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DOI <https://doi.org/10.32849/2663-5313/2022.8.07>**Yurii Nironka,***PhD in Law, Lawyer, Director, 'Yurnikus' LLC, Soniachna street, 5, Odesa, Ukraine, postal code 65009, inironka@gmail.com***ORCID:** [orcid.org/0000-0001-5772-7540](https://orcid.org/0000-0001-5772-7540)Nironka, Yurii (2022). Monitoring as a form of public control. *Entrepreneurship, Economy and Law*, 8, 45–48, doi: <https://doi.org/10.32849/2663-5313/2022.8.07>

## MONITORING AS A FORM OF PUBLIC CONTROL

**Abstract. Purpose.** The purpose of the article is to analyse the state of affairs in implementation of public monitoring in Ukraine and note its positive impact on improving the activities of public authorities and to identify some shortcomings of implementation. **Results.** The article considers public monitoring as a form of public control. Its definition in draft laws and scientific literature, consideration in scientific manuals is given. The relevance and effectiveness of public monitoring are argued. Active work on public monitoring of customs, assessment of air quality, certain problems in the implementation of monitoring and evaluation in the field of social services are noted. It is emphasised that public monitoring is carried out in many areas of functioning of public authorities, it focuses on their bodies, on activities and actions or inaction of public officials; public monitoring of the use of budget funds; public monitoring of the implementation of state, regional and sectoral programs, public monitoring of the electoral process; public monitoring of health care; public monitoring of environmental protection, etc. **Conclusions.** It is concluded that the use of public control in the form of public monitoring is a prerequisite for its improvement. It should be noted that in some sectors of public life, public monitoring is actively practiced, while in others it still needs to be effectively implemented. Various aspects of public control are mostly considered at the theoretical level, while practical recommendations contained in textbooks are more understandable for specialists. In order to disseminate and apply public monitoring in various sectors of public life, it is necessary to promptly adopt a law on public control, develop methodological proposals in a form accessible to public activists, and organise training courses for them. Simultaneous state and public monitoring and implementation of its results in the work of controlling entities will contribute to greater efficiency of their activities.

**Key words:** public control, draft law, public monitoring, state monitoring, procedure.

### 1. Introduction

The public control procedures are divided into general and special procedures. General procedures mainly include: 1) hearing of performance reports; 2) public hearings; 3) public monitoring. Special procedures of public control include: 1) public expertise; 2) public inspections; 3) public investigations. Among the general procedures, public monitoring should be highlighted as an important and relevant form of public control, but today it is not always actively implemented, which is a consequence of the lack of a law on public control, lack of effective dialogue between public authorities and the public. Moreover, the legal literature contains a sufficient number of studies on the conduct and implementation of state control, educational and methodological manuals, which can become the basis for scientific developments in the field of public control in a more simplified and accessible version for public activists.

Scientists consider public monitoring from the research perspective of its implementation

in various fields. The impact of public monitoring on the process of providing administrative services is studied by N.I. Ilchaninova. She states that public monitoring ensures minimisation of abuses by the authorities, analysis of public opinion, objective research, bringing service providers closer to the recognition of public needs. In her opinion, the system of monitoring and evaluation of the effectiveness of providing services, if successfully implemented, has all chances to become the basis for improving the mechanism of administrative services (Ilchaninova, 2018, p. 135). T. Semyhina, analysing the regulatory framework and foreign experience, among other forms of public control (citizens' appeals, public expertise, public hearings), points to monitoring of activities and control (raid) inspections at the objects of public control (Semyhina, 2020).

Researchers have prepared manuals that cover methodological, organisational, ethical aspects of preparation and conduct of public monitoring of the activities of executive authorities, local self-government bodies, as well as

analysis of the results and report on the results of monitoring, evaluation of the results of public monitoring, etc. The review of the textbook by V. Kuprii and L. Palyvoda enables to conclude that it has a sufficient methodological basis for public monitoring, but the persons who will be engaged in this work should have certain knowledge and skills (Kuprii, Palyvoda, 2011).

The procedure for public monitoring of public procurement is contained in the scientific development by O.O. Budnyk, V.A. Tarnai, A.Yu. Marusov, H.O. Kanievskiy. They reveal the stages of public monitoring and control over public procurement; guarantees of public control provided by the legislation on public procurement; regulatory mechanism for access to information on public procurement; sources of information for checking compliance with anti-corruption provisions of procurement legislation; recommendations for finding procurement information; overview of typical violations during public procurement. Scientists define the public moratorium as a research process. In our opinion, it is more possible to implement the proposed public moratorium of this level by competent specialists than by representatives of public organisations (Budnyk, Tarnai, Marusov, Kanievskiy, 2014, pp. 46–58).

The purpose of the article is to analyse the state of affairs in implementation of public monitoring in Ukraine, to note its positive impact on improving the activities of public authorities and to identify some shortcomings of implementation.

## 2. Concept and functions of monitoring

The legal literature provides somewhat different definitions of monitoring and public monitoring. The *Great explanatory dictionary of the modern Ukrainian language* defines monitoring as a continuous observation of any process in order to determine its compliance with the desired result (Busel, 2004, p. 539). In the Draft Law on public control (registered in the Verkhovna Rada of Ukraine on April 14, 2014 under No. 4697) public monitoring is defined as a general procedure for public control over continuous regulated supervision over the compliance of the activities of the objects of public control with the public interest by the actors of public control (Article 3, paragraph 4) (Draft Law on Public Control, 2014). D. Arabadzhiev defines public monitoring as a means of observing, tracking general trends and changes in society that is a necessary component of establishing a dialogue between the government and the public, as well as offers the structural and functional characteristics of public monitoring developed (Arabadzhiev, 2012, pp. 82). According to L.R. Nalyvaiko and O.V. Savchenko, the theoretical and legal

aspect of public monitoring is a manifestation of real and effective democracy, one of the forms of cooperation with public authorities (Nalyvaiko, Savchenko, 2017, p. 101).

Public monitoring is an activity that is a set of tools for obtaining certain information about a specific object of public control. It synthesises the implementation of three functions: diagnostics, pragmatism and prognostication, as well as aims to implement the correction function based on the data obtained. Being a multifunctional phenomenon, public monitoring is implemented by a network of actors, including both central and territorial organisations operating at the regional and local levels (Arabadzhiev, 2012, p. 87).

Public monitoring is carried out by the decision of a non-governmental organisation, in this case, the actors of public control have the right to apply for the necessary information to the object under observation and analysis of its activities. Based on its results, an appropriate conclusion is drawn up on the compliance of the object of public control with the legislative provisions regarding its activities; proposals to eliminate shortcomings and omissions, prevent corruption, ensure the rights and interests of individuals and legal entities. The conclusion is submitted to the object of monitoring and to the higher state authority or higher local self-government body.

Public monitoring is carried out in many areas of functioning of public authorities, it focuses on their bodies, on activities and actions or inaction of public officials; public monitoring of the use of budget funds; public monitoring of the implementation of state, regional and sectoral programs, public monitoring of the electoral process; public monitoring of health care; public monitoring of environmental protection, etc.

## 3. Monitoring in public life.

In some sectors of public life, public monitoring is quite active. For example, the Institute for Economic Research (IER) conducted a public monitoring of customs' performance in 2021 to assess certain aspects of customs' performance and provide recommendations for its improvement. Public monitoring was the result of cooperation of the IER with partner organisations that conducted research in their regions and co-authored the analytical report on its results: "Public monitoring of Odesa, Halytska and Kyiv customs", Association of Customs Brokers of Ukraine; "Public assessment of the work of Volyn and Polissia customs of the State Customs Service", NGO "Agency for International Cooperation"; "Public" Sfero, "Public assessment of the performance of the Northern customs of the State Customs Service in Cherni-

hiv region”, PO “Association of Regional Mass Media”. The analytical report on the results of public monitoring contains the results of the study, as well as recommendations for solving the problematic issues that were identified during the analysis (Institute of Economic Research and Political Consultations, 2021).

However, the implementation of monitoring and evaluation of social services in practice is only at the initial stage: mainly internal monitoring and evaluation according to the generalised criteria defined by the methodological recommendations are carried out mainly by territorial centres of social services (provision of social services). The monitoring includes: identification, analysis and evaluation of actual parameters, established by law, regarding quality of public services to citizens and organisations, including time and financial costs for obtaining the final result of administrative services; development and implementation of measures, aimed at improving the processes of providing public services and improving the quality of their provision; tracking the dynamics of the parameters of quality and accessibility of public services and monitoring the effectiveness of measures aimed at improving the satisfaction of citizens and organisations with the quality of social services (Nykolaieva, 2020, p. 113).

Over the past three years, an increasing number of public organisations and commercial projects have appeared in Ukraine, which not only raise the issue of implementing legislative initiatives in the field of air quality monitoring, but also those that create separate IT products aimed at improving the situation in the field of air quality information. One of the current projects implemented by POs in Ukraine is the project EcoInfo. The mission of the project is to inform the public about the state of air quality in the location of the site user. But despite the technical and visual attractiveness of this project, it does not indicate the methodology used to measure air quality. In this form, this system cannot be called a monitoring system and has nothing to do with the state of the air in these places, it cannot be used to make political or managerial decisions in

the environmental sector (Koltsov, Shevchenko, 2018, p. 12).

Moreover, a simultaneous public and state moratorium should be announced. For example, today 46 air quality monitoring sensors have been installed in all districts of Kyiv. Unlike the public control sensors, the indicative sensors installed by the city and analysing the air for more indicators, are certified, more accurate and informative. The state moratorium system relies on the city's LoRaWAN wireless network for data transmission. To make it work, 295 base stations were installed in each district of Kyiv (Website of the Kyiv City State Administration, 2021).

The legal literature review reveals that a considerable number of forms of public control now exist mainly at the theoretical level, since the regulations do not define the procedure for their implementation in practice, and the correction of this situation should become one of the top priorities of our state (Skvirskyi, 2013, p. 226). Problematic issues that require clarification in the area under analysis are: 1) the absence of a customer and consumer of public monitoring within the country today; 2) ensuring a high professional level of monitoring activities (Arabadzhyiev, 2012, p. 83).

#### 4. Conclusions

Therefore, the use of public control in the form of public monitoring is a prerequisite for its improvement. It should be noted that in some sectors of public life, public monitoring is actively practiced, while in others it still needs to be effectively implemented. Various aspects of public control are mostly considered at the theoretical level, while practical recommendations contained in textbooks are more understandable for specialists. In order to disseminate and apply public monitoring in various sectors of public life, it is necessary to promptly adopt a law on public control, develop methodological proposals in a form accessible to public activists, and organise training courses for them. Simultaneous state and public monitoring and implementation of its results in the work of controlling entities will contribute to greater efficiency of their activities.

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## МОНІТОРИНГ ЯК ФОРМА ГРОМАДСЬКОГО КОНТРОЛЮ

**Анотація. Мета.** Мета статті полягає у здійсненні аналізу стану впровадження громадського моніторингу в Україні, зазначити його позитивний вплив на покращення діяльності органів державної влади та виявити окремі недоліки реалізації. **Results.** Розглянуто громадський моніторинг як форму громадського контролю. Наведено його визначення в законопроектах та науковій літературі, розгляд в наукових посібниках. Аргументовано актуальність та ефективність проведення громадського моніторингу. Зазначено активну роботу з громадського моніторингу митниць, оцінки якості атмосферного повітря, певні проблеми щодо впровадження моніторингу та оцінювання у сфері соціальних послуг. Наголошено, що громадський моніторинг здійснюється у багатьох напрямках функціонування органів державної влади, його об'єктом є їх органи, діяльність та дії або бездіяльність державних службовців; громадський моніторинг використання бюджетних коштів; громадський моніторинг реалізації державних, регіональних та галузевих програм, громадський моніторинг виборчого процесу; громадський моніторинг охорони здоров'я; громадський моніторинг охорони навколишнього середовища та ін. **Conclusions.** Зроблено висновок, що застосування такої форми громадського контролю, як громадський моніторинг, є необхідною умовою його удосконалення. Зауважимо, що в одних сферах суспільного життя громадський моніторинг активно практикується, в інших – ще потребує свого дієвого впровадження. Різномічні аспекти громадського контролю у більшості розглядаються на теоретичному рівні, практичні рекомендації, котрі містяться у навчальних посібниках, є більш зрозумілими для фахівців. З метою поширення та застосування громадського моніторингу в різних сферах суспільного життя потрібно оперативне прийняття закону про громадський контроль, розробка методичних пропозицій у доступній для громадських активістів формі, організація для них підготовчих курсів. Одночасне проведення державного і громадського моніторингу та впровадження їх результатів у роботу контролюючих об'єктів буде сприяти більшій ефективності їх діяльності.

**Ключові слова:** громадський контроль, законопроект, громадський моніторинг, державний моніторинг, процедура проведення.

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