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MECHANISMS OF PUBLIC ADMINISTRATION OF CONSTITUTIONAL AND LEGAL REFORM IN UKRAINE

Abstract. The article deals with issues related to the emergence and consolidation of constitutionalism in the Ukrainian state, which seeks to become a full member of the European Union. Some of the topical issues concerning deepening of the constitutional-legal reform and making further changes to the basic law of Ukraine are considered. Particular attention was paid to the Ukraine-2020 Strategy for Sustainable Development, the Strategy for the Reform of Public Administration of Ukraine for 2016–2020, as well as the analysis of Ukraine's development at the present stage, characterized by both positive and negative phenomena.

Keywords: mechanisms of state administration, constitutional and legal reform, institutional mechanisms, reform of state policy, local self-government, decentralization of power.

МЕХАНІЗМИ ДЕРЖАВНОГО УПРАВЛІННЯ КОНСТИТУЦІЙНО-ПРАВОВОЮ РЕФОРМОЮ В УКРАЇНІ

Анотація. У статті досліджуються питання, пов'язані з виникненням та утвердженням конституціоналізму в Українській державі, яка прагне стати повноправним членом Європейського Союзу. Розглядаються кілька актуальних проблем щодо поглиблення конституційно-правової реформи та внесення подальших змін до основного закону України. Зокрема звернуто увагу на Стратегію сталого розвитку “Україна-2020”, Стратегію реформування державного управління України на 2016–2020 рр., а також проаналізовано розвиток України на сучасному етапі, який характеризується як позитивними, так і негативними явищами.

Ключові слова: механізми державного управління, конституційно-правова реформа, інституційні механізми, реформування державної політики, місцеве самоврядування, децентралізація влади.

МЕХАНИЗМЫ ГОСУДАРСТВЕННОГО УПРАВЛЕНИЯ КОНСТИТУЦИОННО-ПРАВОВОЙ РЕФОРМОЙ В УКРАИНЕ

Аннотация. В статье исследуются вопросы, связанные с возникновением и утверждением конституционализма в украинском государстве, которое стремится стать полноправным членом Европейского Союза. Рассматриваются несколько из актуальных проблем по углублению конституционно-правовой реформы и внесения дальнейших изменений в основной закон Украины. В частности обращено внимание на Стратегию устойчивого развития “Украина-2020”, Стратегию реформирования государственного управления Украины на 2016–2020 гг., а также проанализировано развитие Украины на

современном этапе, который характеризуется как положительными, так и отрицательными явлениями.

Ключевые слова: механизмы государственного управления, конституционно-правовая реформа, институциональные механизмы, реформирование государственной политики, местное самоуправление, децентрализация власти.

Target setting. Carrying out a large-scale constitutional-legal reform in Ukraine led to the reform of public administration in its turn. The effective government system is one of the main factors of the country's competitiveness. The effective activity of the Cabinet of Ministers of Ukraine regarding the development of the state policy in various spheres is possible in the presence of a professional, accountable, effective and efficient system of central government bodies.

Analysis of basic research and publications. The issue of the study of the management mechanisms over the last decades are in the field of scientific interests of many scholars such as V. Averyanov, G. Atamanchuk, V. Afanasyev, V. Bakumenko, E. Grygonis, L. Grygoryan, N. Yesypchuk, V. Knyazev, M. Koretsky, O. Korotych, M. Kruglov, R. Naumenko, P. Nadolishnyi, N. Nyzhnyk, O. Obolensky, G. Odintsova, Yu. Tykhomyrov, L. Yuz'kov and a number of other scientists.

The purpose of the paper is to study the mechanisms of state governance of constitutional and legal reform in Ukraine.

The statement of basic materials. It should be noted that the term "mechanism" is used to characterize state-legal phenomena. In the legal literature,

the concepts "the mechanism of state administration", "mechanism of state power", "mechanism of realization" are widespread, there is a proper connection between the above-mentioned state-legal phenomena since these elements always perform as the organs of the state.

It must be noted separately that it is the state mechanism that is divided into several parts, first of all, the central role in the mechanism of state is given to the apparatus of the state, which is a hierarchical system of all the organs of the government, which, in its turn, ensures the implementation of goals and tasks in their respective spheres of public life in the process of business management. Another part of the state machinery is state enterprises and institutions that carry out the tasks and functions of the state in the economic, socio-cultural and other spheres of public life.

As for the contemporary realities of state-legal life, Ukraine strives to become a full member of the European Union, our country is obliged to respond to the rapid changes of political and economic realities and to study the best examples of international experience of the scientific provision of reforming the system of public administration and its adaptation in Ukraine.

It is the European model of public administration that is the result of the evolution of the states, constant scientific researches and experiments, as well as the coordination of the proposed innovations with the representatives of civil society. Therefore, to introduce such a model in Ukraine, it is necessary to use the algorithm of the mechanism for studying the state and directions of the improvement of public administration: 1) studying theoretical and practical aspects in the dynamics; 2) studying foreign experience and the analysis of the possibility of its use; 3) analysis of the impact on the effectiveness of the activity; 4) identification of the main problems; 5) development of the proposals regarding the improvement; 6) development of the drafts of normative documents, aimed at the implementation of developed proposals [1, p. 48].

The national systems of public administration as a result of joining the European Community should be able to ensure the European integration step of the candidate countries to enter the European Union. The constituent of the constitutional and legal reforms in Ukraine is the definition of the social, political, legal and institutional mechanisms that will promote the success of the government policy, as well as the algorithms of the experience use of the similar reforms in other countries.

It is appropriately should be noted about the need to reform the public policy, which requires broad involvement of the citizens of Ukraine, especially at the stage of goal setting, objectives and tasks of the constitutional and legal reform, as well as close partnership between the public and private sectors,

the result of reforming the public administration should be the increase of its efficiency. It should be separately emphasized that reforming should not be spontaneous, but should have consistent and systematic improvement undertaken by public institutions that operate stably.

As the President of Ukraine rightly pointed out in Annual Address of Ukraine to the Verkhovna Rada "On the internal and external situation in 2016". "... in order to bring the political system of Ukraine on a path of positive qualitative changes it is necessary to make the system of government more transparent, democratic, controlled by the citizens and introduce the advanced approaches into the state management that have proven their effectiveness in many countries. It is about the radical changes in the distribution of powers between the state and the community, the decentralization of the management and the transfer of administrative functions to the places, as well as the transition to the basics of the service state in the relations between the state and the citizen. "We agree that"... one of the central tasks of constitutional and legal reform in Ukraine is the observance of the principle of power separation and the constitution of an effective system of containments and balances both at central level of the organization of public administration and the level of interaction of the organs of the central government with the local authorities".

It should be also noted about the Decree of the President of Ukraine "On the measures regarding the implementation of the concept of administrative reform in Ukraine" developed by the State Commission for the imple-

mentation of administrative reform in Ukraine, which is based on reforming the system of public administration. The main provisions of the Administrative Concept emphasize the importance of its scientific support. It provides the implementation of scientific-theoretical and applied researches on the issues of public administration, administrative and municipal law; the publication of basic, scientific, reference, educational, and other works and materials.

The strategy of the sustainable development “Ukraine 2020”, approved by the Decree of the President of Ukraine dated of January 12, 2015, № 5, provides for the legal regulation of the constitutional reform. As stated in the Strategy, the aim of the policy of decentralization is an exit from the centralized model of governance in the state, the provision of capacity of local government and building of an effective system of the territorial organization of power in Ukraine, the implementation of the provisions of the European Charter of Local Self-Government in full measure, the principles of subsidiarity, universality and financial self-sufficiency of local government.

During the 2014–2017, a series of legislative and administrative documents was worked out and adopted by the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine to support decentralization reforms, including the basic: Laws of Ukraine “On cooperation of local communities” of 17 June 2014 r. № 1508-VII, “On a voluntary association of local communities” of February 5, 2015 r. № 157-VIII, “On amendments to some legislative acts of Ukraine (regarding the status of the village elder” of 9 March 2017,

№ 4742, the law defines more clearly the status of a village elder by definition the spatial limits of its activity, the scope of authority, grounds and order of early termination of the powers, guarantees of activity); “As for voluntary joining the local communities” of 17 March 2017 № 4772 number that allows you to speed up significantly the formation of capable basic level of local government, as it significantly simplifies the procedure of voluntary association of communities and so on.

Considering the reasons that predetermine the need of constitutional and legal reforms, it is worth agreeing with M. V. Savchyn, that the cause of modern constitutional reform towards decentralization is expanding of self-governing rights of the community and involving citizens in solving local issues, this process allows expanding procedures of democratic participation, in particular, these are public hearings, public initiatives, community participation in cultural, artistic, educational, sporting events. It is the formation of culture that influences the dynamics of the democratic process in the scale of the country [2].

In the conditions of the annexation of the Crimea, armed conflicts in the eastern Ukraine, the absence of territorial integrity, in our opinion, carrying out this direction of reform will promote deepening the democratic development of the country, especially during decentralization — local communities will get more rights, and the powers of local authorities expand at the expense of the centre. Therefore, there is a need for amending the Constitution of Ukraine regarding the decentralization of power, not only the in-

tegration of Ukraine into the European community requires this. The constitutional changes will bring power closer to the people, expand the powers of local self-government which will ensure the effective resolution of issues of local importance and raise the welfare of the Ukrainian people.

As R. A. Naumenko, and V. V. Rylska point out, decentralization is one of the key principles of democracy in the countries of the European Union and the Council of Europe, the base of their regional policy, along with the principles of subsidiarity, concentration, complementarity, partnerships, program approach. This principle is confirmed in the European Charter of Local Self-Government of 15 October 1985 [3], the project of European Charter of Regional Democracy, concerning the redistribution of powers to the regions in order to use effectively the internal capacity, the promotion of regional initiatives and delimitation of functions and powers between different levels of government.

According to the strategy of Reforming the State Administration of Ukraine for 2016–2020 [4], there is an improvement of the system of public administration and, accordingly, raising the level of competitiveness of the country. Taking into account the European choice and the European perspective of Ukraine, the Strategy is developed in accordance with the European standards of proper administration in the matters of the transformation of the system of public administration. According to the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their

Member States, of the other hand [5], the pointed strategy is based on the common values such as keeping democratic principles, the rule of law, good governance.

The reform of public administration requires strengthening the capacity of the central organs of executive authorities which are responsible for various areas of reforming. A part of central bodies of executive authorities, which are identified as responsible for the directions of reforming the public administration, do not have sufficient human resources with the necessary professional competence. While coordinating the implementation of strategies by the leading structural division on reforming the governance of the Cabinet of Ministers of Ukraine, a comprehensive plan of the personnel support will be developed to strengthen the capacity of the central authorities regarding the implementation of reform of public administration in all directions.

The development of Ukraine at the modern stage is characterized by both positive and negative phenomena. In particular, the most dangerous threat to such development is corruption, which gradually turns into a systemic element of the national government. In the context of the specified it can be confirmed that the system of public administration in Ukraine cannot be subjected to the changes through its “mechanical adaptation” to the experience of the developed social practices. Its improvement should be carried out in the context of socio-economic transformations, in particular, the development of the domestic market in the country, the most powerful domestic market will ensure the stability of the national cur-

rency, the solution of the urgent social problems and the sustainable functioning of public administration.

Thus, the functions of public administration are derived from the goals and provide the opportunity to solve the tasks, purposefully influencing the object of management. The next component of the structure of the mechanism of public administration is normative-legal, where the legal one determines all possible set of operating modes, and the normative is formed at the expense of the instructions and decisions of local authorities.

The functions performed by one or another governing body determine the internal structure and the place in the system of public authorities. Therefore, the organizational structure (as a form of organization of the management system), organizational elements (which should organize the regulation together, management in the interests of the government, effective operation of the state-management system), respectively, is the basis of the organizational mechanism of the public administration [6, p. 129].

The effectiveness of the management structure is determined not so much by the structure but the organizational mechanism that functions within this structure. Therefore, the effectiveness of the management structure can be assessed together with the assessment of the effectiveness of the organizational mechanism.

Consequently, the obligatory structural component of any control mechanism is informative that actually has a through nature of the action (the essential characteristic). The results of its functioning can be represented

as a set of components: information of target, normative-legal, organizational and economic components. Regarding the content characteristics of the information component, it contains the structure of the information database, source and consumers of the information, the technological process of its processing.

So, summing up, it should be noted that the mechanism of public administration is a multilevel unified system consisting of specific administrative mechanisms. This condition is predetermined by the fact that each of the subjects of management of any level is a management system and it is regarded as a set of such components according to its internal composition.

First, the management process that characterizes it in the dynamics (development, adoption and implementation of managerial decisions, or implementation of all stages of the management cycle);

secondly, the mechanism of management (principles, goals, functions, methods);

thirdly, the set of elements that characterize the control system in the relative statics (staff, information, structure, technique, technology);

fourthly, the development mechanism (self-improvement) of the management system.

It must be realized that the implementation of the complex reforms is impossible without developing a clear strategy of the development of public administration, which should consist of several types: strategies of the development of public administration as the branch of scientific research, strategies of practiced development of public

administration and the strategy of the development of public administration as a branch of education.

Conclusions. The system of the public administration in Ukraine does not meet the needs of the country in the implementation of the comprehensive reforms in various spheres of state policy and its European choice, as well as European standards of proper governance of the state. Ukraine is in a low position in the global competitiveness ratings related to public administration. According to the index of world competitiveness of the World Economic Forum for 2016, Ukraine ranks 83rd place in the category of “government efficiency”.

The reform of public administration also requires strengthening the capacity of central organs of the executive authorities, which are responsible for various areas of reform. Some central executive bodies, which are identified as responsible for the reform of public administration, do not have sufficient human resources with the necessary professional competence. While coordinating the implementation of the strategies by the leading structural division on reforming the governance of the Cabinet of Ministers of Ukraine, a comprehensive plan of personnel support will be developed to strengthen the capacity of the central authorities regarding the implementation of the reform of public administration in all directions.

Finally, we note that the structure of the mechanism of public administration make up the target, normative-legal, organizational, economic and information components, which totality reflects all the essential aspects of the functioning

of the system of public administration: the fulfillment of functions (organizational), observance of purposefulness (target and normative-legal), provision of the efficiency (economic) and possibilities of functionality (informational).

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