

DIGITALIZATION OF ADMINISTRATIVE PROCEDURES IN THE FIELD OF URBAN PLANNING AS A TOOL FOR COMBATING CORRUPTION

ЦИФРОВІЗАЦІЯ АДМІНІСТРАТИВНИХ ПРОЦЕДУР У СФЕРІ МІСТОБУДУВАННЯ ЯК ІНСТРУМЕНТ ПРОТИДІЇ КОРУПЦІЇ

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The article examines the processes of digitalization of administrative procedures in the field of urban planning as a tool for combating corruption. It is indicated that defining the main priorities for the sustainable development of the state, civil society and economy of Ukraine until 2030, goal 11 sets the achievement of safety, openness, environmental friendliness and resilience of cities and other settlements. Back in 2019, comprehensive work was carried out and conceptual foundations for the development of the public administration system in the urban planning sector until 2030 were developed, among which transparency, completeness and accessibility of information on urban planning for all participants in this activity are in the first place.

The definition of administrative procedure as a procedure established by law for consideration and resolution of legal cases arising in connection with the adoption of administrative acts in the field of public administration, which create or confirm the rights of a private person or impose obligations on him/her, can be considered established in the doctrine of administrative law. The most corrupt elements in the field of urban planning today include, in particular, the provision of urban planning conditions and restrictions, the establishment of protection zones and the issuance of a construction passport for development and control over compliance with construction standards. In order to avoid the former, a practice should be introduced, when the authorized body will form and register urban planning conditions and restrictions using the USESSB, refusal - with a list of grounds with reference to the norms, as well as a recommendation on how to correct the violation. It is indicated that the most common corruption situations in the field of construction and land relations are the resolution of the issue of transferring a land plot for use or ownership, the provision of urban planning conditions and restrictions, as well as obtaining construction permits. The construction sector itself is one of the five most corrupt, on a par with customs and the judicial system.

Key words: urban development, administrative procedure, anti-corruption, corruption, urban development entities, digitalisation, public authority.

У статті досліджено процеси цифровізації адміністративних процедур у сфері містобудування як інструмент протидії корупції. Вказано, що визначаючи основні пріоритети сталого розвитку держави, громадянського суспільства та економіки України до 2030 р., метою 11 поставлено досягнення безпеки, відкритості, екологічності та життєстійкості міст та інших населених пунктів. Ще в 2019 р. було проведено комплексну роботу та напрацьовано концептуальні засади розвитку системи публічного управління у містобудівній сфері до 2030 р., з-поміж яких на першому місці стоїть прозорість, повнота та доступність інформації про містобудування для всіх учасників цієї діяльності.

Усталеним у доктрині адміністративного права можна вважати визначення адміністративної процедури як встановленого законом порядку розгляду і вирішення юридичних справ, що виникають у зв'язку з прийняттям адміністративних актів у сфері публічного адміністрування, які створюють або підтверджують права приватної особи або покладають на неї зобов'язання. До найбільш корупційних елементів у сфері містобудування сьогодні відносять, зокрема, надання містобудівних умов і обмежень, встановлення охоронних зон та видача будівельного паспорта забудови і контроль за дотриманням будівельних норм. Щоб уникнути першого має бути запроваджена практика, коли формувати та реєструвати містобудівні умови та обмеження уповноважений орган буде з використанням ЄДЕССБ, відмову – з переліком підстав з посиланням на норми, а також рекомендацію як виправити порушення. Вказано, що найбільш поширені корупційні ситуації у сфері будівництва і земельних відносин – вирішення питання щодо передачі земельної ділянки в користування або у власність, надання містобудівних умов та обмежень, а також отримання дозволів на будівництво. Сама сфера будівництва входить у п'ятірку найбільш корумпованих, на рівні з митницею і судовою системою.

Ключові слова: містобудування, адміністративна процедура, протидія корупції, корупція, суб'єкти містобудування, цифровізація, суб'єкт владних повноважень.

Problem statement. The reform of the system of performing the functions of the state, introduced with the development and adoption of the Concept of Administrative Reform of 1998 in accordance with the Decree of the President of Ukraine of July 22, 1998 No. 810/98, determined the vector of development of the system of executive authorities in the direction of transformation from the command and administrative management system to the form of a public-service model of the organizational and legal mechanism for ensuring the rights and freedoms of a person and a citizen as a whole, and, in particular, the right of a person to health.

Thus, the idea of building a system of public administration bodies, which should be conditionally «successors» of the system widespread in the early 90s, is introduced. implementation of state functions [1]; as a system of power subjects, the powers of which are divided into subsystems of bodies that carry out managerial or control and supervisory functions and tasks [2]; as a system of legislative, executive and judicial bodies of state and regional power that interact in the implementation of functions, goals and objectives of state policy [3, p. 8-9; 4].

The article is aimed at studying the processes of digitalization of administrative procedures in the field of urban planning as a tool for combating corruption.

Presentation of the main material. In accordance with the provisions of the Law of Ukraine «On Central Executive Bodies», it is determined that the purpose of such entities is the implementation of state policy as a whole or within a separate sphere. However, the performance of state functions, the implementation of strategic tasks and goals of state and regional policy is currently entrusted not only to state authorities, but also to other public authorities. Therefore, in today's conditions, the transformation of state authorities is moving to the concept of public administration, the structure of which allows the implementation of tasks and goals of state and regional policy not only for central executive bodies and their territorial administrations, but also for a number of other subjects [5, p. 42-43; 6, p. 70].

Public administration bodies are a certain set of state and non-state public authorities, where an important place is occupied by executive authorities and executive bodies of local self-government [7, p. 18]. Public administration bodies constitute a certain structured system of public authorities, which include state executive bodies, local self-government bodies, enterprises, institutions, organizations and other bodies that must perform administrative and managerial powers,

the interaction of which should be aimed at ensuring the functions of the state [8, p. 523; 9, pp. 30-31]. The key nature of executive authorities in the system of subjects of public administration is substantiated in other scientific works [10, p. 7]. Despite the existing relatively uncontested approach to understanding public administration within the framework of the European legal doctrine, there is no unity in determining the content of this category. European researchers interpret public administration bodies as: a certain structured system of subjects performing administrative functions; as a certain set of bodies that carry out administrative activities to satisfy the public interests of society; as a certain sphere of social legal relations, within which public administration operates [11, p. 125].

According to international law, in particular, in accordance with Recommendations No. R (84) 15 of the Committee of Ministers of the Council of Europe, which are granted to member states in accordance with the application of public liability for damage caused, adopted on September 11, 1984 at the 375th meeting of deputy ministers, public power is defined: a certain public administration entity, regardless of its status, or any private person in the exercise of its prerogatives of official power [11, p. 125].

Since the lack of a normatively fixed understanding of the category of «public administration», «public administration body», «public administration entity» creates obstacles to its scientific and practical understanding. In addition, in addition to the above-mentioned Concept of Administrative Reform of Ukraine of 1998, the development of the system of public administration (public administration) within the national system of public legal relations is carried out without a developed strategic plan. The difference between the concept of public administration and the concept of public administration, widespread in Soviet times, is the construction of the first according to the model of service to the population, where government entities must act according to the principles of administrative servility [12].

Thus, the main strategic task of the implementation of administrative reform is the introduction of the idea of public service, serving the interests of society, serving public interests [13, p. 47].

The implementation of administrative reform in Ukraine takes place in accordance with certain stages, which, however, are not normatively defined, in contrast to the strategic concepts adopted, for example, in the countries of the European Union. For example, the implementation of the Sustainable Development Goals and the Concept of Sustainable Development is based on the development of strategic plans for their implementation – for example, there is a special implementation plan. One of the stages of implementation of the Concept of Administrative Reform of 1998 was the adoption of a new version of the relevant laws of Ukraine in the field of corruption prevention. In particular, the Laws of Ukraine dated December 10, 2015 No. 889-VIII «On Civil Service», «On Prevention of Corruption», «On the Prosecutor's Office» with relevant related by-laws were adopted, etc. A number of strategic concepts were developed for reforming public administration in Ukraine and introducing the idea of public administration (in particular, we are talking about the Strategy for Reforming Public Administration of Ukraine for 2016-2021; the Reform Strategy public finance management systems for 2017-2020; The Concept of Introducing the Positions of Reform Specialists in Ministries and Other Central Executive Bodies; The concept of optimization of the system of central executive bodies.

Taking into account the above considerations, it is possible to conclude that the subjects of public administration (public administration) should be understood as a certain structured system of subjects that interact and function in order to ensure the implementation of the tasks and goals of state development.

Thus, taking into account a broad understanding of the content of the category of «public administration bodies», the following components of the structural subsystem belong to the administrative and legal mechanism for preventing corruption as a whole.

The first subsystem is a set of holders of political power, which includes the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine (in the structure of the Secretariat of which there is a Department for Security, Defense, Justice and Corruption Prevention), the National Council on Anti-Corruption Policy under the President of Ukraine. The tasks of the functioning of the subjects of political will are to establish conceptual foundations for the prevention of corruption, to determine strategic tasks for overcoming corruption manifestations and risks.

The second link in the system of public authorities obliged to take measures to prevent corruption in the field of health care consists of specialized anti-corruption bodies. The system of specialized anti-corruption bodies in the field of health care includes: the National Agency for the Prevention of Corruption as a body authorized to implement the anti-corruption policy of the state, the National Anti-Corruption Bureau of Ukraine as a body authorized to prevent and investigate corruption offenses within its jurisdiction, the State Bureau of Investigation as a state law enforcement body entrusted with the tasks of preventing, detecting, terminating, disclosing and investigating criminal offenses within its competence, which is responsible for corruption offenses committed by the President of Ukraine, whose powers have been terminated; the Prime Minister of Ukraine, a member of the Cabinet of Ministers of Ukraine, the First Deputy and Deputy Minister; member of the National Council of Television and Radio Broadcasting of Ukraine; Chairman of the State Committee for Television and Radio Broadcasting of Ukraine; member of the National Commission for State Regulation of Financial Services Markets, the National Securities and Stock Market Commission, the Antimonopoly Committee of Ukraine; Head of the State Property Fund of Ukraine, his first deputy and deputy; a member of the Central Election Commission; People's Deputy of Ukraine; the Commissioner for Human Rights of the Verkhovna Rada of Ukraine; the Prosecutor General of Ukraine, his first deputy and deputy; and other civil servants of category «A», including officials of NABU and SAPO, except for cases when the pre-trial investigation of these criminal offenses is referred to the jurisdiction of detectives of the NABU internal control unit; Asset Recovery and Management Agency, the central task of which is to regulate and maintain the Register of Seized Assets.

The third link of the system of administrative and legal support for the prevention of corruption in the field of health care consists of the bodies of intersectoral competence of the Ministry of Energy and Environmental Protection of Ukraine, the Ministry of Justice of Ukraine, the Ministry of Finance of Ukraine, the Ministry of Social Policy of Ukraine, the Ministry of Education and Science of Ukraine, the Ministry of Culture, Youth and Sports of Ukraine, the Ministry of Economic Development, Trade and Agriculture of Ukraine, the Ministry and Digital Transformation Committee of Ukraine, State Property Fund of Ukraine, State Audit Service of Ukraine. The fourth link of the administrative and legal mechanism for ensuring the prevention of corruption is made up of the direct executors (implementers) of measures for the implementation of state and regional policies.

Ratification of international agreements in the context of Ukraine's European integration policy, in particular the Association Agreement of 27.06.2014, means the need for Ukraine to implement a number of European values in the legal, as well as economic and political spheres. In the context of ensuring the legality of permitting activities in the field of urban planning, the above presupposes, first of all, the continuation of the existing scientific and law-making work on

the unification of administrative procedures for permitting activities in this area, since it is the complexity of their regulatory regulation, the contradiction of administrative legislation that pose a problem. In this context, it is necessary to emphasize such principles of good governance according to the concept of good governance, which has long developed in the European community, as transparency and accountability.

The international principles of good public administration in the field of urban planning were also implemented in the New Urban Development Program of 2016, adopted by the United Nations. This Program proclaims, in particular, the human-oriented nature of urban planning, i.e. such activities should primarily be aimed at ensuring human rights, including the right to housing. In addition, such a priority is indicated as the development of administration at the city level through mechanisms that empower and empower, ensure the participation of all stakeholders in decision-making, and also provide for a system of checks and balances in urban development planning.

Part 1 of Art. 3, Part 1 of Art. 4 of the European Charter of Local Self-Government of 15.10.1985 states the ability and right of local administration entities to administer a significant part of public affairs in accordance with the law, in the interests of the population of a particular area and under their own responsibility. Local public administration entities may be vested with functions and powers to achieve special goals defined by law. This means the need to pay attention to the unification of administrative procedures for permitting activities in the field of urban planning and at the local level in order to counteract corruption risks.

Defining the main priorities for the sustainable development of the state, civil society and economy of Ukraine until 2030, goal 11 sets the achievement of safety, openness, environmental friendliness and resilience of cities and other settlements. Back in 2019, comprehensive work was carried out and conceptual foundations for the development of the public administration system in the urban planning sector until 2030 were developed, among which transparency, completeness and accessibility of information on urban planning for all participants in this activity are in the first place.

The authors of the draft Law of Ukraine dated 11.06.2021 No. 5655 also draw attention to the need to take into account the international experience of public administration in the field of urban planning, which, according to the Explanatory Note, is dedicated to ensuring the implementation of public administration reform in the field of urban planning through the elimination of corruption risks in the provision of administrative services, the creation of an effective and transparent system of supervision and control in this area, and the strengthening of municipal control in relation to cases of unauthorized construction.

The Order of the Cabinet of Ministers of Ukraine dated 16.05.2014 No 523-r approved the list of administrative services provided by public authorities (executive authorities and local self-government bodies) on the basis of delegated powers, which includes 432 items. At the same time, this list covers only a certain part of administrative services. The official websites of local public authorities contain their own lists of administrative services in the field of urban planning, which are provided by each entity. In view of the above, it can be stated that access to a single list of administrative services in urban planning activities is absent in practice today.

Transparency in the activities of public authorities is considered as a combination of three areas: systematic information about the activities of these entities; systematic informing about the mechanism of implementation, content and goals of state policy; ensuring that a specific public authority has access to information on its activities, criteria for making management decisions, stages of preparation of these decisions. At the same time, the doctrine of public administration proceeds from the general etymology of the term as one that combines

the following properties of the object: clear, understandable, accessible for perception.

The definition of administrative procedure as a procedure established by law for consideration and resolution of legal cases arising in connection with the adoption of administrative acts in the field of public administration, which create or confirm the rights of a private person or impose obligations on him/her, can be considered established in the doctrine of administrative law. The principles of modern administrative procedure, arising from the provisions of the current national legislation, determine: the rule of law; legality; equality of participants in the administrative procedure before the law; compliance with the purpose for which a specific authority was granted; impartiality (impartiality) in the implementation of the administrative procedure; good faith; prudence; timeliness and reasonable time for the adoption of an administrative act; presumption of legitimacy of the claims and actions of the private Person.

The most corrupt elements in the field of urban planning today include, in particular, the provision of urban planning conditions and restrictions, the establishment of protection zones and the issuance of a construction passport and control over compliance with building standards. To avoid the first, a practice should be introduced, when the authorized body will form and register urban planning conditions and restrictions using the USESSB, refusal - with a list of grounds with reference to the norms, as well as a recommendation on how to correct the violation. At the same time, he will have to send the refusal to the applicant in the manner in which the application was submitted. Thus, the most common corruption situations in the field of construction and land relations are the resolution of the issue of transferring a land plot for use or ownership, the provision of urban planning conditions and restrictions, as well as obtaining construction permits. The construction sector itself is one of the five most corrupt, on a par with customs and the judicial system.

In this regard, it is advisable to point out modern digitalization procedures that take place in the field of urban planning. Thus, the Ministry of Communities and Territories Development is currently concentrating significant efforts on the integrated development of regions, with an additional focus on the reconstruction of housing for internally displaced persons, the construction of social and critical infrastructure. Therefore, the importance of digitalization of urban planning is recognized, since the impact of digitalization on other processes, on which a transparent and accountable recovery depends cannot be underestimated now and in the post-war times. Automation of processes, created systems and registers have not only an anti-corruption effect and make work transparent, but also allow individuals and legal entities to automatically receive comprehensive services. And they provide access to obtain the necessary information in a few clicks both for the daily needs of every Ukrainian and for the strategic needs of communities.

In particular, the creation of the Urban Planning Cadastre is an important step towards the digitalization of the construction industry in Ukraine, which will ensure transparency, reduce bureaucracy and speed up recovery processes. This cadastre will combine several registers and systems, such as the Register of Urban Planning Documentation, the Unified State Electronic System in the Field of Construction, and others that will automate processes and reduce corruption.

The creation of the Urban Planning Cadastre is another step towards the digitalization of the construction sector. Digital systems will ensure transparency in the construction industry, remove bureaucracy, speed up the country's recovery processes and make data available in a few clicks to citizens, developers and authorities. This cadastre will unite 7 systems and registers in the field of construction: a register of urban planning documentation; a unified state electronic system in the field of construction; a register of buildings and Struc-

tures; address register; register of administrative-territorial units; electronic pricing system; Database of energy efficiency of buildings.

The next steps are to expand the capabilities of the Urban Planning Cadastre, verify data in the Unified State Register and introduce electronic tools for communities. Such changes in the construction sector will not only help restore what was destroyed, but also lay the foundation for a modern, transparent urban planning system in Ukraine. This became possible

thanks to the new Government Resolution “On Amendments to Certain Resolutions of the Cabinet of Ministers of Ukraine on Simplifying the Implementation of Certain Procedures in the Field of Construction”.

Conclusions. Digitalization and the complete destruction of the monopoly in the issuance of permits are the most effective tools in the field of combating corruption in the field of urban planning. Because this is the only way to truly qualitatively reform the system and destroy corruption in urban planning.

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