the system for the provision of administrative services. But the lack of an Administrative Procedure Code, the failure to regulate certain aspects of the mechanism for the provision of administrative services are the need to carry out scientific developments to improve regulatory legal acts to improve the quality of the provision of administrative services based on the processes of administrative-territorial reform, the unification of territorial communities in particular.

The adoption of the Code of Administrative Procedure, a legislative act that should regulate the general procedure for the provision of administrative services, is essential. This, in turn, minimizes corruption risks in the provision of administrative

services by authorities and local governments since a precise regulation of the procedure negates the ability of an authorized entity in some cases to act at its discretion [46]. In addition, adopting the above actions will contribute to the quality provision of administrative services and increase the efficiency of executive authorities' activities and local government's activities. In the meantime, it is necessary to prepare and adopt the Law of Ukraine "On the Administrative Fee" as soon as possible, which will determine the legal basis for the collection of the administrative fee, the procedure for payment, and exemption from payment and return of the administrative fee.

The absence at the legislative level of the definition of the "administrative service standard" provides prospects for scientific developments and improvement of the regulatory framework for providing administrative services. But the systematization and generalization of the regulatory framework for the provision of administrative services in Ukraine have not yet received sufficient theoretical generalization.

The experience of the countries of the European Union shows that most states today set themselves the goal of providing favorable living conditions for citizens by providing high-quality administrative services. Therefore, we believe that when forming legislation in the field of providing administrative services in Ukraine, it is necessary to consider the world history and theory of public administration, as well as domestic and foreign experience in the relationship between providers and recipients of such services. It is crucial to study the experience of European countries on specific issues of legal regulation of public services, as well as to fix the principles of relations between them at the legislative level for implementation in the practice of the relevant authorities in Ukraine. Ukraine, in its development, has chosen the path of creating an "electronic state" through the introduction of "electronic government," which will make it possible to achieve a balance of interests of the state, society, and business. Therefore, the experience of European countries is very relevant and helpful at this stage of reform.

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**Primary Paper Section: A**

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