

International Legal and Administrative-Criminal Regulation of Service Relations*

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Abstract.

The purpose of the research the research is devoted to the coverage of international legal acts and—standards in European and international practice for the provision of public services as a direction of reforming legal education in Ukraine. Methodology. Review of materials and methods is performed on the basis of analyzing documentary materials on regulation of the service legal relations. Conclusions. The directions of improving domestic legislation on the provision of public services taking into account international legal standards are proposed: the development of the theory of public services, which consists in consolidating conceptual and categorical provisions in the Concept of public services, principles of public services, quality criteria for the provision of public services, and the like; unification of the legal regulation of administrative procedures by adopting the Administrative Procedure Code of Ukraine, which would clearly disclose the issue of providing public services; fixing in the legal acts the types of legal guarantees to ensure the legality of the provision of public services: monitoring the activities of public administration entities on the provision of public services; holding public servants accountable for refusing to provide a certain type of public service; bringing into line with European experience the requirements for adoption, amendment, cancellation and the possibility of appealing individual administrative acts that are the results of the provision of public services; decentralization of power, which consists in justifying an increase in the powers of local authorities in comparison with public authorities.

Keywords: Accessibility; Rights; Transparency; Service; Service Relations

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Peraturan Hukum Internasional dan Administratif-Pidana Hubungan Layanan

Abstrak

Tujuan penelitian ini dikhususkan untuk cakupan tindakan hukum internasional dan standar dalam praktek Eropa dan internasional untuk penyediaan layanan publik sebagai arah reformasi pendidikan hukum di Ukraina. Kajian bahan dan metode dilakukan atas dasar analisis bahan dokumenter tentang pengaturan hubungan hukum pelayanan. Hasil kesimpulan menyatakan bahwa arahan perbaikan legislasi domestik tentang penyediaan layanan publik dengan mempertimbangkan standar hukum internasional diusulkan: pengembangan teori layanan publik, yang terdiri dari konsolidasi ketentuan konseptual dan kategoris dalam konsep layanan publik, prinsip-prinsip layanan publik, kriteria mutu penyelenggaraan pelayanan publik dan sejenisnya; penyatuan peraturan hukum prosedur administrasi dengan mengadopsi Kode Prosedur Administratif Ukraina, yang dengan jelas akan mengungkapkan masalah penyediaan layanan publik; penetapan dalam perbuatan hukum jenis-jenis jaminan hukum untuk menjamin legalitas penyelenggaraan pelayanan publik; pemantauan kegiatan badan administrasi publik dalam penyediaan pelayanan publik; meminta pertanggungjawaban pegawai negeri karena menolak memberikan jenis layanan publik tertentu; membawa sejalan dengan pengalaman Eropa persyaratan untuk adopsi, amandemen, pembatalan dan kemungkinan banding tindakan administratif individu yang merupakan hasil dari penyediaan layanan publik; desentralisasi kekuasaan yang terdiri dari membenaran peningkatan kekuasaan otoritas lokal dibandingkan dengan otoritas publik.

Kata Kunci: Aksesibilitas; Hak; Transparansi; Layanan; Hubungan Layanan

Международно-Правовое И Административно-Уголовное Регулирование Сервисных Правоотношений

Аннотация

Цель исследования исследование посвящено освещению международно-правовых актов и стандартов в европейской и международной практике сервисных правоотношений как направления реформирования юридического образования в Украине. Методология. Обзор материалов и методик выполнен на основе анализа документальных материалов по регулированию сервисных правоотношений. Выводы. Предложены направления совершенствования отечественного законодательства сервисных правоотношений с учетом международно-правовых норм: развитие теории государственных услуг, заключающееся в закреплении понятийно-категориальных положений в Концепции государственных услуг, принципов оказания государственных услуг, критерии качества оказания государственных услуг и тому подобное; унификация правового регулирования административных процедур путем принятия Административно-процессуального кодекса Украины, который четко раскрывал бы вопрос предоставления государственных услуг; закрепление в правовых актах видов правовых гарантий обеспечения законности предоставления государственных услуг: контроль за деятельностью субъектов государственного управления по оказанию государственных услуг; привлечение государственных служащих к ответственности за отказ в предоставлении определенного вида государственной услуги; приведение в соответствие с европейским опытом требований о принятии, изменении, отмене и возможности обжалования отдельных административных актов, являющихся результатами оказания государственных услуг; децентрализация власти, заключающаяся в обосновании увеличения полномочий органов местного самоуправления по сравнению с органами государственной власти.

Ключевые слова: доступность; права; прозрачность; служба; сервисные правоотношения

A. INTRODUCTION

The general direction of reforms for foreign governments is to increase the transparency and efficiency of the services provision. For example, in order to increase the transparency and quality of the service system by government agencies, the Department of Transportation in the United Kingdom annually develops and submits a report on the services provided and their compliance with standards. Increasing transparency and efficiency of the provision of services, focusing on the urgent needs of society is also characteristic of Bulgaria, which has a peculiar approach to identifying the needs of society, with a certain managerial character. In the Republic of Finland, in order to increase the transparency and efficiency of public services provision, the results of state reform programs are evaluated. The criteria for evaluating such results are, as a rule, the opinion of the population on the quality of public services, the degree of controllability of state bodies and the effectiveness of their activities, the motivation of public servants, the quality of the implementation of the programs needed to implement the reform, the significance of the goals of these programs for society and their consistency (The citizen's charter, 1991).

B. METHODS

To achieve the objectives of the work a set of methods of scientific knowledge was used in it including the following main methods: Formal-dogmatic method, structural and functional analysis, comparative legal method, statistical method and sociological method. Thus, the formal-dogmatic method was used to form and improve the terminological series of the service relations, as well as the categorical apparatus required to form an integral view of the legal nature and system service relations; the structural and functional method is used to form the structure of the principles of service relations, as well as their relationship with the principles of law; the comparative legal method was used to compare domestic case law with the decisions of the European Court of Human Rights in various public law spheres; by means of a statistical method the characteristic of an actual condition of performing administrative legal proceedings was carried out.

C. RESULT AND DISCUSSION

In developed democracies, the ideology of public administration as a system aimed at providing public services to the population is set forth in

special acts, such as: "Citizen's Charter" (Great Britain, India, 1992), "Civil Servants Charter" (Italy), "Marianne Charter" (France, 1992) (La Charte Marianne 2013) ([Sadler J., 2000](#)), "Charter of Public Services Consumers' Rights" (Belgium, 1992), "Charter of Quality Assurance in the Provision of Public Services" (Portugal, 1993), "Quality Supervision" (Spain, 1992), "Quality standards initiative" (Canada, 1992), "Quality Charter for compliance with public services provision" (Portugal, 1993) and the like. It should be noted that the introduction of standards for the provision of public services in foreign countries is a kind of realization of the right of subjects to apply for affordable and quality services.

The Citizen's Charter of 1991 established in Great Britain the principles on which the activities of government agencies and organizations providing services to the public should be based, as well as government commitments in this area. These principles include the establishment of clear standards for services, the openness and completeness of information, the provision of advice to the public and the choice of services, their usefulness and effectiveness, and the like. The Citizen's Charter is the basis for about forty more charters developed and approved by the Cabinet of Ministers and ministries by the Cabinet of Ministers, each of which sets standards for services in such areas as education, social welfare, employment, recreation, taxation and the like. In addition to them, local authorities created, taking into account the specific conditions of different regions, their charters of services, which they pledged to comply with.

Thanks to the Citizen's Charter program, the level public services quality in the UK has noticeably increased, citizens have a better understanding of their rights when receiving such services, and prerequisites have been created for changing the psychology and culture of public servants themselves.

However, the implementation of this program stumbles on a number of difficulties, in particular, the underestimation of the usefulness of the "Citizen's Charter" by the population, the insufficient responsibility of public servants for the quality of services provided, methodological problems in determining indicators and standards, low monitoring efficiency and subjectivity in evaluating services, poor coordination between their providers ([The Legislation of Ukraine, 1997](#)).

In order to assess the practical results of the work of government bodies that provide services to citizens, the so-called compliance tables for the quality of their services have been introduced in the UK. At first, this concerned regular schools, then the tables were adapted for various organizations for the purpose

of their use, for example, during inspections or audits ([The Legislation of Ukraine, 1997](#)).

A significant means of regulating the quality of public services in the UK is the nationwide Charter Mark award, approved by the British government in 1992. Such a competition performs significant regulatory and stimulating functions in the field of improving the quality of administrative management and bringing it closer to the needs and interests of citizens.

Thus, in the French Republic, the basic principles, the procedure for the provision of services, and the rules of conduct for public servants during communication with consumers are enshrined in the Marianne Charter ([Sadler, 2000](#)). It should be noted that such attention of the French legislator to public servants is quite understandable, because the provision of most public services to individuals and legal entities is carried out through them. Given the quality and level of activity of public servants, subjects of circulation form their subjective idea of the activities of the entire state apparatus as a whole. Therefore, the procedure for the rigorous selection of candidates for public service is one of the factors for improving the quality of public services.

Increasing the independence of local governments and non-governmental institutions for the provision of public services to the population is advocated in the European legal space, in particular in the European Charter of Local Self-Government, ratified by the Law of Ukraine No. 452/97-BP of July 15, 1997 ([The Legislation of Ukraine, 1997](#)), Framework Council of Europe recommendations on regional democracy of [November 17, 2009 \(Council of Europe Framework Recommendation on regional democracy \(2009\)\)](#), Council of Europe recommendations on the financial resources of local authorities and their responsibilities: subsidiary test [No. 79 \(2000\)](#) (Council of Europe Recommendation on the financial resources of local authorities and their responsibilities: subsidiary test [No. 79 \(2000\)](#)), etc.

In the 90s. XX century governments of most countries of the world have come to the conclusion that it is necessary to modernize and improve the efficiency of the way public services are provided. Canada is no exception to this trend. Since 1995, reform of the ways to provide government services has been initiated at all administrative levels. The "Service Delivery Model" is one of the nine key objectives of the Program of Action aimed at improving the work of state bodies as a whole. The "service delivery model" was developed from the perspective of the end consumer - the citizen. This document states that a customer-oriented service should take into account all the preferences (wishes) of citizens at each stage of the service provision; that is, the needs of

citizens are transformed into an organizational principle around which public interest is determined and a service delivery model is planned. Analyzing the experience of providing certain services from the perspective of an individual citizen, we can conclude that two main positions require improvement: 1) accessibility of the service, provides the ability to quickly find the body that provides the service (in particular, the correct phone number, etc.), and direct physical accessibility of the body (in particular, appointment of time by phone, availability of parking lots, etc.); 2) the quality of the service (for example, courtesy, timely delivery, etc.).

Despite the geographic remoteness of the United States from Europe, the reasons that prompted the restructuring of public administration were very similar: the growth of the bureaucratic apparatus; inefficient spending of budget funds; the economic crisis, which forced the state to reduce the number of functions performed, including by delegating them to the private sector; unsatisfactory assessment by the majority of citizens of the state bodies activities ([Isakov, 2014](#)).

The success achieved by American lawmakers is explained by the specifics of their mentality, namely, the rather high level of development of enterprise self-organization, therefore the transfer of some state functions to this sector does not cause problems with the possibility of their implementation ([Isakov, 2014](#)).

In the United States, the system of executive bodies is composed of the President, departments, government corporations, independent agencies, and other institutions. The legislation provides that among the above bodies, administrative institutions are only those ones that do not perform military or foreign policy functions and have the authority to decide on the legal status of individuals, that is, to decide on their rights and obligations. Administrative management assumes, as A.N. Kozyrin notes, “not just execution, but management mainly through regulation carried out with the help of regulatory and judicial powers transferred to the administration” ([Kozyrin, 1996](#)).

So, in the USA, services are provided by special authorities, but the necessary information is contained on the websites of the state departments of public services. Although most of the information relates primarily to public servants and the servicing of state institutions, all the potential recipients of public services have the opportunity to familiarize themselves with the necessary information or to order this service electronically. A similar practice of providing services exists in the UK. The relevant website contains information for both government officials and citizens, including the provision

of analogues of Ukrainian public services. Moreover, for convenience, the site offers a choice of a certain life situation and provides practical legal clarifications regarding the further actions of the recipients of services.

In Canada, most public services are provided by private provincial organizations. For example, the services for ensuring security, driver's licenses issuing, which were previously provided by state bodies, are currently sold by private enterprises. Due to the fact that an increasing number of functions of state structures are delegated to the private sector on the basis of agreements, the regulation of public-private relations has become the predominant direction in the development of administrative law in Canada ([Timoshchuk, 2003](#)).

In Japan, administrative reform allowed about ninety government functions to be delegated to the establishment of independent management institutions outside the state organizational management structure. The goal of these institutions is to improve the quality and efficiency of the provision of public services and ensure transparency in the management of certain areas ([Doroguntsov, 2007](#)).

At present, the development and distribution of productive forces is largely determined by two trends: optimization (based on information as the fundamental resource of society, closely related to the development of financial and legal technologies, the process of "cataloging" the world, the formation of a global management system); innovative (consists in obtaining new knowledge and a qualitative abrupt change in the artificial environment of human life ([Kolbas, 2011](#))).

In 1998, the United States passed the Law on the Inventory of the Functions of Federal Authorities. Based on the content of this act, the executive bodies were entrusted with the task of analyzing the totality of their functions and identifying those that could be delegated to the private sector ([Bukhanevich, 2016](#)). To regulate competition in the future, in 2003, Rules on public and private competition were developed that established the procedure for tendering and its frequency ([Bukhanevich, 2016](#)).

In our opinion, it is very important in the activity of the relevant ministries, state committees, and departments in the relevant sphere to intensify their work in informing the population about human rights, to work hard to ensure that the whole range of issues on the sphere of legislative support, practical implementation and protection of human and civil rights becomes more accessible for acquaintance and study to all members of society ([Rabinovych, 2017](#)). Only openness and publicity in this area can become a

guarantee and effective factor of establishing in Ukraine a truly legal democratic state in which the rights and freedoms of citizens will be ensured ([Rabinovych, 2017](#)).

It is necessary to consider that nowadays in Ukraine the theory of recognition of human dignity, which is an integrative property of human nature and acts as one of the institutional sources of its fundamental rights. In this regard, the general theory of law formulates an anthropogenic interpretation of human dignity, the concept of which is defined as the self-worth of a human as a unique generic biosocial being ([Rabinovych, 2017](#)). In our opinion, these doctrinal positions in the near future will require appropriate legal and even constitutional regulation.

Firstly, material support of scientific research requiring considerable financial resources for the purposes of upgrade of machinery and equipment remains serious problem ([Leheza et al, 2018](#)).

Secondly, academic staff remains vulnerable. Level of salary of scientists remains the key problem of this category. So, the occupational prestige decreases sharply. Number of scientists who emigrated abroad decreased over the last years. However, this problem continues to be extremely relevant by this day ([Leheza et al, 2018](#)).

The analysis of outflow of academic staff points to the fact that it is those scientists who emigrate abroad who may offer new knowledge that has no future perspectives for development or application in our country. In addition, the multinational mobility of academic staff becomes rather topical problem ([Leheza et al, 2018](#)).

Many domestic scientists go to foreign scientific centers (for the purposes of on-the-job training or occasional employment) according to international treaties on cooperation. Displacement of centers of scientific and technological activity occurs in doing so. The fact that most of scientists who stay in Ukraine deal with parallel kinds of activity (politics, entrepreneurship) also continues to be the topical issue ([Leheza et al, 2018](#)).

Usually, the legal regulation of public services provision in the EU is carried out by legislative acts that extend to the whole range of administrative and procedural relations, including the scope of these services. For example, laws on administrative procedure are in force in the Federal Republic of Germany, the Republic of Austria, the Swiss Confederation, the Act on Administrative Procedures – in the Republic of Finland, the Act of general administrative law – in the Kingdom of the Netherlands, the Law on Public

Administration – in the Kingdom of Sweden, the administrative proceedings Code – in the Republic of Poland, the Code of Administrative Procedures – in the Czech Republic, the Law on Public Administration – in the Republic of Lithuania, and the like.

D. CONCLUSIONS

The foreign experience in providing public services of such countries as the USA, Japan, Canada, requires implementation in domestic legislation with the aim of developing common standards for the provision of these services.

The international legal acts establishing the standards for the provision of public services are highlighted: “Citizen’s Charter” (Great Britain, India, 1992), “Charter of Civil Servants” (Italy, 1992), “Marianne Charter” (France, 1992), “Charter of Public Services Consumers’ Rights” (Belgium, 1992), “Charter of Quality Assurance in the Provision of Public Services” (Portugal, 1993), “Supervision of Quality Compliance” (Spain, 1992), “Initiative quality standards” (Canada, 1992), “Quality Charter for compliance with public services provision” (Portugal, 1993); European Charter of Local Self-Government, ratified by the Law of Ukraine No. 452/97-BP of July 15, 1997.

It was found that administrative and procedural relations on the provision of public services are indicated in the legislative acts of the EU countries: the laws on administrative procedure are in force in the Federal Republic of Germany, the Republic of Austria, the Swiss Confederation, the Act on Administrative Procedures – in the Republic of Finland, and the general administrative act in the Kingdom of the Netherlands, in the Kingdom of Sweden – the Law on Public Administration, in the Republic of Poland – the Administrative Proceeding Code, in the Czech Republic – the Code of administrative procedures, in the Republic of Lithuania – the Law on Public Administration and the like.

Thus, the directions of improving domestic legislation on the provision of public services taking into account international legal standards are: a) development of the theory of public services, which consists in consolidating conceptual and categorical provisions, principles of public services, quality criteria for the provision of public services in the Concept of public services, etc.; b) unification of the legal regulation of administrative procedures by adopting the Administrative Procedural Code of Ukraine, which would clearly disclose the issue of providing public services; c) consolidation in the legal acts the types of legal guarantees to ensure the legality of public services provision:

control over the activities of public administration entities on the provision of public services; holding public officials accountable for refusing to provide a certain type of public service, etc.; d) bringing the requirements of adoption, amendment, cancellation and possibility of appeal of individual administrative acts, which are the results of the provision of public services, in accordance with European experience; e) further study of the role of discretionary option of public service providers and the limitation of abuse of authority in the process of their implementation; g) the decentralization of power, which consists in justifying the increase in the powers of local authorities in comparison with public authorities.

REFERENCES:

- Bukhanevich, Oleksandr. (2016). Theoretical, legal and praxeological principles of the provision of administrative services in Ukraine. *Institute of Legislation of the Verkhovna Rada of Ukraine*. Kyiv. Ukraine.
- Doroguntsov, Serhii Ivanovych. (2007). The distribution of productive forces and the regional economy. Textbook. Kyiv. Ukraine.
- Frank, Sue A. Lewis, Gregory B. (2004). Government Employees: Working Hard or Hardly Working? *The American Review of Public Administration*. 34 (1): 36–51. <https://doi:10.1177/0275074003258823>.
- Isakov, Artur. (2014). Public services quality assurance: administrative aspect: Retrieved from. Available online. In: <https://www.dissercat.com/content/obespechenie-kachestva-gosudarstvennykh-uslug-administrativno-pravovoi-aspekt>. Consulted: 30/12/2021.
- Kolbas, Ivan. (2011). Public-power services as a means of ensuring the implementation of human rights by the state. *National University of State Tax Service of Ukraine*. Irpin. Ukraine.
- Kolomoiets, Tetiana Oleksandrivna. (2009). Administrative Law of Ukraine: textbook. Kyiv: Istyna. Ukraine.
- Kozyrin, Aleksandr Nykolaevych. (1996). Administrative law of foreign countries. Tutorial. M. Publishing house "SPARK". Kyiv. Ukraine.
- Leheza, Yevhen. Filipenko, Tatiana. Sokolenko, Olha. Darahan, Valerii, Kucherenko, Oleksii. (2020). Ensuring human rights in ukraine: problematic issues and ways of their solution in the social and legal

sphere. *Cuestiones políticas*. Vol. 37 Nºº 64 (enero-junio 2020). P. 123-136. DOI: <https://doi.org/10.46398/cuestpol.3764.10>

Leheza, Yevhen. Savielieva, Maryna. Dzhafarova, Olena. (2018). Structural and legal analysis of scientific activity regulation in developed countries. *Baltic Journal of Economic Studies*. Vol. 4 (3), pp. 147-157. Available online In: <https://doi.org/10.30525/2256-0742/2018-4-3-147-157>.

Leheza, Yevhen, Odyntsova Iryna, Dmytrenko Natalia. (2021). Teoría y regulación legal del apoyo informativo de los procedimientos administrativos en Ucrania. *Ratio Juris UNAULA*, 16 (32). P. 291-306 <https://doi.org/10.24142/raju.v16n32a12>

Leheza Yevhen, Deliya Yuriy, Ryzhkov Eduard, Albul Serhii, Shamara Oleksandr. (2021). Legal Regulation of the Status of Subjects of Special Competence in Relation to Public Administration in the Sphere of Intellectual Property in Ukraine. *Jurnal cita hukum indonesian law journal* Vol 9, No 2, 221-236. DOI: <https://doi.org/10.15408/jch.v9i2.22234>

Rabinovych, Petro. (2017). Moral damage and the right to its compensation: a general theoretical approach. In: *Law of Ukraine*. 4, 29-50.

Richwine, Jason. (2012). Government Employees Work Less than Private-Sector Employees. *Backgrounder*. The Heritage Foundation. 1-6.

Sadler, Jon. (2000). Improving the Quality of Government Services: The UK Experience. *Problems of management theory and practice*, 3, 1-5.

European Charter of Local Self-Government. (1997). Information of the Verkhovna Rada of Ukraine. Retrieved from. Available online. In: https://zakon.rada.gov.ua/laws/show/994_036 Consulted: 02/01/2022.

Council of Europe framework recommendation on regional democracy. (2009). Retrieved from. Available online.

In: <https://rm.coe.int/168071b5e9>. Consulted: 30/01/2022.

Council of Europe recommendation on the financial resources of local authorities and their responsibilities: subsidiarity test. (2000). Information of the Verkhovna Rada of Ukraine. Retrieved from. Available online. In: https://zakon.rada.gov.ua/laws/show/994_739. Consulted: 02/01/2022.

Timoshchuk, Vyktor. (2003). Administrative procedure and administrative services. Foreign experience and suggestions for Ukraine. *Center for Political and Legal Reforms*. Kyiv. Ukraine.