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## PUBLIC ADMINISTRATION OF ADMINISTRATIVE SERVICES IN UKRAINE: LEGAL ANALYSIS

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*The article analyzes the sequence of formation of the mechanism for providing administrative services. It was found that the content of the state as a service institute of public administration takes as a basis the implementation of a service methodology, which is based on the principle of “human-centeredness”, an important element that achieves the effectiveness of its operation. It is determined that the provision of administrative services by public authorities is one of the main directions of the state to ensure the rights, freedoms and legitimate interests of individuals. In times of unstable social relations, which arose as a result of the global pandemic of respiratory disease COVID-19, the state is trying to provide citizens and legal entities with additional guarantees against administrative arbitrariness.*

*Basic normative-legal acts, which implemented administrative services and prospects for their quality control, were generalized and systematized. From this point of view, special attention was paid to the formation and improvement of the functional basis for the provision of administrative services by public authorities. Forming the institute of administrative services, the state, as a service institution, should first of all direct its functional potential to ensure their flexibility, based on the wishes of citizens, and therefore in its structural organization there should be the basis to improve the quality of service to the interests of citizens and the needs of all categories of the population.*

*It is proved that the current state of Ukrainian society is characterized by a change in conceptual approaches to defining the essence of the state. If previously the state was considered as a mechanism for securing power, then for today the priority direction is to create conditions, which provide a decent standard of living, because a state governed by the rule of law and democracy provides administrative services to society and is being reorganized into a service state for its citizens.*

**Key words:** administrative services, service state, service model of public administration, public administration.

### **Рижченко І.М. Публічне адміністрування адміністративних послуг в Україні: правовий аналіз**

*У статті проаналізовано послідовність становлення механізму надання адміністративних послуг. Виявлено, що змістове наповнення держави як сервісного інституту публічного управління бере за основу запровадження сервісної методології, яка ґрунтується на принципі «людиноцентризму», вагомого елементу, за яким досягається результативність його функціонування. Визначено, що надання адміністративних послуг органами публічної влади є одним із основних напрямів держави для забезпечення прав, свобод і законних інтересів приватних осіб. У час нестабільних суспільних відносин, що виникли внаслідок світової пандемії респіраторної хвороби COVID-19, держава намагається забезпечити громадян і юридичних осіб додатковими гарантіями від адміністративного свавілля.*

*Узагальнено і систематизовано основні нормативно-правові акти, якими впроваджувалися адміністративні послуги та перспективи контролю за їх якістю. Під цим кутом зору окрема увага приділялася становленню та покращенню функціональних основ надання адміністративних послуг органами публічної влади. Формуючи інститут адміністративних послуг, держава, будучи сервісною інституцією, повинна насамперед направляти свій функціональний потенціал на те, щоб забезпечити їх гнучкість, виходячи з побажань громадян, а тому в її структурній організації основою має бути покращення якості обслуговування інтересів громадян та потреб усіх категорій населення.*

*Доведено, що сучасний стан українського суспільства характеризується зміною концептуальних підходів до визначення сутності держави. Якщо раніше держава розглядалася як механізм забезпечення влади, то на сьогодні пріоритетним напрямом є створення*

умов, які забезпечують гідний рівень життя людини, адже правова, демократична держава надає суспільству адміністративні послуги та трансформується у сервісну державу для своїх громадян.

**Ключові слова:** адміністративні послуги, сервісна держава, сервісна модель публічного управління, публічне адміністрування.

**Formulation of the problem.** In Soviet times, the state was considered as a mechanism for securing power, today the vector direction of state formation is the creation of conditions, which provide a decent standard of living and public service as a condition of modern social development in Ukraine. From the state, on the basis of the Constitution of Ukraine, every citizen expects to ensure the realization of rights and legitimate interests guaranteed by the Basic Law. One of the “tools” for building a service state is the provision of administrative services, which occupy an increasingly important place in the activities of public authorities. At the same time, the issue of public administration for the provision of administrative services will be aimed not at distinguishing relations between public authorities and private persons (individuals and legal entities), but at the formation and substantive reassessment of the nature of their relationship.

**Analysis of recent research and publications.** Issues of administrative services in Ukraine were covered in the works, devoted to the problems of public administration, of both domestic and foreign scientists. Undoubtedly, they were to some extent the subject of scientific and theoretical research both specialists in the field of administrative law and public administration, such scientists as V. Averyanov, K. Afanasyev, B. Borisov, O. Bukhanevich, O. Vinnikov, V. Garashchuk, V. Halunko, I. Golosnichenko, A. Ivanovska, O. Kharytonova, T. Kolomoiets, O. Pravotorova, V. Tsipuk, A. Chemeris, B. Schloer, H. Yarmaki and others. The issue of transition from bureaucratic to service model of public administration, which is based on the service logic of the functioning and development of the public administration sector, was studied, in particular, by A. Sokolov [1].

At the same time, these studies were relevant to certain aspects of administrative services, rather than a chronology of state formation, as a subject of implementation of service functions – administrative services and guarantor, which provides social security and vital activity of society and effective interaction between the executive branch, citizens and business.

**Formulation of the goals of the article.** Based on such positions, the provision of administrative services by public authorities is one of the main directions of the state to ensure the rights, freedoms and legitimate interests of individuals. Institutional monopoly on the provision of administrative services requires research on organizational and legal aspects and with further functional orientation for a qualitative change of state institutions.

**Presentation of the main material.** The modern socially oriented state is an organization in the service of society, which does not rule over the citizens of Ukraine, but must work for them. In the context of the above, taking into account the new technological identification of the state as a service institution of public administration, there is a need to provide meaningful coverage of the conceptual approaches of the modern service state within the question raised at the beginning of the research using their systematization for further analysis of the field. First of all, it is necessary to point out the general methodological aspect of identifying the content of the state as a service institution of public administration, provided by the sociological concepts of Western researchers. In this sense, it is considered appropriate to single out the works

of E. Forsthoff, by whom the service state was understood as a theoretical and methodological construction, representing the organization of the system of government with the approval of appropriate standards for the functioning of its institutions. Based on this interpretation, according to the researcher, the state as a service institution characterizes by itself “a special form of political organization of public authority, which has a special apparatus of government aimed at providing public services to citizens, as well as a system of social and legal guarantees of a decent human life, human rights and freedoms” [2]. We see that the context series on the identification of the content of the state as a service institution of public administration is based on the introduction of service methodology, which is based on the principle of “human-centeredness”, an important element, according to which the effectiveness of its operation is achieved. When forming the institute of administrative services, the state, being a service institution, should first of all direct its functional potential to ensure their flexibility, based on the wishes of citizens, and therefore in its structural organization the basis should be to improve the quality of service to the interests of citizens and the needs of all categories of the population. Let’s move on to the analysis of the development, formation and implementation of the institute of administrative services.

In general, the term “provision of services” refers to actions, the results of which are inseparable from the activity itself and are consumed in the process of the action itself or during the implementation of certain activities. However, the category of “service” in the public sphere has the ideological significance of the activity, aimed at the best service to citizens, rather than earning extra money [3, p. 269]. When considering the provision of administrative services, first of all, we must proceed from the interests of citizens, not officials, secondly, as noted by A. Averyanov, administrative services are the main element of the state’s relationship with a person. They should be understood as numerous responsibilities of state bodies to perform various types of permitting and registration actions on the relevant applications of individuals and legal entities. [4, p. 16–20]. Today, “administrative services” have a triple legal nature: “for one thing, it is the main component of the subject of administrative law; secondly – a kind of public services; third – the main tool in the activities of public administration” [5, p. 168–169].

The formation of the concept of “administrative services” in the legislation of Ukraine has a long history and a broad legal basis. The legal basis for the development of legislation in the field of administrative services was laid by the adoption of the order of the Cabinet of Ministers of Ukraine of February 15, 2006 № 90-r “On approval of the Concept for the development of the system of providing administrative services by executive authorities”, which defines an administrative service as “the result of the exercise of power by an authorized entity, which, in accordance with the law, provides legal registration of conditions for the realization by individuals and legal entities of rights, freedoms and legitimate interests at their request (issuance of permits (licenses), certificates, identifications, carrying out registrations etc.)” [6] and it was necessary to develop and adopt laws that would define the basic principles of the functioning of the system of providing administrative services to private persons (individuals and legal entities).

The very concept of “administrative services” was not used in the legislation, but the creation of a legal basis for the provision of administrative services was contained in many laws of Ukraine, at first it happened unsystematically and in different legal directions. Thus, the provision of administrative services was used in the laws of Ukraine: “On Social Services”, “On Citizenship”, “On Associations of Citizens”, “On Immigration”, “On Patenting of Certain Types of Entrepreneurial Activity”, “On Standardization”, “On Licensing of Certain Types of Economic Activity”, “On Civil Status Registration Bodies” etc.

Since September 6, 2012, by the Law of Ukraine “On Administrative Services” this wide range of administrative services has been settled [7] (further – the Law). This Law laid down the basic principles of the functioning of the system of providing administrative services to private persons (individuals and legal entities) and which still determines the legal basis for the realization of the rights, freedoms and legitimate interests of individuals in the provision of administrative services and provides their legal protection. With the adoption of this normative legal act, various measures are being taken to form a high-quality and affordable system for providing administrative services. First, it is defined at the legislative level, that the administrative service is the result of the exercise of power by the subject of administrative services at the request of an individual or a legal entity, aimed at acquiring, changing or terminating the rights and / or performing the duties of such person in accordance with law (Art. 1 of the Law) [7]. Secondly, the legislation in the field of administrative services was regulated and adopted in accordance with the Law regulations governing relations in the field of administrative services, in particular, the Law of Ukraine “On Peculiarities of Providing Public (Electronic Public) Services” [8] and a number of bylaws, let’s analyze some of them.

The Law of Ukraine “On Peculiarities of Providing Public (Electronic Public) Services” laid the basic principles of providing electronic public services, public services, integrated electronic public services, automatic mode of providing electronic public services and noted, that on public relations, which are provided for in Part 2, Art. 2 of the Law of Ukraine “On Administrative Services” it does not extend its effect [8]. The Resolution of the Cabinet of Ministers of Ukraine of January 30, 2013 № 44 “On approval of requirements for preparation of technological card of administrative service” stipulates the requirements for the preparation of the technological card of the administrative service, which contains information on the procedure for providing administrative services by the subject of its provision and approved by him for each administrative service he provides [9]. The technological card was to promote the maximum possible use of information and communication technologies, in particular in the process of interaction of structural units of the subject of administrative service and during the implementation of the stages of its provision. By the Decree of the President of Ukraine of July 29, 2019 № 558 “On Some Measures to Improve the Access of Individuals and Legal Entities to Electronic Services” proper data protection was provided during the provision of administrative services in national electronic information resources, their accessibility and convenience for individuals and legal entities, as well as the prevention of corruption in the provision of such services [10]. Resolution of the Cabinet of Ministers of Ukraine of December 4, 2019 № 1137 on the “Issues of the Unified State Web Portal of Electronic Services and the Register of Administrative Services” (also known as the Diia Portal), which is intended “for realization of everyone’s right to access electronic services and information on administrative and other public services, appeal to the executive authorities, other state bodies, local self-government bodies, enterprises, institutions and organizations, obtaining information from national electronic information resources necessary for the provision of services, as well as for monitoring and to evaluate the quality of services” [11]. Resolution of the Cabinet of Ministers of Ukraine of February 3, 2021 № 72 “About the National Web Platform of Administrative Service Centers” provides “purpose, tasks, functionalities, subjects and structure of the National web platform of administrative service centers (Platforms of Diia Centers), content of information on the Platform of Centers of Diia and the procedure for its introduction...” [12]. With the help of Platforms of Diia Centers it is possible to provide individuals and legal entities with information about

the centers and their activities to the extent that will be sufficient to apply for administrative services, as well as to pre-register the subjects of the application for admission by electronic registration on such Platforms, etc.

We also consider it necessary to note that in pursuance of the first and fifth paragraphs of the fourth part of Article 7 of the Law of Ukraine “On Administrative Services” the resolution of the Cabinet of Ministers of Ukraine of August 11, 2021 № 864 “Issues of Organization of Monitoring the Quality of Administrative Services” was adopted, according to which the provision of administrative services will be monitored and in particular identified a “significant violation of the conditions for the provision of administrative services” – a violation of the general rules of ethical conduct of civil servants and local government officials, provided by the Law of Ukraine “On Prevention of Corruption”, during the provision of administrative services, requirements of sanitary norms concerning the maintenance of premises of offline front offices, unreasonable refusal to provide administrative services, violation of deadlines for its provision, lack or non-provision of information on obtaining administrative services” [13]. And although the monitoring is only planned, we hope that by December 30, 2022 reporting on the results of monitoring using the monitoring system in accordance with the Procedure will be carried out, as a result, there will be a process of standardization of the criteria for the effectiveness of the public administration system. And the service state will fulfill its obligations to society to provide quality public services.

Conclusions. The sequence of formation of the mechanism for providing administrative services was analyzed. It was determined, that the state through the regulatory framework for the provision of administrative services, taking into account that “a person, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value”, in accordance with Article 3 of the Constitution of Ukraine, socio-economic realities of today, in particular, the instability of social relations, which arose as a result of the global pandemic of respiratory disease COVID-19, tries its best to create additional guarantees for citizens and legal entities against administrative arbitrariness, interference in their rights, minimize corruption risks, etc. Therefore, we can state in the end that the creation of a service state is not a tribute to modernity, but an objective necessity caused by life itself.

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