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# THEORETICAL ASPECTS OF THE ADMINISTRATIVE SERVICES ORGANIZATION IN LOCAL GOVERNMENT BODIES

## ТЕОРЕТИЧНІ АСПЕКТИ ОРГАНІЗАЦІЇ НАДАННЯ АДМІНІСТРАТИВНИХ ПОСЛУГ В ОРГАНАХ МІСЦЕВОГО САМОВРЯДУВАННЯ

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The article examines the scientific and theoretical aspects of the organization of social protection of low-income groups of the population in local self-government bodies; the concept of administrative services, their place among other public services and the main problems of obtaining administrative services from the point of view of service consumers are characterized. It was determined that almost all citizens are required to receive certain administrative services (for example, regarding birth registration, residence registration, obtaining a passport, etc.), and some administrative services have a smaller number of consumers. It was established that the understanding of the category "administrative service" consists in creating convenient conditions for a person's communication with public administration bodies in the broadest category of cases. The concept of administrative services and their types is characterized: state services, municipal services, non-administrative services.

**Key words:** administrative service, state services, municipal services, non-administrative services, local self-government bodies.

У статті розглянуто науково-теоретичні аспекти організації соціального захисту малозабезпечених верств населення в органах місцевого самоврядування; охарактеризовано поняття адміністративних послуг, їх місце серед інших публічних послуг і основні проблеми отримання адміністративних послуг з точки зору споживачів послуг. Визначено, що окремі адміністративні послуги зобов'язані отримувати практично усі громадяни (наприклад, щодо реєстрації народження, реєстрації місця проживання, отримання паспорта тощо), а деякі адміністративні послуги мають менше коло споживачів. Але в будь-якому випадку і виконання обов'язку, і створення умов для виконання особою обов'язку належать до адміністративних послуг. Встановлено, що розуміння категорії «адміністративна послуга» полягає у створенні зручних умов спілкування особи з органами публічної адміністрації у найширшій категорії справ. Загалом «адміністративні послуги» – це узагальнюючий термін, який стосується дуже широкого кола суспільних відносин. І хоча в спеціальному (тематичному) законодавстві більшість дій не називаються (не позначені) як адміністративні послуги, їх можна ідентифікувати як такі. саме завдяки перерахованим вище ознакам. Ще одним з правил в ідентифікації результату (та діяльності) як адміністративної послуги є певна стандартність (усталена типовість) справи. Адже видача паспортів, дозволів, ліцензій тощо має стандартизовані процедури, чіткі алгоритми дій суб'єктів звернення і суб'єктів надання адміністративних послуг. Охарактеризовано поняття адміністративних послуг та їх видів. Державні послуги – це послуги, що надаються органами державної влади (як правило, виконавчої) та державними підприємствами, установами, організаціями. Муніципальні послуги – послуги, що надаються органами місцевого самоврядування та комунальними підприємствами, установами. Надання адміністративних послуг пов'язане з реалізацією владних повноважень (тобто прийняттям рішень / вчиненням дій тощо). Неадміністративними є послуги, які не пов'язані з прийняттям владних рішень (наприклад: освітні та медичні послуги тощо).

**Ключові слова:** адміністративні послуги, державні послуги, муніципальні послуги, неадміністративні послуги, органи місцевого самоврядування.

**Problem statement.** In Ukraine, the development of administrative services and the transition from management relations between the state and the people to the implementation of the principle of people's rule – when the state is oriented to the needs of the people, and civil servants serve the people – began in the 90s. One of the documents that laid the foundations for the formation of a modern mechanism for the provision of administrative services in Ukraine was the Concept of Administrative Reform, approved by the Decree of the President of Ukraine in 1998. The goal of the reform is "the formation of a state administration system that will become close to the needs and requests of the people, and the main priority of its activity will be serving the people, the national interest", and one of the tasks for the implementation of this goal was "the introduction of a new ideology of the functioning of the executive power and local self-government" as an activity to ensure the realization of the rights and freedoms of citizens, the provision of state and public services".

An important step in the development of the provision of administrative services in Ukraine was the adoption of the Law of Ukraine "On Administrative Services" in 2012. But, despite the fact that almost 5 years have passed since the adoption of this Law, the system of providing administrative services to citizens has not developed as expected, because effective mechanisms for the implementation of legislative norms and their practical application have not been formed. The process of improving the mechanisms for providing administrative services, improving their quality and efficiency is ongoing, but there are still many gaps in the current legislation related to the definition of the content of administrative services, the mechanism for providing and evaluating their quality, which determines the relevance of scientific research into these problems.

Creation of convenient and accessible conditions for receiving administrative services is one of the main tasks to be solved by local self-government bodies. After all, the main purpose of public administration is to provide services, and it is by the quality of services that every citizen evaluates the competence and benevolence of the authorities.

It is important that many measures to improve the quality of the provision of administrative services can be implemented on the initiative of local heads, local deputies, and other officials of local self-government bodies. Mostly, these changes do not require the adoption of new

legislation or special support from the central government.

This opinion was actually confirmed by the experience of many cities of Ukraine: Vinnytsia, Ivano-Frankivsk, Lutsk, Kharkiv, and others, which took one of the first steps for the new quality of administrative services – created administrative service centers proactively, that is, even before the entry into force of the relevant requirements of the Law of Ukraine "On Administrative Services".

The benefits of creating centers for the provision of administrative services are not only in the convenience and availability of services for citizens and businesses. The positives for politicians and civil servants are no less significant. These are, in particular:

- satisfied citizens (voters);
- regulated working conditions of personnel;
- rational decision-making procedures;
- minimization of conditions for corruption and abuse;
- improved investment climate.

**Analysis of recent research and publications.** Such scientists as V. Averyanov, K. Afanasyev, O. Vasylieva, I. Golosnichenko, V. Dolechek, V. Yevdokymenko, R. Kalyuzhny, V. Kampo devoted their works to the study of the system of providing administrative services in Ukraine and foreign countries. V. Kudrya, I. Koliushko, E. Kuriny, R. Kuybida, O. Luchtergandt, N. Nyzhnyk, V. Tymoshchuk, V. Tsypuk, A. Chemeris, B. Schloer, and others.

**The purpose of the study** is to investigate the main issues and aspects regarding the formation of the quality and professionalism of the provision of administrative services by local self-government bodies.

To date, despite the rather long period of formation of the system of providing administrative services in Ukraine, the norms of the current legislation, which regulate the mechanism of providing administrative services and other aspects related to this process, are not fully regulated.

Presentation of the main research material. The official definition of "administrative service" is given in the Law of Ukraine "On Administrative Services" dated September 6, 2012. In particular, according to this Law, an administrative service is "the result of the exercise of authority by the entity providing administrative services at the request of a natural or legal entity, aimed at acquiring, changing or terminating the rights and/or obligations of such a person in accordance with the law" [6].

Key features of an administrative service can be identified from the legal definition:

1) administrative service is provided only at the request of an individual or legal entity. This means that the activity that makes up the content of the corresponding service is carried out by the authorized entity only at the initiative of the person who needs such a service. Therefore, the activities of executive power bodies, local self-government bodies, and their officials, which are carried out on their own initiative (for example, inspections) or on complaints or other appeals (proposals, recommendations, etc.) do not belong to administrative services [1].

A statement is a type of appeal by a person containing a request (requirement) to take certain actions and/or make decisions to the person to whom the appeal is addressed. Whether a person's appeal belongs to the "application" category must be determined by the subject of the provision of administrative services, since a citizen or other subject of an appeal may not indicate the name of such an appeal in his appeal or define it incorrectly. The application can be submitted in written (including electronic) or oral (including by phone) form, depending on the requirements of special (thematic) laws and the actual technical capabilities of the authorities.

Beyond the legal category "administrative services" may refer to a broader understanding of such a category. After all, certain services can be provided by authorities and on their own initiative, taking into account certain life circumstances (for example, of a social nature), or acting in advance (for example, in some countries, pension authorities can inform a person in advance about the approach of his right to retire, oriented the amount of the pension and the need to apply to them) [11].

2) the statement leads to a certain result aimed at the acquisition, change or termination of the rights and/or obligations of the person.

Currently, such a result can be understood as:

– a decision of an individual action (administrative act), which is adopted in relation to a specific person and creates, changes or terminates the rights and/or obligations of a person. This decision can be drawn up in the form of a specific document (for example, a marriage registration certificate, a license for a certain type of economic activity) or have the nature of a registration action (registration of a natural person – an entrepreneur, i.e. making a corresponding entry in the Unified State Register of Legal Entities and Natural Persons – entrepreneurs), etc.;

– an administrative contract under which the rights and/or obligations of a person are acquired, changed or terminated. For example, a contract concluded between an authorized executive body or a local self-government body and a business entity for local transportation [2].

The legislator used the term "result" in the definition of the concept of "administrative service" also in order to orient the subjects of the provision of administrative services specifically to the positive resolution of the person's case, that is, to the result / effectiveness.

In addition, the purpose of such regulation is to prevent the artificial fragmentation of administrative services into separate, especially paid services.

Subjects providing administrative services need to focus on the integrity of the service. The question of whether refusal (negative) decisions belong to administrative services, i.e. cases when the subject of the appeal is refused to satisfy his application [6] can be considered debatable.

On the one hand, the subject of the provision of administrative services performs the necessary set of actions for consideration of the person's application and fulfills its duties.

On the other hand, a person does not formally have new rights and obligations. That is, the result of the service has not been received, and this is the basis for an ambiguous assessment of such a legal situation (refusal of the application) on the subject of its recognition as an administrative service. However, it is obvious that from the point of view of the procedure for accepting the application, its consideration, creating conditions for receiving the subjects of the application, all these relations are covered by the legislation on administrative services [7].

The interpretation of Clause 3 of Part 4 of the Law "On Administrative Services" inclines towards an affirmative answer regarding the classification of the refusal to satisfy the subject of the appeal to the category of administrative services. Also, in practice, there may be problems with assigning / not assigning to administrative services those appeals (statements) of the subjects of the appeal that do not foresee such a result – such as the decision of the subject of the provision of administrative services (administrative act) or the conclusion of an administrative contract.

For example, when it comes to actions of a notifiable nature – sending declarations, reports, etc.

Obviously, the literal interpretation of the category "administrative services" does not allow to attribute most of these actions to administrative services, because the person does not have new rights and obligations. However, the appropriate organizational conditions for this category of cases should still be based on the principles of the Law "On Administrative Services". This is confirmed by the fact that, according to Part 9 of Article 12 of the Law, "according to the decision of the body that established the center for the provision of administrative services, reports, declarations, and complaints can also be accepted in such a center."

3) an administrative service is the result of the exercise of authority by the entity providing administrative services. In fact, two signs of an administrative service are recorded in this position.

First, the administrative service under current Ukrainian legislation is provided only by a limited number of entities. Thus, in Clause 3 of Article 1 of the Law, the subject of the provision of administrative services is defined as "a body of executive power, another state body, a power body of the Autonomous Republic of Crimea, a local self-government body, and their officials." In fact, the main subjects of public administration are listed here. Hence the name of this type of public services – "administrative" [6].

Secondly, it is necessary to take into account that the administrative service is the result of the exercise of power. That is, from the point of view of law, administrative service is the authority of the authority. And although there is no established understanding of the category of "powers of authority" either in legislation or in theory, in the context of the commented Law it may be about the implementation of the competence of the relevant entity to provide administrative services, in particular, about the exclusive authority to resolve a certain category of cases. Authority is obtained by the entity providing administrative services on the basis of the law.

The direct granting of thematic competence (for example, the resolution of the issue of which executive authority or local self-government body carries out the registration of business entities, and which one issues passports of citizens) is determined in Ukraine:

by law (by the Verkhovna Rada of Ukraine) – regarding local self-government bodies [8; 9];

by the Cabinet of Ministers of Ukraine – in relation to the central bodies of executive power (provided that the authority is first established at the level of the law).

In the same context, it is important to distinguish the implementation by the subject of the provision of administrative services of "powerful powers" from intra-service relations (for example, regarding the admission and dismissal of personnel, etc.), as well as relations of a civil law nature (in particular, the purchase of various goods and services by the authority as a legal entity). The last two groups of relations do not belong to the sphere of administrative services.

4) administrative service is provided in accordance with the law. With this provision, the legislator aimed to define [10]:

a) that the specific authority to provide administrative services should be established only by law. This approach is conditioned by the requirements of the Constitution of Ukraine that the powers and procedure of activity of state authorities, local self-government bodies, their officials and officials are determined exclusively by law (Articles 19, 92, 120 of the Constitution of Ukraine). That is, from the point of view of law, an administrative service is a power of a government body defined by law;

b) the same applies to the procedure, i.e. the order of consideration and resolution of cases on the provision of administrative services.

These requirements of the Law are aimed at limiting the introduction of new administrative services (through by-laws, including local ones: acts of local executive bodies or local self-government bodies), and at minimizing the by-law regulation of relations for the provision of specific administrative services [1].

Therefore, if a certain action performed by an executive authority or a local self-government body does not have its confirmation (ground) at the level of law, then it is illegal, and therefore cannot be provided or belong to the category of administrative services. In practice, difficult situations may occur when certain administrative services are not directly fixed in the Law, although they have certain prerequisites for implementation.

For example, in some cities, permits are introduced to enter the central or historical part of the city. There is no direct fixation of this type of permission in the legislation. On the other hand, the legislation on the protection of cultural heritage empowers local self-government bodies to take protective measures against the relevant objects. And this can be interpreted as the authority to restrict traffic. But, as a general rule, the majority of administrative services are the same for the entire territory of Ukraine, because

the competence of executive power bodies and local self-government bodies is the same. At the same time, there may be certain features due to local specifics, in particular, the presence of certain categories of objects, statuses, regimes, etc. [11].

5) normative features of the concept of "administrative service" have already been listed. However, there is another sign – it is the presence of a person's subjective right, namely, the right to request the provision of an administrative service. If a person applies to the subject of the provision of administrative services with a statement that does not give him the right to claim (for example, with a request to be awarded the title of "honorary citizen of the city" or to be awarded with an "honorary certificate"), then in these cases it is not about administrative services, and about other relations – from consideration of citizen's proposals and recommendations.

In these cases, a person cannot demand either an appropriate decision from an administrative body, or appropriate legal protection in the event of a refusal by an administrative body. The question arises as to how correct it is to attribute to the category of "administrative services" cases when a person applies to the subject of the provision of administrative services in connection with the performance by him (the person) of an obligation ("aimed at the acquisition, change or termination of ... obligations ... persons") [3].

For example, upon reaching the age of 16, a citizen of Ukraine is required to obtain a passport (according to the new legislation, even from birth). And many scientists deny the nature of "service" in such relations, because there is no good will of the individual here, but state coercion. However, as it seems, this issue is of secondary importance. In fact, the absolute majority of administrative services is a requirement of the state, because if a person wants to drive a vehicle, he must obtain a driver's license; if you want to engage in entrepreneurial activity, you must register as an entrepreneur, etc.

So, the only difference is that certain administrative services are required to be received

by almost all citizens (for example, regarding birth registration, residence registration, obtaining a passport, etc.), and some administrative services have a smaller circle of consumers. But in any case, both the fulfillment of a duty and the creation of conditions for a person to fulfill a duty belong to administrative services [4].

The purpose of this understanding of the category "administrative service" is to create convenient conditions for a person's communication with public administration bodies in the broadest category of cases.

**Conclusions.** In general, "administrative services" is a generalizing term that refers to a very wide range of public relations. And although in special (thematic) legislation, most actions are not called (not marked) as administrative services, they can be identified as such thanks to the above-listed features.

Another rule in the identification of the result (and activity) as an administrative service is a certain standard (established typicality) of the case. After all, the issuance of passports, permits, licenses, etc., has standardized procedures, clear algorithms of actions of subjects of application and subjects of provision of administrative services.

It is appropriate to draw a certain distinction between the concept of "administrative services" and some related categories. Services provided by the state and local self-government together make up the sphere of public services. Based on the entity providing public services, it is possible to distinguish between state and municipal services. [5]

State services are services provided by state authorities (usually executive) and state enterprises, institutions, and organizations. Municipal services – services provided by local self-government bodies and communal enterprises, institutions. The provision of administrative services is related to the exercise of authority (i.e., making decisions / taking actions, etc.). Non-administrative services are services that are not related to the adoption of power decisions (for example: educational and medical services, etc.).

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