

UDC 342.951:343.211 (477)

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SOME JUDICIAL AND ADMINISTRATIVE SERVICES

Abstract. Purpose. The purpose of the article is to analyse judicial and administrative services of fair and effective justice in Ukraine. **Results.** The article analyses judicial and administrative services of ensuring fair and effective justice in Ukraine. In the context of the reform towards a democratic society, new institutions have emerged that substantially change the State's approach to its citizens, ensuring their rights. This approach has had an impact on public administration, and a new institution for the provision of administrative services has emerged. In our case, it is important to study judicial and administrative services. It is established that the electronic court enables participants in court proceedings to file electronic documents in court, as well as to send procedural documents, in electronic and paper form. The right to access to electronic documents is granted to the judges who deal with the relevant court cases. The court shall, after the preparation and signing of a procedural document, send electronic copies of the procedural document, which shall be digitally signed by the judge, by email to the mailbox of the participant in the trial, if such participant is registered in the system. After receiving an electronic confirmation of the e-mail delivery to the user's mailbox, the responsible officer prints the e-mail and appends it to the case file. Most courts provide administrative services related to the exercise of their functions. Furthermore, related services (copying of documents, photographing, etc.) may be provided in the courts. **Conclusions.** Judicial and administrative services of fair and effective justice in Ukraine are a system of transparent administrative actions of public administrators (courts), which should give rise to administrative and legal relations in providing an enabling environment for subjective rights of a natural or legal person in the judicial system, observance of the legality aimed at ensuring the freedoms and legitimate interests of persons.

Key words: administrative and legal framework, efficiency, fairness, justice, services, administrative law, courts.

1. Introduction.

In the context of the reform towards a democratic society, in the State, new institutions have emerged that substantially change the State's approach to its citizens, ensuring their rights. This approach has had an impact on public administration, and a new institution for the provision of administrative services has emerged. In our case, it is important to study judicial and administrative services.

The study is based on the work of academic theorists of administrative law, such as: B. Averianov, O. Bandurka, O. Bezpalo, Y. Bitiak, M. Havrylytsiv, V. Halunko, I. Holosnichenko, S. Kivalov, M. Kovaliv, V. Kolpakov, A. Komziuk, O. Kuzmenko, A. Kravtsov, R. Melnyk, I. Stakhura, A. Shcherbliuk, V. Felyk, K. Fuhlevych, et al.

The purpose of the article is to analyse judicial and administrative services of fair and effective justice in Ukraine.

2. Specificities of administrative services

Most public relations are governed precisely by administrative law, which covers the organization and operation of the apparatus of public administration. The reform of the administrative apparatus is aimed at promoting respect for the human person and ensuring the rights and freedoms that are the highest value. In this case, administrative services as a tool of public administration play a special role. Scholars believe that administrative services, as an institution of administrative law, have a triple legal nature: firstly, as the main component of the subject-matter of administrative law; secondly, as a type of public service; third, as the main tool in the activities of public administration (Halunko, Dikhtiievskiy, Kuzmenko, 2021). However, with regard to the very definition of the concept of services, scientists have developed various approaches to this issue. We consider some of them. According to K. Fuhlevych, the service is a rather specific

category of administrative law, which, despite the presence of a specialised legal instrument, the Law of Ukraine *On Administrative Services*, is still in the process of its institutionalization, doctrinal formation. The scholar argues that the administrative and legal doctrine is before the need to solve a number of newest problems related to both the advent of intersectoral legal phenomena and the affirmation of a new paradigm for the development of legal science in general. The ideological basis of this paradigm tends to the fundamentals of liberalism, which is more clearly traced in the development of the institution of administrative services, according to him, as a systematic means of communication of the State and civil society on the basis of the unqualified priority of the latter's interests. It should also be noted that the systematic implementation of the declared vector for the formation of a new quality of the State must necessarily take into account the nature of the demands of society for administrative services (Fuhlevych, 2015). According to V. Tsyndria, the provision of administrative services is an activity to satisfy certain needs of the individual, and such activity is carried out at the initiative of the individual, at his or her request. The main feature of the service is that it should be valuable for consumers outside the body of internal affairs and be perceived by them as a service (Tsyndria, 2011). According to H. Pysarenko, an administrative service is a legal relationship arising from the implementation of the subjective rights of a natural or legal person (on their application) in the process of public power activity of an administrative body to obtain a certain result (Pysarenko, 2006). In this dispute, the legislator has clearly defined what a service is. An administrative service is the result of the exercise of powers by an administrative service provider on the application of a natural or legal person, aimed at acquiring, modifying or terminating the rights and/or duties of such a person in accordance with law. In addition, this Law applies to public relations regarding provision of administrative services: inquiry, pre-trial investigation, operational and investigative activities, court proceedings, enforcement proceedings (Law of Ukraine On Administrative Services, 2012). Furthermore, the Concept provides criteria for identifying services as administrative: powers of the administrative body to provide a certain type of services is determined by the law; services are provided by administrative bodies through the exercise of powers; services are provided at the request of natural and legal persons; the result of consideration of the application is an individual administrative act (passport, certificate, license, permit, etc.); the provision of services is related

to an enabling environment for rights, freedoms and legitimate interests of natural and legal persons (Order of the Cabinet of Ministers of Ukraine On approval of the Concept of development of the system of providing administrative services by executive authorities, 2006). Therefore, the provision of administrative services is also provided in the judicial field, which is the subject of our study. The focus of the analysis will be on administrative services provided by courts. Transparency and openness of the judicial system are the main factors of public trust, and it is therefore necessary to have free and prompt access to information on the legal proceedings. The first is an electronic court, through which each litigant can exercise their rights online, that is, obtain judicial and administrative services. For example, it is possible to submit any application (claim), to have open access to the procedural documents of the proceedings at a convenient time, etc. In addition, the legislator has approved standards for the provision of administrative services (Order of the Ministry of Justice of Ukraine On Approval of Standards for Provision of Administrative Services, 2009). It should be noted that the electronic court enables participants in court proceedings to file electronic documents in court, as well as to send procedural documents, in electronic and paper form. The right of access to electronic documents is granted to the judges who deal with the relevant court cases. The court shall, after the preparation and signing of a procedural document, send electronic copies of the procedural document, which shall be electronically digitally signed by the judge, by email to the mailbox of the participant in the trial, if such participant is registered in the system. After receiving an electronic confirmation of the delivery of the e-mail to the user's mailbox, the responsible officer prints the e-mail and appends it to the case file. most courts provide administrative services related to the exercise of their functions. In the future, such a case is stored in an automated system of collecting, storing, protecting, recording, retrieving and providing electronic copies of court decisions.

3. Types of administrative services.

On the official websites of courts, all administrative services that citizens can obtain are listed, for example, the website of the Department of Information Services, Movement of Administrative Cases and Document Flow indicate that they provide reception and registration of incoming correspondence to the court, checking the integrity of envelopes or packets, compliance with their addressing; reception of documents directly from participants in the administra-

tive procedure and their representatives daily during working hours in accordance with the court's schedule; registration of documents in the automated system of court document flow and their submission for consideration by the court management; registration of the resolution and entry into the automated document flow system of the court, after consideration of the document by management and determination of the executor; the entry of information on the content and date of imposition of the resolution, the surname and initials of the performer, the term of performance, the date of transfer of the document to the person responsible for document flow of the relevant structural unit or directly to the performer (performers); the entry into the automated documents flow system of court of information on the establishment of control over the document execution and stamping or inscription of red colour "Control", as well as the removal of control from the document after its execution; provision of information to the participants in the court proceeding on the date of admission of the case to the court, the single unique number of the court case, the number of proceeding, date and time of appointment of a court case, the place of the court hearing, the date of consideration of the case, as well as information on the receipt of appeals, claims, applications for revision of court decisions on newly discovered and exceptional circumstances, including the registration number of the case (document); familiarisation with the case file by persons, involved in the case, or persons not involved in the case, if the court has decided on their rights and obligations by written application; processing of information on the work of the Department from the official court website; acceptance of documents by fax channels, registration of electronic documents in accordance with the requirements of document flow, printing of the content of the electronic communication into a document and files, which have been attached to it and their transfer to the executors, in accord-

ance with the resolution of the court's management, etc. (Matiukha, 2019). Therefore, most courts provide administrative services related to the exercise of their functions. Furthermore, related services (copying of documents, photographing, etc.) may be provided in the courts.

Nowadays, scholars dispute about corruption risks in the provision of administrative services, including by courts. Therefore, it is considered necessary to adopt a law on the functioning of all administrative bodies that is common to all administrative bodies and that regularises, optimises and humanises administrative proceedings. Therefore, the speedy adoption of the Administrative Procedure Code of Ukraine is required. One of the main objectives of such a code should be to regulate relations between public administration bodies and private (natural and legal) persons, to regulate rational and fair legal procedures for the resolution of administrative cases. Therefore, the Code should establish principles and rules of administrative procedure for public administration bodies, in particular: administrative proceedings on private persons' applications (provision of administrative services), interfering proceedings (on the own initiative of public administration bodies, including control and supervision), administrative (pre-trial) appeals (Koliushko, Tymoshchuk, Banchuk, 2009). We fully support this perspective and believe that it is necessary to clearly define minimum terms for the provision of administrative services and to simplify the procedure for their provision.

4. Conclusions

Thus, judicial and administrative services of fair and effective justice in Ukraine are a system of transparent administrative actions of public administrators (courts), which should give rise to administrative and legal relations in providing an enabling environment for subjective rights of a natural or legal person in the judicial system, observance of the legality aimed at ensuring the freedoms and legitimate interests of persons.

References:

- Fuhlevych, K.A.** (2015). *Administratyvni posluhy: poniattia, vydy, protsedurne rehulivannia* [Administrative services: concepts, types, procedural regulation]. *Extended abstract of candidate's thesis*. Odesa (in Ukrainian).
- Halunko, V., Dikhtiiivskyyi, P., Kuzmenko, O. ta in.** (2021). *Administratyvne pravo Ukrainy* [Administrative law of Ukraine]. Kherson: OLDI-PLIuS (in Ukrainian).
- Koliushko, I., Tymoshchuk, V., Banchuk, O. ta in.** (2009). *Koruptsiini ryzyky nadannia administratyvnykh posluh ta kontrolno-nahliadovoi diialnosti v Ukraini* [Corrupt practices of administrative services and control and visual performance in Ukraine]. Tsentr polityko-pravovykh reform, Fond «Demokratychni initsiatyvy». Kyiv. Moskalenko O.M. FOP (in Ukrainian).
- Matiukha, V.V.** (2019). *Osnovni zavdanniamy viddilu nadannia informatsiynykh posluh, rukhu administratyvnykh sprav ta dilovodstva sudu* [Main department of information services, administrative help to court].

Retrieved from <https://7aac.gov.ua/pro-sud/struktura-sudu/aparat-sudu/viddil-nadannya-informacij-nix-poslug/> (in Ukrainian).

Nakaz Ministerstva yustytzii Ukrainy Pro zatverdzhennia standartiv nadannia administratyvnykh poslug vid 31 serpnia 2009 roku № 1555/5 [Order of the Ministry of Justice of Ukraine On Approval of Standards for Provision of Administrative Services of August 31, 2009 № 1555/5]. (2009). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/v1555323-09#Text> (in Ukrainian).

Pysarenko, H.M. (2006). Administratyvni posluhy v Ukraini: orhanizatsiino-pravovi aspekty [Administrative services in Ukraine: organizational and legal aspects]. *Extended abstract of candidate's thesis*. Odesa (in Ukrainian).

Rozporiadzhennia Kabinetu Ministriv Ukrainy Pro skhvalennia Kontseptsii rozvytku systemy nadannia administratyvnykh poslug orhanamy vykonavchoi vlady vid 15 liut. 2006 r. № 90-r. [Order of the Cabinet of Ministers of Ukraine On approval of the Concept of development of the system of providing administrative services by executive authorities from February 15, 2006 № 90-r.]. (2006). *kmu.gov.ua*. Retrieved from <https://www.kmu.gov.ua/npas/29277890> (in Ukrainian).

Tsyndria, V.M. (2011). Orhanizatsiino-pravovi zasady nadannia administratyvnykh poslug orhanamy vnutrishnikh sprav Ukrainy [Organizational and legal principles of providing administrative services by the bodies of internal affairs of Ukraine]. *Extended abstract of candidate's thesis*. Kyiv (in Ukrainian).

Zakon Ukrainy Pro administratyvni posluhy : pryiniaty 6 veres. 2012 roku № 5203-VI [Law of Ukraine On Administrative Services from September 6, 2012 № 5203-VI]. (2013). *zakon.rada.gov.ua*. Retrieved from <https://zakon.rada.gov.ua/laws/show/5203-17#Text> (in Ukrainian).

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ДЕЯКІ СУДОВО-АДМІНІСТРАТИВНІ ПОСЛУГИ

Анотація. Мета. Мета статті полягає в тому, щоб проаналізувати судово-адміністративні послуги щодо забезпечення справедливого та ефективного правосуддя в Україні. **Результати.** У статті проаналізовані судово-адміністративні послуги щодо забезпечення справедливого та ефективного правосуддя в Україні. В умовах реформування на шляху до демократичного суспільства в державі появилися нові інститути, які істотно змінюють підхід держави до своїх громадян забезпечуючи здійснення їх прав. Цей підхід вплинув на сферу державного управління, з'явився новий інститут надання адміністративних послуг. У нашому випадку є важливим дослідження судово-адміністративних послуг. З'ясовано, що електронний суд дозволяє подавати учасникам судового процесу до суду документи в електронному вигляді, а також надсилати процесуальні документи, як в електронному так і паперовому вигляді. Права доступу до електронних документів надаються суддям, у провадженні яких перебувають відповідні судові справи. Суд після виготовлення та підписання процесуального документа надсилає електронні копії процесуального документа, скріплені електронним цифровим підписом судді, електронною поштою на поштову скриньку учасника судового процесу, якщо такий учасник зареєстрований в системі. Після отримання електронного підтвердження доставки електронного листа в поштову скриньку користувача відповідальний працівник суду роздруковує таке повідомлення та долучає його до матеріалів справи. У своїй більшості суди надають адміністративні послуги, пов'язані зі здійснення їхніх функціональних обов'язків. Також у судах можуть надаватися і супутні послуги (виготовлення копій документів, фотографування тощо). **Висновки.** Судово-адміністративні послуги щодо забезпечення справедливого та ефективного правосуддя в Україні – це система прозорих адміністративних дій суб'єктів публічної адміністрації (судів), що має породжувати адміністративно-правові правовідносини у забезпеченні умов для реалізації суб'єктивних прав фізичної або юридичної особи у сфері судоустрою, дотримання законності, спрямованих на забезпечення свобод і законних інтересів осіб.

Ключові слова: адміністративно-правове забезпечення, ефективність, справедливість, правосуддя, послуги, адміністративне право, суди.

The article was submitted 10.03.2022

The article was revised 30.03.2022

The article was accepted 21.04.2022