conference proceedings

TRANSPARENCY OF THE PUBLIC SECTOR AND OPEN GOVERNANCE AT THE NATIONAL AND REGIONAL LEVEL

Ján Ivančík (ed.)

FACULTY OF LAW
Comenius University
Bratislava

TRANSPARENCY INTERNATIONAL SLOVENSKO

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Kingdom of the Netherlands
MATRA Programme

Example of Citation:
IVANČÍK, J. (ed.): Transparency of the public sector and open governance at the national and regional level. Bratislava: Comenius University, Faculty of law, 2025, 132 pg.

The proceedings are an outcome of the project "Reinforcing the Rule of Law at the Local Level in Ukraine: The Case of the Zakarpattia Region", funded by the Kingdom of the Netherlands (MATRA Programme).

Editor:
Mgr. Ján Ivančík, PhD.
The authors are responsible for the language version of the individual contributions to the publication.
First edition, Faculty of Law, Comenius University in Bratislava, 2025

Reviewers:
Mgr. Ján Šurkala, PhD.
Mgr. Olexij Mychajlovyč Meteňkanyč, PhD.

Language correction: Mgr. et Mgr. Valéria Terézia Dančiaková, PhD.

Graphic design: Mgr. Dominik Hollý

ISBN 978-80-7160-766-3

CONTENT

FOREWORD

The collection of papers presented here is the result of an international scientific conference held on December 5, 2024. The focus of the conference was on the transfer of good practices from Slovakia to Ukraine in the field of transparent and effective public administration, with particular emphasis on local self-government. The event formed part of the project *"Reinforcing the Rule of Law at the Local Level in Ukraine: The Case of the Zakarpattia Region,"* implemented within the framework of broader efforts to strengthen governance and public sector efficiency in Ukraine, taking into account the country's aspirations for future membership in the European Union.

On behalf of the conference organizers from Transparency International Slovakia, I can say that it made a fruitful contribution to building Slovak-Ukrainian relations—not only in the academic sphere and not only between Comenius University in Bratislava and Uzhhorod National University. This event demonstrated that the geographical as well as socio-cultural proximity of the two nations provides a great opportunity for sharing good practices on both sides of the border. Such scientific cooperation can also bring tangible results in practice.

This collection is divided into two parts—scientific and professional. While it focuses mainly on the Transcarpathian region, several contributions are cross-cutting in nature and have nationwide relevance.

The Zakarpattia region was chosen as the focal area for project implementation because it remains one of the least affected by the ongoing war. This creates an opportunity for the region to serve as a pilot area—or "incubator"—for developing and testing innovative approaches to transparent and effective local governance. The experiences and lessons learned from Zakarpattia can subsequently be transferred to other municipalities across Ukraine as conditions allow.

The conference provided a valuable platform for Slovak and Ukrainian experts to exchange experiences, present examples of good practice, and discuss opportunities for adapting proven governance models to the Ukrainian context. The outcomes of these discussions contribute to the shared goal of building resilient, transparent, and citizen-oriented local administrations capable of meeting European standards of good governance.

I would like to express my sincere gratitude to the Kingdom of the Netherlands for the financial support provided to the project, and to the Faculty of Law of Comenius University in Bratislava for its valuable cooperation in hosting the conference and publishing this collection of papers.

Mgr. Ján Ivančík, PhD.
Editor
Bratislava, December 2024

SCIENTIFIC CONTRIBUTIONS

IMPLEMENTATION OF THE AARHUS CONVENTION IN UKRAINE [1]

Liudmyla Golovko[2]

Abstract: Legal regulation of access to environmental information is a crucial aspect of the state's obligation to foster conditions that support the health and well-being of its citizens. Accurate, reliable, and complete environmental information is essential for the effective exercise of other environmental rights by individuals. The purpose of our scholarly work is to explore how the Aarhus Convention is implemented in Ukraine and to show the problems and shortcomings of this implementation. Attention was focused on the application of the Aarhus Convention during armed conflict. The hypothesis of this article is the assertion that the Aarhus Convention should be implemented even during military operations. The research questions were as follows: Is the implementation of the Aarhus Convention in Ukraine effective? Is it possible to limit the application of the Aarhus Convention during military operations? If so, what are the limits of these restrictions? When writing the article, general theoretical research methods were used. Analysis, synthesis, and theoretical generalization made it possible to summarise the state of implementation of the Aarhus Convention in Ukraine.

Keywords: International Environmental Law, Aarhus Convention, Environmental Human Rights, Procedural Environmental Human Rights

Introduction

The Aarhus Convention, adopted within the framework of the UNECE, is the first international treaty setting out clear obligations of states on access to justice in environmental matters. Recognising the right to a safe environment, this Convention guarantees the so-called "procedural environmental rights": the right of the public to access environmental information (the first pillar of the Convention), the right of the public to participate in decision-making (the second pillar), and the right to access justice in environmental matters (the third pillar). The Convention imposes clear obligations on the public authorities to ensure these procedural environmental rights. The Aarhus Convention entered into force in 2001 and currently has 47 contracting parties, including the EU and its Member States.

The Aarhus Convention is a constitutional instrument for individuals, allowing them to influence environmental protection[3]. The Aarhus Convention grants rights that empower individuals and environmental NGOs to protect the environment for the public good[4].

The Convention highlights the importance of safeguarding and enhancing the environment and establishes specific duties for States regarding access to justice in environmental issues. Article 9(3) of the Aarhus Convention provides that each party must ensure that, according to its national laws, the public can access procedures to challenge actions or inactions by private individuals or public authorities that violate environmental laws. It is important to emphasise that the scope of acts and omissions covered by

[1] The contribution was funded by the project 1/0713/23 International legal protection of environmental rights – quo vadis?

[2] Comenius University

[3]SVÁK, Ján, MAREČEK, Lukáš a kol.: *Medzinárodné právo verejne a úvod do verejného medzinárodného práva*. 1. vydanie. Bratislava: Wolters Kluwer SR s.r.o., 2024, 972 s. P. 844; VASHCHENKO, Y. (2024). Administrative Law in Ukraine. In: Deviatnikovajte, I. (Ed.), *Comparative Administrative Law . Perspectives from Central and Eastern Europe* (pp. 193-224). Routledge. hhttps://doi.org/10.4324/9781003458135-7 P. 197

[4]RYALL, Áine. (2023). A Brave New World: The Aarhus Convention in Tempestuous Times, *Journal of Environmental Law*, Volume 35, Issue 1, 161–166, https://doi.org/10.1093/jel/eqac023. P. 161

BARRITT, Emily. (2024). The Aarhus Convention and the Latent Right to a Healthy Environment, *Journal of Environmental Law*, Volume 36, Issue 1, 67–84, https://doi.org/10.1093/jel/eqae003. P. 67

this provision is much broader than that set out in Article 9 (1) and (2) (protection of the right to information and the right of the public to participate in decision-making) and refers to the violation of any provision of national environmental law. The Aarhus Convention allows states to establish conditions for access to administrative or judicial procedures for members of the public, but such conditions must meet the goals of the Convention by promoting widespread access to justice in environmental matters. The possibility for the public to initiate legal proceedings supports the implementation of environmental law and contributes to the improvement of the state of the environment.

To monitor the implementation of the provisions of the Aarhus Convention, the Aarhus Convention Compliance Committee was established in 2002. It has the right to consider complaints about violations of the Convention submitted by any State Party, the Secretariat, or representatives of the public. The Committee submits its report to the Meeting of the Parties, which takes appropriate measures in relation to the state which violated the Aarhus Convention.

The democratic nature of this control mechanism lies in the fact that, in addition to states, representatives of the public can initiate cases in the Committee, and they have the same rights as government representatives in the process of hearing a case in it. Such rights include: the right to provide evidence, explanations, the right to access Committee meetings, the right to provide draft decisions of the Committee, participation in meetings of the parties and monitoring the implementation of decisions. The public can initiate cases concerning a violation of the Convention by the State of which they are citizens (or in which a public organisation is registered) or by another state that is a Party to the Aarhus Convention[5].

In addition to ratifying the convention, its effective implementation in practice is important. Below, we will consider Ukraine's experience in the implementation of the Convention.

Legal regulation of the protection of procedural environmental rights in Ukraine

Ukraine signed the Aarhus Convention on 06.25.1998 and ratified it as one of the first in Europe by Law No. 832-XIV of 07.06.1999[6]. Several laws were adopted, among which the following should be highlighted: "On Access to Public Information", "On Information", "On Environmental Protection", "On Environmental Impact Assessment", Resolutions of the Cabinet of Ministers "On Ensuring Public Participation in the Formation and Implementation of State Policy", "On the Procedure for Disclosing Information on Activities of Executive Bodies on the Internet" and "On approval of the Regulation on data sets subject to publication in the form of open data", etc.

The definition of the term "environmental information", the disclosure of which is required by the Aarhus Convention, is found in the Law "On Environmental Protection". This definition is broad and covers all components of natural resources, a variety of ecosystems in a given place, data on radiation, noise pollution, and other hazardous elements (electromagnetic vibrations) that may pose a threat to public health[7].

Despite the wide list of components that belong to environmental information according to the legislation of Ukraine, in our opinion, it contains shortcomings. For example, environmental information does not include data on environmental disasters that have already occurred and threats of such disasters that may arise in the future. Scientists also criticise the insufficient level of disclosure of environmental information in Ukraine and the untimely publication of reports on the state of the environment by state bodies[8].

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[5] SHUTYAK, S., ALEKSEEVA, E., VOYTIUK, I., KRAVCHENKO, O. *Human rights and environmental protection: educational program of a distance course for trainers (judges-teachers).* 1 st ed. Lviv: Publishing House "Manuscript", 2018, P. 24.

[6] Law of Ukraine „On the ratification of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters". Bulletin of the Supreme Council of Ukraine, 1999, No. 34, p. 296.

[7] The Law of Ukraine "On Environmental Protection". Bulletin of the Supreme Council of Ukraine, 1991, No. 41, p. 546

[8] RADOVENCHYK, V.M., RADOVENCHYK, Ya.V., KATCHULA, I.H. (2016). Access to environmental information in Ukraine. *Bulletin of the National Technical University of Ukraine "Kyiv Polytechnic Institute". Chemical engineering, ecology and resource conservation*, 1, 75-81. P.77, LADYCHENKO, V., GOLOVKO, L. (2018). The Right of Access to Environmental Information in Ukraine and the EU. European Journal of Sustainable Development, Volume 7, № 3, 455-459.P. 459

Resolution of the Cabinet of Ministers of October 21, 2015, No. 835 "On approval of the Regulation on data sets subject to publication in the form of open data" obliges state authorities to publish a clear list of data sets in the format of open data. Among these data sets are sets that contain environmental information. All data sets that contain environmental information (more than 200 sets in total) according to the Resolution must be published and updated with appropriate periodicity on the Unified State Open Data Web Portal. The Unified State Open Data Web Portal contains, for example, the following sets of information:

- environmental and radiation situation around nuclear power plants;
- register of licenses for carrying out economic activities in hazardous waste management;
- list of permits for emissions of pollutants into the atmospheric air by stationary sources;
- register of written consents (notifications) for transboundary transport of hazardous waste;
- list of pesticides and agrochemicals permitted for use;
- register of licensees for the conduct of economic activities producing especially hazardous chemicals;
- list of permits for the import and export of species of wild fauna and flora.

A separate website was also created that contains information on the results of air quality monitoring. The Clean Water Website makes public information on surface water pollution monitoring, data from the State Agency for Water Resources, information on indicators of pollution for the river basins of Ukraine, a list of enterprises that pollute rivers in each region and the level of this pollution.

The Unified State Register for Environmental Impact Assessment was also created. The Registry makes public documentation on the EIA procedure at all stages of its implementation. Access to documentation related to the environmental impact assessment of a particular activity reduces the risks of corruption.

The Unified Register of Strategic Environmental Assessments was launched in May 2023. The Unified Register of Strategic Environmental Assessment is a unified information and communication system that ensures the creation, regular update, collection, management, processing, storage, and use of information in the field of strategic environmental assessment. The Unified Register of Strategic Environmental Assessment is created using software that ensures its compatibility and real-time electronic information interaction with other electronic information systems and networks that constitute the state's information resource, including the Unified Register of Environmental Impact Assessment, the Urban Planning Cadastre, the State Land Cadastre, etc.

The electronic cabinet is a component of the Unified Register of Strategic Environmental Assessment, which provides electronic interaction between the subjects of strategic environmental assessment. The Ministry of Environmental Protection and Natural Resources of Ukraine is the holder of this register. Information entered into the Unified Register of Strategic Environmental Assessment is public and open. Free access to it is provided via the Internet.

Strategic environmental assessment is an important instrument for identifying and evaluating the potential environmental and public health impacts of strategies, policies, programs, and other governmental planning documents. According to the Law of Ukraine "On Strategic Environmental Assessment," the following information shall be entered into the Unified Register of Strategic Environmental Assessment:

1) a statement outlining the scope of the strategic environmental assessment and a notice regarding its publication;
2) a draft state planning document and a report on the strategic environmental assessment;
3) comments and suggestions from the public, reference to public discussion;
4) comments and suggestions from executive authorities;
5) an approved state planning document (except for information that, in accordance with the law, constitutes a state secret or belongs to information with restricted access) and a decision on its approval;
6) information on transboundary consultations (if they were held);
7) findings from the monitoring of environmental impacts resulting from the implementation of the state planning document, including for public health, information on negative consequences of its

implementation for the environment, including for public health, not foreseen by the report on strategic environmental assessment (if they were identified), and on measures taken to eliminate them;

8) recommendations on the requirement for a strategic environmental assessment of minor modifications to a state planning document previously assessed, including a determination that such an assessment is not necessary (Article 9 - 1)[9].

The existence of a single register containing all information on planned and conducted strategic environmental assessments provides broader opportunities for the public to be heard when planning long-term development plans for Ukraine.

Implementation of the Aarhus Convention during armed conflict

After the start of a full-scale invasion of the Russian Federation in Ukraine, the Unified State Open Data Web Portal was completely closed until August 2022. Then it resumed its work, although with a significant reduction in the amount of published information. According to the information of the NGO "Save Dnipro", which was confirmed by the Ministry of Environment and Natural Resources of Ukraine, 79 sets of information out of 209 sets of environmental information remained open (38%), 27 (13%) have restricted access, and 79 (38%) have no open access. Concerning some sets of information, restriction has objective reasons (lack of access to occupied territories, attempts to hide information that could be used by the enemy). At the same time restriction of some sets of information, for example, on the amount of environmental taxes which were paid, is debatable.

Also, access to the EIA documentation was restricted. Access can only be obtained by filling out an application form and specifying the passport details of the person who wants to receive information.

On 27 June 2022, Ukraine submitted a request to the Aarhus Convention Compliance Committee seeking its advice on whether its adoption of certain measures in connection with the military aggression by the Russian Federation on its territory was compatible with its obligations as a Party to the Aarhus Convention. Since the committee's response may be useful for other states, let's dwell on its provisions in more detail. The following questions were asked:

- whether the proposed forms of access to information and public participation in decision-making on the EIA procedure might be considered discriminatory;
- whether the timeframe for the public to submit comments in pending EIA procedures, which was reduced to 25 working days from the date the documents are uploaded to the register, does not violate the Aarhus Convention;
- whether the restriction of access to information regarding the location of individual objects violates the Aarhus Convention;
- whether the restriction of access to EIA conclusions issued before 24 February 2022 violates the Aarhus Convention;
- whether the exclusion of "restoration works" from EIA violates the Aarhus Convention;
- whether the exclusion of public participation in the preparation of the Recovery Plan of Ukraine and restoration plans and programmes violates the Aarhus Convention.

The Committee recognised the possibility of limiting its provisions during hostilities, but such restrictions cannot exceed a certain limit[10].

Providing access to environmental assessment documentation upon request is not, in the opinion of the Committee, a violation of the Convention. However, the Committee noted that the information required in the request is intended only for individuals (passport data). The Committee therefore recommended

[9] Law of Ukraine on strategic environmental assessment. Bulletin of the Supreme Council of Ukraine, 2018, No. 16, p. 138

[10]Recommendations regarding request for advice ACCC/A/2022/3 by Ukraine Adopted by the Committee on 9 June 2023. URL: https://unece.org/sites/default/files/2023-06/A3_Ukraine_advice_adv_unedited.pdf. Para24 - 27.

that the form be amended so that legal entities, primarily non-governmental organisations, could also make a request[11].
Concerning the reduction of the timeframe for the public to submit comments in pending EIA procedures, which was reduced to 25 working days, the Committee expressed the need to restore the deadline for providing comments, which existed in the pre-war period (35 working days).
Concerning the restriction of information regarding the location of individual objects, the Committee concluded that during military operations, the release of information regarding a specific location may be limited for reasons of national defence, but the general location of the activity must be indicated[12].
Concerning the restriction of access to EIA conclusions issued prior to 24 February 2022, according to the Committee, Ukraine has not provided any specific justification as to why EIA conclusions issued before 24 February 2022 should be withheld from disclosure[13].
Concerning the exclusion of "restoration works" from EIA, the Committee made it clear that not all "restoration works to eliminate the consequences of armed aggression and hostilities" will qualify as serving "national defence purposes" under article 6 (1) (c) of the Aarhus Convention and as a result can be excluded from EIA. Only those proposed activities that are truly essential for national defence purposes during wartime will be exempt. All other restoration activities must still undergo public participation in EIA.[14].
Concerning the exclusion of public participation in the preparation of the Recovery Plan of Ukraine and restoration plans and programmes, the Committee noted that after the war, it should likewise cease to apply[15].

Conclusion

As we can see, significant progress has been made in Ukraine in the field of disclosing environmental information and involving the public in environmental decision-making. The creation of the following registers: Unified State Open Data Web Portal (which also contains more than 200 sets of environmental information), Unified State Register for Environmental Impact Assessment, and Unified Register of Strategic Environmental Assessment is a good practice worth following. The creation of such registers facilitates access to environmental information and also provides an opportunity for the general public to participate in environmentally important decisions. Even during the war, Ukraine tries to implement the provisions of the Aarhus Convention. This is evidenced by the fact that even when implementing restrictions caused by the war and the need to protect information that could be used by the enemy, Ukraine turned to the Aarhus Compliance Committee to ensure that it was not violating international obligations. At the same time, it should be noted that there are certain shortcomings in the legislation of Ukraine in this sphere. In particular, the definition of environmental information that must be made public under the Aarhus Convention is incomplete. It does not contain data on environmental disasters that have already occurred and threats of such disasters that may arise in the future. Such information should also be included in the definition. Another problem is the untimely publication of reports containing environmental information by government agencies. The analysis of the Aarhus Committee's recommendations concerning the request for advice submitted by Ukraine on 27 June 2022 confirmed the hypothesis of the need to implement the Aarhus Convention even during military conflicts at the level necessary to fulfil the objectives of the convention, although it allowed for restrictions on its implementation to ensure national security. Implementation of the Aarhus Convention is important for enabling the public to exercise their right to environmental protection in their country. And this right must be ensured throughout the entire state, including in the Zakarpattia region.

[11]Ibid. Para37.
[12]Ibid. Para 59.
[13]Ibid. Para 66.
[14]Ibid. Para 78-79.
[15]Ibid. Para 85.

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Contact information

doc. Mgr. Liudmyla Golovko, PhD.
liudmyla.golovko@uniba.sk
Comenius University, Faculty of Law
Department of International Law and International Relations

THE RIGHT TO INFORMATION ON MUNICIPAL LEVEL: STRIKING A BALANCE BETWEEN PROTECTING RIGHTS AND PREVENTING MISUSE

Ján Ivančík

Abstract: This article examines the Slovak framework for freedom of information, focusing on its strengths prior to the adoption of Act No. 401/2024 Coll. and the potential risks introduced by this amendment. It evaluates whether the pre-amendment system was resilient against abuse and considers whether the new restrictions pose a threat to transparency. Special attention is paid to good practices developed at the municipal level. Finally, the text explores the potential for transferring these practices to Ukraine, where enhancing transparency at the local level is a key component of ongoing democratic reform.

Keywords: freedom of information, Slovak FOIA, abuse of rights, municipalities, transparency

Introduction

The Slovak regulation of freedom to information in the public sphere may be regarded as rather transparent, which is also provable with respect to application practice on the local level. The research conducted in 2019 by Transparency International Slovakia compared 26 European capitals in various aspects of transparency. Monitoring included publicly available data on the websites of capital cities (based on mandatory publication), but also requests for data. With the outcome exceeding 70 percent of points, Bratislava placed among the first half of the most transparent cities.[1]

Although this comparison may not serve as a comprehensive tool for identifying differences across all European countries and their legal regulations, it offers an insightful overview of good practices. In this regard, Slovak regulation stood out as a frontrunner, particularly for its short deadlines for providing data under the Freedom of Information Act and the easy accessibility of contracts concluded by public entities.[2]

This article focuses on the aspects that may be inspirational in the Slovak approach towards transparency in the public sphere, focused on the experience with the Freedom of Information Act, its application practice, and also on the issue of potential misuse of a broad level of legally protected transparency. As the Slovak experience shows, broad access to information also means multiple potential opponents of this approach and, afterwards, requests for unsystematic legal amendments. As we shall try to show here, this issue is closely related to municipalities. Our focus will therefore be not only on positive aspects of the Slovak legal environment, but also on negative trends and attempts to cut public access to information through unsystematic legal changes.

With regard to the aforementioned, the main research question stands as follows: Can the Slovak legislative setting for making information available before the adoption of Act No. 401/2024 Coll. be considered effective and capable of defending against potential abuse of the right to information? An additional research hypothesis is that the aforementioned amendment to Act No. 211/2000 Coll. on Free Access to Information and on Amendments and Supplements to Certain Acts as amended ("FOIA") is capable of negatively disrupting public access to information and should serve as an illustration of negative practice.

[1] For more see analysis, including the methodology and full outcome: ŠÍPOŠ, G.; PIŠKO, M.; ZAJAC, L.: How do European capitals compare in access to information? [online, visited on: 10.1.2025], Available on: https://transparency.sk/en/how-do-european-capitals-compare-in-access-to-information/

[2] For the sake of completeness, it would be good to mention also the fact that Kyiv placed among the top 6 most transparent capitals in Europe. Ibid.

In order to fully answer the main research question and confirm or refute the hypothesis, we divide the article into three main parts. The first will deal with the analysis of the legal state on access to information in Slovakia up to the amendment by Act No. 401/2024 Coll., which extends the period for disclosure of the information by the obliged person from 8 working days to 12 working days, restricts "extremely extensive information search" and enables its charging.[3] The second part of the article is dedicated to the analysis of the aforementioned amendment from quantitative and qualitative aspects, focusing on the constitutional and applicational relations. The third part of the article will afterwards summarise applicable case law, regarding the potential abuse of the right to information, its strengths and weaknesses.

I. Ideological foundations of the law

The main basis for the legal regulation in Slovakia is implemented in the FOIA, which governs two methods for obtaining access to information: i.) mandatory publication of documents and ii.) making information available upon request. As mandatory disclosure of documents does not create a possibility of abuse in the form of filibustering,[4] we will not pay special attention to this area in view of the subject of our interest.
The regulation on making information available upon request is governed by multiple principles. These shall be understood not only as a guidance for cases of potential *lacuna iuris*, but also as the interpretation tool for all interpretative inconsistencies.
In this regard the main is **principle of selection**, i.e., what is not secret shall be regarded as public. [5] This means that all information that is not explicitly restricted by the legal order and which is at the same time at the disposal of the obliged person, shall be regarded as information available for public use.[6] In this way, the principle of openness (publicity) of public administration is fulfilled, which is required of member states in many respects by the European Union, but is also mentioned in Council of Europe documents.[7]
The legal definition of this principle may be found in Sec. 3 (1) of FOIA, which states that "*Everyone has the right to access information held by obligated persons. The right to access information does not apply to information that is not available, in particular to the creation of interpretative opinions, analyses, reports, expert opinions, political positions, forecasts and interpretations of legal regulations and the formation of opinions.*" Section 12 of FOIA, at the same time, states the access restriction conditions as follows: "*All restrictions on the right to information shall be implemented by the obliged entity by making the requested information available, including accompanying information, after excluding that information for which the law provides for it. The right to refuse to make information available shall only last as long as the reason for non-disclosure exists.*" The exact enumeration of such cases is listed in Sect. 8 - 11 of FOIA.
This principle is closely related to the principle of disclosure of available information. As described in Sec. 3 (1), the obliged person shall provide, upon request, with the information that "lies on the table" at the

[3] Part of the amendment, focused on the charging for search of information, is, at the time of writing this article, suspended by the Constitutional Court of the Slovak Republic by the decision No. PL. ÚS 6/2025-18 of 12 March 2025. We will focus more deeply on this issue in the second part of the article.
[4] It is not possible due to the fact that the obligation of mandatory publication of information is based on the legal regulation, not on the applicant's will. Therefore, the obliged person must act (publish the information) on their own initiative. Secondary use of this information by the public does not burden the effective capacities of the obliged person. Of course, there are other forms of potential misuse of the information (e.g., making it more difficult for the obliged entity to apply itself on the economic market), but these kinds of examples are not part of our research concern in this article.
[5] DOBROVODSKÝ, R.; KOŠIČIAROVÁ, S.: Právo na informácie. Kraków: Spolok Slovákov v Poľsku,. 2015, p. 35
[6] KAMENEC, T.; PIROŠÍK, V.: Čo nie je tajné, je verejné. Bratislava: Nadácia občan a demokracia, 2000, p. 6
[7] For more see e.g. WILFLING, P.: Zákon o slobodnom prístupe k informáciám. Komentár. Problémy z praxe, rozhodnutia súdov. Pezinok: Via Iuris - Centrum pre práva občana, 2012, p. 48. This principle is also expressed in the wording of Sec. 12 (1) FOIA, which states that if part of the information or document is exempted from disclosure, the obliged entity shall disclose the remaining part of the information (document). The part of the information to which the restriction applies shall therefore be blacked out or, in another appropriate manner, excluded from the disclosure regime. Sec. 12 (1) states as follows: "*All restrictions on the right to information are implemented by the obligated person by making the requested information, including accompanying information, available after excluding that information for which the law provides for it.*"

time of delivery of the request.[8] In application practice, it is often difficult to establish the line, where the obligated person has the information and where they dispose with multiple background information, which must be assembled in order to create the information requested by the applicant. Furek and Rothanzl state that only those cases shall be regarded as a creation of new information, where "*further qualitative processing of this searched, extracted and collected data*" is carried out.[9] Wilfling agrees with this argumentation, whereas he states that pure collection of data from different datasets, which are available to the obliged person, shall not be considered as the creation of new information. As the criterion for differentiation shall be used "intellectual difficulty" of the task in question.[10]

It is also required to point to another principle, arising from the Sec. 3 (1) and (3) as well as Sec. 4 (1) - principle of disclosure of the information without demonstrating the reason. The quoted regulation makes it clear that any natural or legal person has the right to request information without having to justify the reason for the request to the obliged entity. This principle is crucial for ensuring free access to data. The fact that applicants are not required to justify their request is intended to protect against harassment of obligated entities, as well as to prevent the rejection of information requests based on the alleged bad faith of the applicant.

From the already explained, it is clear that such wide access to information will sooner or later interfere with the constitutionally protected rights of other persons. At the municipal level, it concerns mostly data protection, but also protection of intellectual rights or business secrets, especially when speaking of municipal enterprises. This collision is governed by the principle of proportionality. This is expressly stated in the Constitution of the Slovak Republic, in Art. 26 (4) as follows: "*Freedom of expression and the right to seek and impart information may be restricted by law if these are measures necessary in a democratic society for the protection of the rights and freedoms of others, the security of the state, public order, or the protection of public health and morals."*

Attributes and exercise of the proportionality test are widely elaborated by the Constitutional Court, also articulating European standards.[11] At least in brief, it is necessary to point out its four basic components: a) legitimate aim; b) relevance; c) necessity; and d) weighing the conflicting values (or proportionality in the narrow sense).[12] These components aim to determine a balance that ensures the protection of constitutional rights in a manner that maximally safeguards both conflicting rights, while simultaneously

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[8] See e.g. decision of the Slovak Supreme Court No. 4Sžo/55/2015 of 2 February 2016: *"An extensive interpretation of Act No. 211/2000 Coll. would make it possible to extend the information obligation of obliged persons to any data at their disposal. In that case, however, the principle of good public administration would be significantly violated. Act No. 211/2000 Coll. states that it must be an obliged person who has the requested information within its competence or at its disposal and that it must be in the public interest to have, collect and provide it. The principle of access to information means the possibility of reviewing the data that is "held" by the office and with which the office works. Information means what is or should be available at the office at the time of the request."* For more see also decision of the Slovak Supreme court No. 6Sži/27/2013 of 24 September 2014

[9] FUREK, A.; ROTHANZL, L.: Zákon o svobodném přístupu k informacím. Komentář. Praha: Linde Praha, 2010, p. 60-61.

[10] WILFLING, P.: Zákon o slobodnom prístupe k informáciám., s. 41

[11] The theoretical basis for the proportionality test is Alexy's weighting formula; for more information, see: ALEXY, R.: Constitutional Rights and Proportionality. In: Revus. Journal for Constitutional Theory and Philosophy of Law/Revija za ustavno teorijo in filozofijo prava. Vol. 22 (1), p. 51-65 and also: ALEXY, R.: Proportionality, constitutional law, and sub-constitutional law: A reply to Aharon Barak. In: *International Journal of Constitutional Law*, Vol. 16 (3), 2018, p. 871-879, as well as: ALEXY, R.: The absolute and the relative dimensions of constitutional rights.: In: *Oxford Journal of Legal Studies*, Vol. 37 (1), 2017, p. 31-47. For limits see also: ANDRADE NETO, J.: Should all arguments matter? On the exclusion of certain reasons from the proportionality test. In.: PAULSON, L.P. (eds.): *Alexy's Theory of Law*. Stuttgart: Franz Steiner Verlag, 2015, p. 111-128. To the proportionality test in the context of Slovak application practice, see also the rulings of the Constitutional Court of the Slovak Republic No. IV. ÚS 492/2012; II. ÚS 224/2016 and IV. ÚS 492/2012. From Slovak literary sources see also: KUKLIŠ, Ľ.: Test proporcionality a štrukturálne aspekty kolízie základných práv. In: Právny obzor, Vol. 96 (1),, 2013, p. 50 - 66; LAPŠANSKÝ, L.: Ústavnoprávne požiadavky prípustnosti obmedzenia práva na informácie držané štátom. Právny obzor, Vol. 106 (6), 2023; KOREF, T.: Test proporcionality jako nástroj zdůvodňování, nikoli nalézání rozhodnutí. In: *Pravnik*, Vol. 162 (12), 2023 and ĽALÍK, T.: Test legitímneho účelu v judikatúre Ústavného súdu SR. In: BUJŇÁK, V. (eds.): , 30 rokov Ústavy Slovenskej republiky: skúsenosti a perspektívy v dobrom aj v zlom počasí. Bratislava: Wolters Kluwer, 2022 ,p. 99-117

[12] WILFLING, P.: Zákon o slobodnom prístupe k informáciám, s. 263 - 272

allowing for a preferential protection—causing the least possible infringement—of the right that appears predominant in the specific circumstances of the case.[13]

II. Amendment by Act No. 401/2024 Coll.

Since the area of access to information has long been a subject of mutual controversy between citizens demanding the greatest possible access to data and public entities, which, for several reasons, are interested in the tightest possible regulation, it is not surprising that efforts to amend FOIA are relatively frequent. Unfortunately, this also applies to unsystematic interventions, without a clearer data justification for the changes being made.

The amendment by Act No. 401/2024 Coll. ("Amendment") shall be seen as such intervention, which introduced (among other changes) the possibility of requesting compensation for costs incurred for "extraordinarily extensive information searches" into the Slovak legal system.

The Amendment modified Sec. 21 (1), where the sentence "*The obligated person may also request reimbursement of the costs reasonably incurred for an exceptionally extensive search for information*." was added. Pursuant to the amended §14(6) and (7), the obligated entity shall notify the applicant of the obligation to pay the costs, along with the amount, within five working days. The decisive moment for calculating this time frame is not explicitly stated in the law; therefore, it is assumed to be five days from the delivery of the request to the obligated entity. The obligated entity must identify the reasons for imposing a fee for providing access to the information. At the same time, it applies that the payment of the fee is a condition for the provision of the information—in other words, if the applicant does not pay the imposed fee (cost reimbursement) in advance, the information will not be provided. An objection may be filed against the calculated fee, which will be decided by the appellate body.

For the sake of completeness, it should be noted that, at the time of writing this contribution, this part of the Amendment is under constitutional review due to potential unconstitutionality concerning the right to information and the introduction of fees for accessing it.[14]

The need to adopt the law was justified by the necessity to "*protect obligated entities from the abuse of the right to information by introducing the possibility for them to request reimbursement of costs for extraordinarily extensive information searches*."[15] It should be emphasized that the Amendment was introduced as a parliamentary bill, and its proponents publicly described it in the media as a "gift for local governments," claiming that these are often harassed by a large number of information requests.[16]

Unfortunately, the explanatory memorandum provides no further details in this regard, nor does it reference any data sources that would allow for identifying the volume of information requests local governments are required to process. Yet such data should be considered a fundamental starting point for the responsible design of legislative regulation.

To the best of our knowledge, no comprehensive data is available in this regard. While older data from an analysis by Transparency International Slovakia does confirm an increase in the number of information requests, the figures—particularly in local government—are in no way alarming.[17] Data concerning small municipalities, which often lack sufficient personnel to handle increased demands for access to information, are not available at all.

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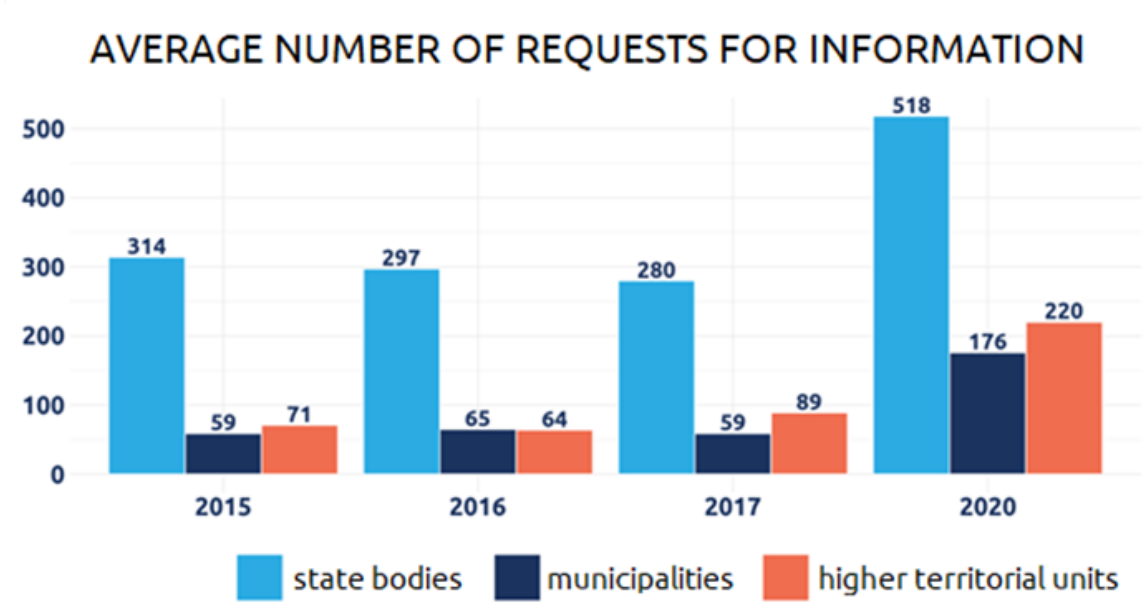
[13] In the area of assessing the admissibility of interference with personal rights, this test is determined by the questions "who", "about whom", "about what", "when" and "how". For more see decision of the Constitutional Court No. II. ÚS 152/08 of 15 December 2009, IV. ÚS 492/2012 of 18 April 2013 or II. ÚS 224/2016 of 12 April 2017.

[14] See footnote No. 3

[15] Explanatory Memorandum to Act No. 401/2024 Coll., available at: https://www.nrsr.sk/web/Page.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=9&ID=345, visited on: 10.3.2025

[16] See e.g.: Danko chce novelizovať infozákon aj na budúci rok. In: Týždeň, published on 7.11.2024, available on: https://www.tyzden.sk/politika/115743/danko-chce-novelizovat-infozakon-aj-na-buduci-rok/

[17] The data concerns the hundred largest municipalities in Slovakia. The data for the analysis were collected based on a request for information, the subject of which was the disclosure of the "records of requests for information under Sec. 20 of the FOIA".



Source: Data analysis by Transparency International Slovakia

The explanatory memorandum merely states that the provision is not intended to apply solely to cases of filibustering, "*where a single request would represent a demanding task that objectively exceeds the usual scope of information provision by the obligated entity, but also to cases where a single applicant, within 30 days, submits multiple requests for information that exhibit clear signs of abusive use of the right to access information.*"[18]

However, the proposed new legal regulation—being incomplete, unclear, and likely unenforceable—introduces more complications than potential benefits. First and foremost, it is important to highlight that the determination of what constitutes an "extraordinarily extensive" search for information will be made independently by each obligated entity. In the case of Slovak local governments, this means 2,890 obligated entities,[19] each of which may arbitrarily set its own standards for imposing fees, including the amount charged.

A second complication concerns the remedy available against an unreasonably high reimbursement of costs. The legislator chose the concept of an "objection," which, however, is not defined within the FOIA, and therefore, no specific rules for its application are provided. As a result, the current wording of the Amendment does not make it clear how the superior authority is supposed to decide on such an objection, nor what rules will apply to its assessment.

Introducing reimbursement of costs for the exercise of the right to access information would, among other things, result in a *de facto* inequality in access to fundamental rights guaranteed by the Constitution of the Slovak Republic. The cost recovery mechanism, as regulated by the Amendment, is likely to disproportionately impact low-income groups, placing a greater burden on them compared to other segments of the population.

It is also important to consider categories of individuals whose special status is emphasized in established case law at both the national and European levels. These include journalists, data analysts, watchdog

[18] Explanatory Memorandum to Act No. 401/2024 Coll., available at: https://www.nrsr.sk/web/Page.aspx?sid=zakony/cpt&ZakZborID=13&CisObdobia=9&ID=345, visited on: 10.3.2025

[19] Data on the size structure of municipalities and towns in Slovakia in 2024. Available on the website of the Statistical Office of the Slovak Republic: https://statdat.statistics.sk/cognosext/cgi-bin/cognos.cgi?b_action=cognosViewer&ui.action=run&ui.object=storeID%28%22i0C852CAA5451437C92774DB33EC08675%22%29&ui.name=Ve%C4%BEkostn%C3%A9%20skupiny%20obc%C3%AD%20-%20SR%2C%20oblasti%2C%20kraje%2C%20okresy%2C%20mesto%2C%20vidiek%20%5Bom7023rr%5D&run.outputFormat=&run.prompt=true&cv.header=false&ui.backURL=%2Fcognosext%2Fcps4%2Fportlets%2Fcommon%2Fclose.html&run.outputLocale=sk

organizations, and active individuals—each forming an inherent part of public oversight (see, for example, the ECtHR judgment in Magyar Helsinki Bizottság v. Hungary). Similarly, the Czech Constitutional Court stated in its decision PL ÚS 2/10 that:

"Freedom of expression—including the freedom to receive information as contained in Article 10(1) of the Convention—represents one of the most important foundations of a democratic society, and its guarantees are therefore of particular importance. It cannot be overlooked that the right to information, as the process of gathering information, is a fundamental preparatory step—especially in journalistic work—and forms an inherent, protected part of press freedom. The functioning of the press includes the creation of a forum for public debate. However, the exercise of this function is not limited to the media and professional journalists. In a given case, it may also provide space for public debate for example in relation to non-governmental organizations, or even individuals. The purpose of such activities—namely, gathering information—can therefore be considered one of the key elements of an informed society. Civil society plays an important role in discussions on public matters."

The current societal realities and political culture in Slovakia—where members of the Government and the National Council often refuse to respond to questions from journalists—render FOIA the sole remaining instrument of effective public oversight. Conditioning the disclosure of information on the payment of arbitrarily determined fees stands in direct contradiction to the constitutional guarantee of the right to access information. At the same time, such a measure would effectively prevent individuals from exercising their constitutional right to remedy deficiencies in the practice of public accountability, particularly through meaningful access to information that would otherwise remain inaccessible to them.

It is also essential to consider the intended purpose of the reimbursement. While the legislator, in the explanatory memorandum, emphasizes the need to protect obligated entities, it must be recognized that access to information should not be conditioned on a fee collected by the state as compensation for a service provided to the citizen. This principle was underlined by the Supreme Administrative Court of the Czech Republic in its judgment of 14 November 2019, case no. 8 As 244/2018-82, stating:

"In such assessments, the case law of the European Court of Human Rights usually takes into account the fair balance that must be struck between the competing interests of the individual and those of the community as a whole" (ECHR judgment of 16 March 2000, Özgür Gündem v. Turkey, no. 23144/93, ECHR 2000-III, § 43; see also the judgment of 6 May 2003, Appleby and Others v. the United Kingdom, no. 44306/98, ECHR 2003-VI, § 43)."

The introduction of a mechanism allowing for arbitrary—and effectively unreviewable—imposition of reimbursement clearly disrupts this balance in favour of public authorities.

For the sake of completeness, it is also appropriate to examine the purported transfer of good practice that the proponents claimed to have drawn from Czech legislation.[20] Let us set aside for the moment the fact that the Czech legal framework offers a more detailed and refined concept, including an effective remedy. The key question is whether it truly represents good practice that should serve as a model. The number of complications and disputes resolved through judicial interpretation suggests that this may not necessarily be the case.

We can point to multiple decisions of the Supreme Administrative Court of the Czech Republic, e.g., decision No. As 281/2020–42 and the Czech Constitutional Court No. C. P. III. ÚS 3339/20, which states: "*This procedure therefore constitutes a denial of the right to information, as it, in connection with the amount set for the fee, effectively creates an artificial barrier that prevented the complainant from accessing even those pieces of information for which there was no actual obstacle to their provision.*" The Supreme Administrative Court of the Czech Republic has also emphasised that the effective execution of the right

[20] BÚRY, J.: Národniari chcú meniť infozákon. Právnik návrh kritizuje, podľa Michelka sa to dopracuje neskôr. In: HN. Published on: 28.5.2024, available on: https://hnonline.sk/slovensko/96151615-narodniari-chcu-menit-infozakon-pravnik-navrh-kritizuje-podla-michelka-sa-to-dopracuje-neskor?utm_source=chatgpt.com or JÁNOŠOVÁ, B.: Zákon o slobodnom prístupe k informáciám zrejme čakajú zmeny. Bude sa za niektoré informácie platiť? In: Noviny.sk. Published on: 29.5.2024, Available on: https://www.noviny.sk/slovensko/929120-zakon-o-slobodnom-pristupe-k-informaciam-zrejme-cakaju-zmeny-bude-sa-za-niektore-informacie-platit, visited on: 15.2.2025

to information shall be accompanied by as low a level of formalism as possible. In the decision No. 8 As 244/2018-82, it states: *„A request for information should not be a game of "blind man's buff" between the requester and the obligated entity.*"

III. **Effective prevention of misuse by case law**

After evaluating the factual and legal context, it is evident that there is a potential for abuse of the right to information[21]—namely, through extensive or excessively frequent requests. The current wording of the FOIA is designed to place the strongest possible emphasis on safeguarding access to information, with any restrictions to be applied strictly through a proportionality test in cases of conflict with other constitutional rights. At the same time, there is no conclusive evidence that local governments are burdened by a significant number of abusive information requests, particularly due to the lack of detailed data in this area. The key question, therefore, remains whether *de lege lata* obligated entities already have sufficient means to defend themselves against such requests.

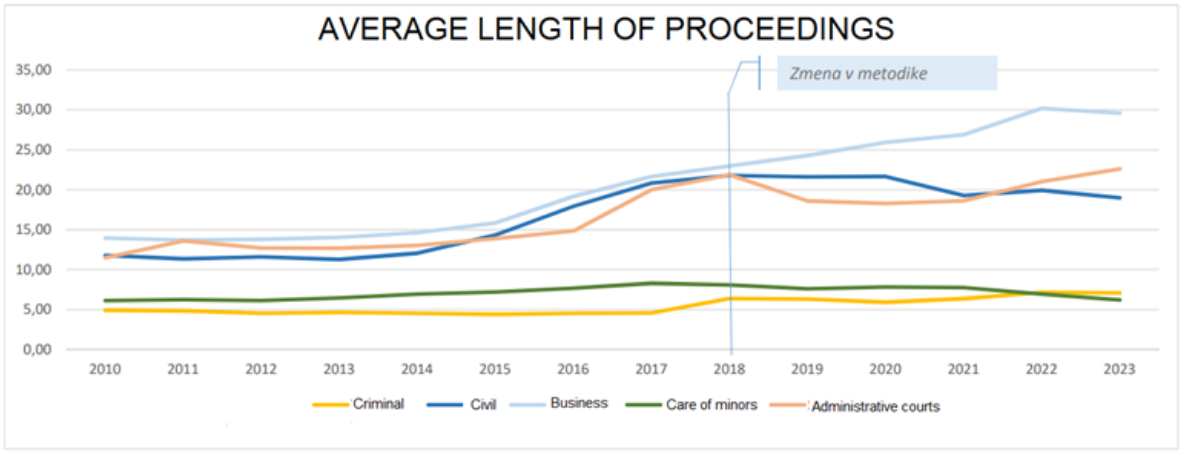
To answer this question, we must first focus on the procedure for handling requests for access to information. As previously mentioned, under the general provisions (excluding requests submitted by blind persons), Sec. 17 (1) of the FOIA stipulates that the obligated entity must process the request without undue delay, and no later than within twelve working days from the date of its submission. This deadline may be extended for serious reasons, but by no more than an additional eight working days.

The FOIA also includes the so-called fiction of a negative decision. If the obligated entity fails to provide the information, issue a decision, or otherwise grant access to the requested information within the prescribed time limit, it is presumed to have issued a decision refusing to provide the information (Sec. 18(3)). This legal fiction also applies to decisions on remedies, allowing for an appeal even in the absence of an explicit response.

Despite the fact that the fiction of a negative decision is intended to protect the applicant—ensuring they are not left without an effective remedy due to the inaction of the obligated entity—its interpretation in practice is often the opposite.[22] In such cases, the applicant's only available remedy is to file an administrative legal action. Although we lack data specifically focused on the duration of proceedings concerning access to information requests, we can at least illustrate the general trend in the length of court proceedings.

[21] See also: KOŠIČIAROVÁ, S.: Zákaz zneužitia veřejných subjektívnych práv a slobôd. In: *Acta Universitatis Carolinae Iuridica*, 2021, Vol. 67 (4), p. 88; ŠKROBÁK, J.: Zneužívanie práva na informácie ako aktuálny problém verejnej správy. Acta Iuridica Olomucensia, 2016, Vol. 11 (2), p. 57–64 and GAŠPAREC, F.: Zneužitie práva v súvislosti so slobodným prístupom k informáciám. In: Justičná revue, Vol 68 (10), 2016, p. 1139 – 1147

[22] HORVAT, Matej. Recentná judikatúra súdov vo vzťahu k zákonu o slobodnom prístupe k informáciám. In: *Acta Iuridica Olomucensia*, Vol. 11 (2), 2016, p. 144 and foll. or DŽAČKOVÁ, M.: Aplikačné problémy fikcie negatívneho rozhodnutia v infozákone. In: Acta Facultatis Iuridicae Universitatis Comenianae. Vol. 37 (1), 2018, p. 38 and foll. See also decision of the Supreme Court of the Slovak Republic No. 3 Sžo 267/2015 of 22. 3. 2017 or n. 3 Sži 3/2011 of 03.05.2011.



Data source: Analytical Centre of the Ministry of Justice of the Slovak Republic [23]

The average duration of administrative proceedings is approximately 23 months, although there are cases in which applicants must wait several years for a decision in their matter. As emphasized by the Constitutional Court of the Slovak Republic, the right to information also has a time-sensitive nature—once a certain period has passed, the individual's right is violated, and the significance of disclosing the information diminishes accordingly.[24]

These indicators once again highlight that it is the obligated entities—not the applicants—who hold the stronger position in practice. Applicants often lack the capacity or sufficient legal awareness to see the information request process through to a successful conclusion. An abusive exercise of the right to access information can only be recognized in situations where the conduct is formally in line with the wording of the law, but clearly contradicts its evident—not merely assumed—purpose.[25] In the case of an abusive request, by contrast, the obligated entity may simply issue a decision rejecting the request on the grounds of abusive exercise of the right, or rely on the fiction of a negative decision, since the burden of initiating judicial review lies with the applicant.

Judicial practice has already addressed the issue of denying protection in cases involving attempts to abuse the right to access information or instances of filibustering. This problem can generally be categorized into three most commonly occurring scenarios: i.) when the applicant requests an excessive volume of information from the obligated entity; ii.) when the obligated entity is overwhelmed by a large number of requests submitted by the same applicant; iii.) when the applicant repeatedly requests the same information. These categories serve as a framework for evaluating when the exercise of the right to information may cross the line into abusive conduct.

The Supreme Court of the Slovak Republic has repeatedly dealt with extensive information requests. In its decision No. 3 Sži 4/2014 of 12 March 2014, it established the basic indicators for identifying abuse of the right to information as follows:

"A typical sign of abuse of the right to information is when ***the applicant requests 'everything,'*** *with the quantity of information taking precedence over its quality in the request. (...) Another typical sign is that the applicant requests operational information from the organization—information that requires active effort by the organization to locate and that, in principle, has no direct connection to the specific area of public administration in which the obligated entity operates. These are requests for information whose search and provision can overwhelm and excessively burden the public authority, engaging its employees in a manner that creates the perception that the task is irrational—yet still obligatory."*

[23] Source of the data: Analytical Centre of the Ministry of Justice of the Slovak Republic. Available on: https://web.ac-mssr.sk/sudna-statistika/, visited on: 12.1.2025

[24] Decision of the Constitutional Court of the Slovak Republic No. II. ÚS 518/2021-37 of 16.2.2022

[25] POTACS, M.: Zneužití práva v ústavním státě. In: Zneužití práva. Tichý, L. – Maslowski, S. – Troup, T. (eds.). Praha: Centrum právní komparatistiky Právnické fakulty Univerzity Karlovy v Praze, 2016, p. 150

In this case, the Supreme Court of the Slovak Republic concluded that an extensive request aimed at obtaining operational information from the obligated entity does not fall under the regime of disclosure governed by the FOIA.

Regarding the number of submitted information requests, the Supreme Court of the Slovak Republic stated in its decision No. 1Sžik/3/2019 of 28 April 2020 that this may serve as one—but not the only—indicator of abusive exercise of the right to information. The Court stated:

"The Freedom of Information Act does not contain any provision that could be interpreted to mean that a person loses the right to submit further requests after a certain number (20, 30, or even 84)."

From a procedural perspective, the Court further clarified—referring to decision No. 7Sžik/3/2017 of 31 July 2018—that:

"An abusive exercise of a right may be understood as exercising a right with the intention to harm the other party. It is not only the pursuit of a right without a rational purpose, but it also requires the intent to cause harm."

This line of reasoning was also affirmed by the Supreme Administrative Court of the Slovak Republic—for instance, in decision No. 6Sžik/2/2021 of 24 February 2022, where the Court stated:

"Abuse of the right is defined through a combination of objective and subjective criteria: the objective element involves assessing the purpose and intent of the legal provision, while the subjective element concerns evaluating the applicant's motivation. Both elements must be fulfilled simultaneously in order to establish abuse (Lubovský, Z.: Zneužití práva na informace, Správní právo, No. 6/2019, pp. 328–341). (...) *To conclude that an abuse of the right has occurred, there must be a* ***sufficient number of indicators*** *or pieces of evidence present. The mere number of submitted information requests must not, in itself, lead to an automatic presumption of abuse. Any decision by the obligated entity to refuse access to information on the grounds of abuse must be thoroughly reasoned, with specific reference to the relevant indicators and evidence."*

With regard to the teleological interpretation of the FOIA, the issue of an excessive number of requests aimed at obtaining information already known to the requester has also been addressed. In its decision No. 4Sžo 55/2015 of 2 February 2016, the Supreme Court of the Slovak Republic examined a case in which an individual and several legal entities requested the same information from the city of Prešov. The Court held that:

"*The plaintiff, as the requester, is a managing director in several business entities ... and these entities submitted four identical requests for access to information to the City of Prešov, as the obligated party ... in the same matter, which is subject to review in this appeal procedure, requesting access to the same information, from which it can be inferred that this constitutes an abusive exercise of rights in relation to the obligate party*."

At all causes it shall be stated that denial of access to information on the grounds of abuse of rights must be understood as a measure of *ultima ratio*. A public body refusing access to information due to alleged abuse of rights is obliged to prove beyond any reasonable doubt that the applicant had no intention of fulfilling the legitimate purpose of the law.[26]

Summary

Regarding our main hypothesis and the related secondary research question, we can conclude that even without the Amendment and its associated concept of potential cost recovery for extraordinarily extensive information searches, the FOIA could prevent abusive use of the right to information. Our aim was not to refine the legal framework concerning cost reimbursement—which may, in certain cases, be justified—but to reflect on an effective legal arrangement that does not disproportionately interfere with citizens' right to access information from obligated entities, while at the same time providing local governments with sufficient tools to defend themselves against abuse of this right.

[26] For more see decision of the Supreme Administrative Court of the Slovak Republic No. 5 Sžik 5/2020 of 31 March 2022

Given the focus of the conference and its proceedings—namely, the potential transfer of good practices from Slovakia to Ukraine—we find it important to emphasize that the legislator should also take into account the specific characteristics of the country and the way the law is applied in practice. In Slovakia, it is particularly important to point out that the use of vague terms, which leave a large degree of discretion to obligated entities, carries the risk of easy misuse and denial of citizens' rights.
For this reason, the Slovak approach is the opposite—relatively rigid regulation ensures a high level of transparency, while the burden of preventing potential abuse is placed more on the obligated entity than on the citizen. As our analysis has shown from a procedural standpoint, the obligated entity holds a practically stronger position, as it has the authority to determine whether and in what manner it will respond to a request.

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Contact

Mgr. Ján Ivančík, PhD.
jan.ivancik@flaw.uniba.sk
Comenius University in Bratislava, Faculty of Law Šafárikovo nám. č. 6 810 00 Bratislava, Department of Roman Law and Ecclesiastical Law

SHAPING ADMINISTRATIVE PROCEDURAL LEGISLATION IN THE CONTEXT OF UKRAINE'S EUROPEAN INTEGRATION ASPIRATIONS

Tetyana Karabin

Abstract: The article examines Ukrainian legislation regarding administrative procedures within the framework of EU integration requirements. It analyses the key concept of "good administration," which embodies the European standards and expectations for Ukraine. The development of legislation in general administrative procedures is reviewed, emphasising its various stages. Additionally, anti-corruption elements within procedural legislation are explored. The conclusion drawn is that procedural legislation distinctly reflects the trajectory of European integration through a) the incorporation of the principles of "good administration," which align with European values and should be integrated into Ukrainian law, and b) the anti-corruption implications of legislative provisions that define limits of discretion, mandate justification for negative administrative acts, guide authorities in shaping administrative practices, and impose obligations on authorities to act proactively when a voluntarily obligated person fails to comply with an administrative directive.

Keywords: administrative procedure, European integration, Ukraine, the concept of "good administration", corruption prevention.

Introduction

Currently, the reform processes of Ukrainian domestic legislation are mainly related to the need for its adaptation and, in some cases, unification with the provisions of the EU acquis. In Ukraine, commissions of specialists in various fields are now working to analyse compliance with sectoral legislation and the acquis's provisions. This activity is clearly aimed at the adopted course of Europeanization, which denotes changes taking place both in the EU member states and those just trying to join the commonwealth in connection with the expansion of integration processes[1].

The Europeanization of public law is clearly expressed through reforming the principles of organization and activity of administrative bodies. In fact, the success of all other reforms in our state depends on this particular reform - the reform of public administration.

The legal regulation of administrative procedure until 2022 was a "weak point" in administrative law. Ukraine remained one of two countries without a general administrative procedure law in the entire post-Soviet area. However, the issue of proper regulation of the procedural activity of administrative bodies, which may seem to be a matter of domestic importance, is crucial for aligning Ukrainian legislation with European standards.

The general objective of this document is to provide a comprehensive analysis of the importance of implementing legislation on general administrative procedures in Ukraine and its impact on the trajectory of European integration of the country. The questionnaire that Ukraine received before obtaining EU candidate status included questions related to good governance, particularly issues of transparency in the relationship between public administration and private individuals, as well as anti-corruption policies and

[1] KARABIN, Tetyana: Osoblyvosti yevropeyizatsiyi publichnoho prava Ukrayiny [Peculiarities of Europeanization of Public Law of Ukraine]. In: Zakarpat·s'ki pravovi chytannya. Stalyy rozvytok ta instytutsiyna spromozhnist' v umovakh viyny: natsional'nyy ta mizhnarodno-pravovyy aspekty [Transcarpathian Legal Readings. Sustainable Development and Institutional Capacity in Wartime: National and International Legal Aspects]. Materials of the Conference (Uzhhorod, 26–27 April 2024). L'viv – Torun': Liha-Pres, 2024, s. 311-313.

strategies. Accordingly, this paper attempts to interrelate these issues and analyse how the legislation on general administrative procedure contributes to their regulation.

European standards for legislation reform.

A key concept reflecting the European integration requirements and standards for Ukraine is the concept of "good administration". This concept originated and developed within the framework of the Council of Europe and then the EU. The principles of good administration are regulated in Recommendation CM/Rec (2007)7 and are annexed to the Code of Good Administration. The text of the recommendation includes the most essential principles of good administration in its content, and the preamble outlines the framework of the concept itself. In particular, it is determined that good administration implies that services should meet the basic needs of society. Therefore, it is concerned not only with legal mechanisms but also with the quality and organization of administration. In addition, good administration implies a balance between the rights and interests of those directly affected by the actions of administrative bodies and the interests of society as a whole, and procedures designed to protect individuals in their relations with the state must, in some cases, protect the interests of other individuals and society as a whole.
Although the provisions of the recommendation do not contain mandatory norms and do not provide for control and monitoring tools, they establish the need to introduce good administration into the practice of public administration to ensure their effective implementation by officials of the Member States and local authorities.
The systematized regulatory documents of the European Union that define the components of good administration include the Charter of Fundamental Rights of the European Union (Articles 41, 42) and the European Ombudsman's Code of Good Administrative Behaviour. Thus, the Charter determines that everyone has the right to an impartial, fair consideration of their case within a reasonable time by the EU institutions and bodies.
This right includes, in particular:

a) the right of every person to be heard before any individual measure which would affect him or her adversely is taken;
b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
c) the obligation of the administration to give reasons for its decisions.

The provisions of the Charter are binding to EU members and have the same legal force as the provisions of EU treaties, as this is expressly provided in paragraph 1 of Article 6 of the Lisbon Treaty amending the Treaty on the European Union.
In general, the concept of good administration is an umbrella concept. Its content extends to many relevant components. These are mainly procedural components, i.e., standards related to the initiation of administrative acts, requests from private individuals, the involvement of private individuals in the adoption of individual decisions, the forms of administrative acts, the procedure for their entry into force and execution, the appeal of administrative acts, and compensation for unlawful decisions of administrative bodies. The essence of the requirements for good administration lies not in the unification of administrative organizations but in the harmonization of administrative bodies concerning recipients of public services.
The European Union does not have an administration at the level of a single country, and it relies on the implementation of its decisions by each member state. Accordingly, it is important for the EU that candidate countries meet the requirements and standards of good administration. Therefore, when joining the EU, countries are faced with many requirements that relate not only to the implementation of legislation in line with the requirements of European legislation but also to bringing public administration, bodies, order, and procedures of their activities to such a state that they will be able to implement EU legislation in the future.

Therefore, in the questionnaire that Ukraine received in April 2022, before obtaining candidate status, there were also questions related to good administration and legal regulation of administrative procedures[2].

Vicissitudes of the general administrative procedure standardization.

Legislation regulating administrative procedures has a long history in most European countries. In states such as Germany and Austria, procedural norms of interaction between administrative bodies and private individuals have become the basis for forming and developing all administrative law. For example, in Prussia and Baden, the first laws regulating general administrative procedure were adopted at the end of the 19th century. In 2025, they will celebrate the centennial anniversary of the adoption of the first law on administrative procedure in Austria.

Unfortunately, Ukraine cannot boast of such a long history of regulating general administrative procedures. However, its milestones can already be distinguished despite the very short regulation period. Leaving aside the long and thorny legislative work period, the first milestone is adopting the law "On Administrative Procedure" on February 17, 2022[3]. The second, which is also extremely important, is the law's entry into force on December 15, 2023. The adoption of the Law "On Amendments to Certain Legislative Acts of Ukraine in Connection with the Adoption of the Law of Ukraine "On Administrative Procedure" and its entry into force on November 15, 2024, marked another new stage in the legal regulation of relations between private individuals and administrative bodies and their officials.

Without a doubt, the adoption and implementation of the Law "On Administrative Procedure" testifies to the European nature of our state because the purpose of the law is to establish transparent, unified rules for the interaction of private individuals with public administration bodies based on European standards of "good administration"[4]. To make the administration more focused on the needs of citizens, the law establishes the right of an individual to participate in decision-making, the obligation of an administrative body to justify decisions if they are or may not be favourable for an individual, establishes the presumption of the legality of an individual's actions and demands, as well as other innovations in regulation. As Averyanov noted at the time, thanks to administrative procedures, the legal positions of subjects of power and a person are actually "equalized" - as opposed to the relations of so-called subordination, in which, as a rule, subjects of administrative relations are[5].

Unfortunately, the situation is such that some administrative bodies find it more convenient to operate under the legal requirements governing their activities before adopting the Law on Administrative Procedure. As a result, some ministers are focused on trying to exempt themselves from provisions of the law. Lobbying groups made the first attempt to exclude land relations from the regulatory influence of this law. Thus, the law "On Amendments to Certain Legislative Acts of Ukraine on the Protection of the Interests of Owners of Land Shares (Shares), as well as the Application of Administrative Procedure in the Field of Land Relations" was adopted[6]. Although the name of the law contains the word "protection", it was not aimed at creating protection mechanisms for bona fide participants in relations, as well as among owners and land users.

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[2] EU questionnaire and answers to it for Ukraine to obtain EU candidate status. European Integration Portal of the Cabinet of Ministers of Ukraine. URL: https://eu-ua.kmu.gov.ua/news/opytuvalnyk-yes-ta-vidpovidi-na-nogo-dlya-nabuttya-ukrayinoyu-statusu-kandydata-v-yes/

[3] On administrative procedure: Law of Ukraine dated 17.02.2022 No. 2073-IX. URL: https://zakon.rada.gov.ua/laws/show/2073-20/conv#n437

[4] BRIYEDE, Yautrite - BOIKO, Iryna: Legal Nature and Characteristics of Administrative Act (in the Comparative Context of Latvia and Ukraine). In: Problems of Legality, 163 (2023), s. 24.

[5] AVERYANOV, Vadim: Znachennya administratyvnykh protsedur u reformuvanni administratyvnoho prava [The significance of administrative procedures in the reform of administrative law.]. In: Chasopys Kyyivs'koho universytetu prava [ve procedures in the reform of administrative law. Journal of the Kyiv University of Law], 3 (2009), s. 10.

[6] On Amendments to Certain Legislative Acts of Ukraine Regarding the Protection of the Interests of Owners of Land Shares (Shares), as Well as the Application of Administrative Procedure in the Field of Land Relations. Law of Ukraine 3993-IX of 08.10.2024. URL: https://itd.rada.gov.ua/billinfo/Bills/Card/43931

Now, the National Police are actively working to assert that the Law "On Administrative Procedure" does not apply to them. The same issue arises with tax authorities, who believe that their separate tax code sufficiently regulates their activities and that there is no need for a new separate act. Conferences and round tables are held, at which the presence or absence of the need for additional regulation of the relevant relations by administrative procedural legislation is discussed.
However, the issue is not about an additional act or separate regulation—it is about the principles of "good administration," which reflect European values and should be embedded in Ukrainian legislation. Adopting these values and principles is long and more complex than simply implementing the provisions of European directives into Ukrainian law.

Anti-corruption aspects in procedural legislation.

Anti-corruption policy and strategy were also included in the questionnaire that Ukraine received before obtaining the candidate status. Therefore, at present, a separate goal of reforming administrative legislation (along with efficiency, respect for human rights, etc.) is also the issue of preventing corruption. The provisions of the State Anti-Corruption Program for 2023-2025[7] indicate that modern legislation is characterized by many corruption-prone factors, which, in practice, have transformed into stable corruption practices. Therefore, accordingly, one of the tasks for the legislator and, at the same time, the expected strategic result still remains the elimination of conflicts, gaps, and other corruption-prone factors that lead to ambiguous interpretation, violation of the principle of legal certainty, and systemic corruption risks in the field of corruption prevention and priority areas.
The issue of overcoming corruption in Ukraine is also essential, given that the propaganda of the occupying country actively promotes and supports the narrative of Ukraine as a corrupt country that cannot be supplied with weapons[8]. Therefore, whether administrative and procedural norms can be considered components of the mechanism for limiting discretion is also currently one of the most relevant. Studies note that the provisions of the Law "On Administrative Procedure" can be regarded as tools for preventing and overcoming corruption since their application can eliminate manifestations of corrupt actions or prevent their commission[9]. But in this context, it is essential to understand how and to what extent.
First, it concerns discretionary powers.
The normative definition of discretionary powers in Ukrainian legislation is contained in the law "On Administrative Procedure". In Clause 7, part 1. Article 2 of the law is characterized as the authority granted to an administrative body by law to choose one of the possible options for a decision by law, and the purpose for which such authority was granted.
What is valuable about such a normative definition of preventing corruption is that it establishes the framework for exercising discretion. According to the definition itself, the very norms of the law and the purpose for which such authority was granted serve to limit discretion. The provisions of the law that constitute the framework for the exercise of discretionary powers can be contained both at the constitutional level of regulation and in acts of administrative law[10].
At the administrative-legal level, an essential means of constraining administrative discretion is the regulation of administrative procedures. Laws on general administrative procedures typically establish key

[7] On approval of the State Anti-Corruption Program for 2023-2025: Resolution of the Cabinet of Ministers of Ukraine dated March 4, 2023, No. 220
[8] Top 5 Russian narratives about Ukraine after February 24. Ukrainian Crisis Media Center. 2022. URL: https://uacrisis.org/uk/top-5-ros-naratyviv
[9] BOIKO, Iryna - SOLOVYOVA, Olha: Administratyvno-protsedurni instrumenty zapobihannya koruptsiyi [Administrative and procedural tools for preventing corruption]. Publishing House "Baltija Publishing". s. 7. DOI https://doi.org/10.30525/978-9934-26-347-7-1
[10] KARABIN, Tetyana: Zakonodavstvo pro administratyvnu protseduru ta administratyvnyy rozsud [Legislation on administrative procedure and administrative discretion]. Porivnyal'no-analitychne pravo [Comparative analytical law], 2 (2019], s. 129.

procedural principles that serve as a general framework guiding the exercise of discretion by public authorities. In particular, the principles outlined in the Law "On Administrative Procedure"—such as the rule of law (including legality and legal certainty), reasonableness, impartiality of the administrative body, good faith and prudence, and efficiency—act as safeguards that limit the arbitrary use of discretion.

At the same time, important provisions of the law "On Administrative Procedure" from the point of view of limiting the discretion of administrative bodies are part 3 of Article 6 of the law, which determines the conditions for the legality of the exercise of discretionary powers by an administrative body. In particular, the exercise of discretionary powers by an administrative body is considered legal if the following conditions are met:

1) the discretionary power is provided for by law;
2) discretionary power is exercised within the limits and in the manner provided for by the Constitution of Ukraine and the law;
3) the lawful choice is made by the administrative body to achieve the goal for which it was granted discretionary power and complies with the principles of administrative procedure;
4) the choice of the administrative body's decision is made without departing from previous decisions taken by the same administrative body in identical or similar cases, except in justified cases.

That is, in addition to the requirements already discussed (that discretionary power must be provided for by law and exercised within the framework of the law and that it must correspond to the purpose of the granted power), the law regulates that the subject of power exercises administrative discretion by weighing the goals of the law, basic principles with specific powers granted by the legislator. And this is true because administrative discretion is not a free choice. Quoting the famous scholar Schmidt-Assmann, it is a balanced assessment determined by the situation. The main criterion for such an assessment is the purpose for which the power was granted or the purpose of the norm or act by which the power is provided[11].

The second thing that follows from the cited legislative provision is that the choice of the decision of the administrative body is carried out without departing from previous decisions taken by the same administrative body in the same or similar cases, except for justified cases.

What could this mean when establishing limits on administrative discretion for administrative bodies? This would mean that the limits would be established not only by law but also by the law-enforcement practice of the body itself, as well as the emergence in the future of such a legal concept as "administrative practice of a power entity" on the model of judicial practice, which would bind discretion[12].

Of course, the development of administrative practice will have a generally positive effect on the administrative activities of executive bodies and local self-government bodies. At the same time, the formation of administrative practice will also impact the context of preventing and combating corruption. The need to justify decisions made in each case when departing from established practice will help prevent arbitrariness on the part of the administration and, therefore, will eliminate corruption risks. It also reduces the dependence of the decision's content on who explicitly makes the decision, who heads the administrative body, who issues instructions, etc. Therefore, along with protecting the rights of citizens, this will also help protect a conscientious employee.

Secondly, this concerns the need to justify an administrative act.

The connection between the norms of administrative procedural legislation and the prevention of corruption can also be traced from another perspective. In particular, it establishes the requirement to justify and motivate an administrative act.

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[11] SHMIDT-ASSMANN, E. Zahal'ne administratyvne pravo yak ideya vrehulyuvannya: osnovni zasady ta zavdannya systematyky administratyvnoho prava [General administrative law as an idea of regulation: basic principles and tasks of administrative law systematization]. Kyyiv: K.I.S., 2009. 552 s. 239.

[12] KARABIN, Tetyana: Administratyvnyy rozsud ta yoho rehulyuvannya administratyvno-protsedurnym zakonodavstvom [Administrative discretion and its regulation by administrative and procedural legislation]. In: Administratyvna protsedura: konstytutsiyni zasady ta yevropeys'ki oriyentyry [Administrative procedure: constitutional principles and European guidelines]. Materials of the Conference (27.06.2022, Kharkiv). Kharkiv: Drukarnya Madryd, 2022. s. 216

Thus, it is the justification of an administrative act that ensures the ability of a private individual to understand the act correctly and, as a result, ensures the possibility of exercising the right to appeal it. Following the Law "On Administrative Procedure" provisions, an administrative body must justify administrative acts that it adopts and may negatively affect a person's right, freedom, or legitimate interest (Article 8 of the Law). Motivation (justification) of an administrative act is not required if:

1) the administrative body has satisfied the application, while the administrative act does not concern the rights, freedoms, or legitimate interests of other persons;
2) the administrative body, while exercising its inspection (control, supervisory) powers, did not detect violations of the law (Part 6 of Article 27).

That is, the mandatory nature of the motivational part in the structure of an administrative act is not related to the presence of discretion in its adoption, but to the content of the act: whether it is positive for the person or negative. Of course, such an approach is useful for ensuring and protecting human rights. However, it is not entirely perfect in terms of preventing corruption.

In particular, a situation may arise when an administrative body, exercising discretionary authority, facilitates the exercise of a person's right (grants a permit or license) or makes a decision based on the results of inspection activities and establishes the absence of violations. In such cases, the Law "On Administrative Procedure" does not oblige the administrative body to explain and justify its decision. This is where the corruption risk may lie. Therefore, it is worth noting that this is one of the possible directions for improving the legal regulation of administrative, procedural legislation because of the need for its full inclusion in the mechanism for preventing corruption.

Thirdly, this concerns the execution of an administrative act.

Corruption risks are inherent not only in the decision-making of administrative bodies but also in their execution. It is possible to simulate a conditional situation in which an administrative body has issued a decision ordering specific actions (removing an illegally installed advertising sign, fence, air conditioning on the facade of a historical building, etc.). Still, it does not react at all to the failure of the addressee to execute the decision. Before adopting the Law "On Administrative Procedure", this could have been a completely real situation in which an administrative body could, in many cases, throw up its hands and point out the legality of its actions (in this case, inaction). However, corruption risks are also present here. However, today, the Law "On Administrative Procedure" establishes that the body executing an administrative act is the same administrative body that adopted this act, and that if the administrative act is not voluntarily executed by the obligated person - the addressee of the administrative act - the administrative body decides to apply a measure of influence.

This is a rather important legislative provision that obliges the administrative body to decide on applying a measure of influence in case of failure to comply voluntarily with an administrative act. This is no longer a discretion but rather an obligation of the administrative body[13]. In this case, the administrative body has discretion only in choosing options for measures of influence that will ensure compulsory enforcement (and that is limited). The provisions of the same article indicate that the implementation of an administrative act aimed at performing any action or refraining from any action can be ensured by the administrative body by applying measures of influence to a person, except in cases where the implementation of the administrative act is carried out forcibly in the manner prescribed by the legislation on enforcement proceedings (part 1 of article 93 of the law).

Conclusions

Thus, establishing and implementing administrative procedural legislation in Ukraine is essential to European integration. The most obvious manifestations of the "European integration essence" of Ukrainian procedural legislation are:

[13] TYMOSHCHUK, Victor (ed.): Naukovo-praktychnyy komentar do Zakonu Ukrayiny «Pro administratyvnu protseduru» [Scientific and practical commentary to the Law of Ukraine "On Administrative Procedure"]. Kyyiv, 2023, s. 529.

a) the implementation of the principles of "good administration", which reflect European values and should be embedded in Ukrainian legislation;
b) the anti-corruption significance of legislative provisions that establish the limits of discretion, the need to motivate to issue a negative administrative act, direct authorities to form administrative practice, and establish the obligation of the authority to take active action in the event of failure to comply with an administrative act by a voluntarily obligated person - the addressee.

However, there are currently significant risks that certain areas of regulation may be excluded from the scope of the Law on General Administrative Procedure, this concerns, in particular, tax relations, land relations, and the regulation of access to specific professions (such as lawyers, experts, doctors, etc.). In our view, this is a dangerous development for two key reasons:

1) it directly contradicts the requirements imposed on Ukraine within the framework of the European integration process;
2) it could set a negative precedent for the exclusion of other areas of regulation, ultimately leading to a decline in the overall quality and coherence of the legislative system.

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7. SHMIDT-ASSMANN, E. Zahal'ne administratyvne pravo yak ideya vrehulyuvannya: osnovni zasady ta zavdannya systematyky administratyvnoho prava [General administrative law as an idea of regulation: basic principles and tasks of administrative law systematization]. Kyyiv: K.I.S., 2009. 552 s.
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THE SYSTEM OF GOVERNANCE OF MUNICIPAL-OWNED ENTERPRISES IN BRATISLAVA[1]

Ján Mazúr[2]

Abstract: This paper explores Bratislava's 2019 governance reform of municipal-owned enterprises (MOEs), aiming to improve transparency, accountability, and strategic alignment with city policies. MOEs, which provide essential services in sectors with limited market efficiency, face challenges balancing financial sustainability with public service goals.

The reform introduced five key measures: (1) depoliticized board selection through expert-led, transparent processes; (2) enhanced oversight via a specialized supervisory unit; (3) strategic alignment with the Bratislava 2030 city strategy; (4) performance-based remuneration tied to SMART KPIs; and (5) clear shareholder mandates to resolve tensions between profit motives and public service delivery.

The paper details these MOEs governance innovations, which collectively contribute to more accountable, efficient, and mission-driven providers of public services at the municipal level, offering a replicable model for other cities facing similar governance challenges.

Keywords: municipal-owned enterprises, state-owned enterprises, selection procedures, strategic management.

Introduction

As a broader category of state-owned enterprises (SOE), MOEs are essential for delivering key public services where market solutions are insufficient or inefficient.[3] These entities often operate in sectors sensitive to pricing, externalities, or public policy execution.[4] MOEs serve to fill market gaps by providing essential services, mitigating externalities, and ensuring compliance with public policy objectives.[5] Their operations often involve monopolistic structures, heavy public subsidies, or geopolitical significance. However, these enterprises face challenges in balancing financial sustainability with broader social and environmental goals.[6] Political interference and competing shareholder interests at times complicate decision-making processes, often for a good reason.

[1] The paper was supported by grant no. APVV-22-0482 Financing of territorial self-government - potential of functional micro-regions.

[2] At the time of writing, the author is an employee of the Capital City of Slovak Republic Bratislava and has worked on the implementation of selection procedures and setting expectations and performance parameters in relation to the statutory bodies of certain municipal companies of Bratislava and contributory organizations of Bratislava, as well as on setting and evaluating the city strategy. The views presented in this paper are his own and in no way represent the views of the City of Bratislava.

[3] BAŁTOWSKI, Maciej and KWIATKOWSKI, Grzegorz: *State-Owned Enterprises in the Global Economy*, 1st ed. (London: Routledge, 2022), https://doi.org/10.4324/9781003244462.

[4] European Commission, "State-Owned Enterprises in the EU: Lessons Learnt and Ways Forward in a Post-Crisis Context. Institutional Paper 031" (European Commission, 2016), 10.2765/99224.

[5] PUTNIŅŠ, Tālis J.: "Economics of State-Owned Enterprises," *International Journal of Public Administration* 38, no. 11 (September 19, 2015): 815–32, https://doi.org/10.1080/01900692.2014.982289.

[6] Major MOEs of the City of Bratislava are the following: Transportation Company Bratislava (100% share), Bratislava Water Management Company (City of Bratislava has ~59% share), Waste Removal and Disposal Company (100% share), PAAS (parking company, 100% share), a few smaller companies.

Given their strategic role, effective governance is critical to ensure accountability, efficiency, better delivery of public services, and alignment with overall municipal goals, such as those presented in wider city strategy. Yet, the governance of Slovak MOEs has not always been exemplary.[7] There is no specific law governing their establishment, nor their supervision by the municipality; MOEs corporate governance basically equates to the corporate governance of privately-owned corporations with minor differences (e.g. involvement of the municipal council in boards nominations). Their hybrid legal regime is therefore open to improvements and best practices at the level of municipalities themselves, not necessarily at the level of national legislation.
This paper presents the strengthened practice of control of MOEs, introduced in Bratislava in 2019, with the ambition to depoliticize the management of highly politicized MOEs.[8] Its objective is to describe what changed in the governance of MOEs of the City of Bratislava because of the new policy, as well as to describe some of the relevant procedural elements of the reform. The new city policy towards MOEs includes the following elements, which also represent the structure of the paper: (i) depoliticizing management selection based on expertise, integrity, and experience; (ii) strengthening oversight through improved supervisory boards and municipal property rights and enhancing the City Hall's capacity to supervise MOEs through specialized unit; (iii) aligning MOEs strategies with municipal policies for operational synergy; (iv) establishing performance-based remuneration for executives.

Selection Procedures for MOE Governing Bodies

The governance of MOEs raises a few key questions, when it comes to the selection and appointment of MOE governing bodies (e.g., management board), including most prominently:

- Who appoints board members?
- How can the public participate in the selection process?
- How can agency problems and costs be minimized?

MOEs, like SOEs, typically face greater difficulty in maintaining accountability due to political influences, historic nepotism, and favoritism, flourishing due to their relative remoteness from public eyes. Strengthening governance structures is also necessary to modernize operations, increase public trust, and deliver high-quality services. Also, while municipalities or ministries are free to create their own internal procedures, there were no specific legal regulations or internal procedures governing these selection procedures of the MOE or SOE governing bodies back in 2019. This changed in Bratislava in 2019 when first principles and formalized rules of selection procedures were adopted by the City Council.[9]

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[7] SIČÁKOVÁ-BEBLAVÁ, Emília and SLOBODA, Matúš: "Private Law, Public Control: Municipally Owned Corporations in Slovakia," in *Corporatisation in Local Government*, ed. Marieke VAN GENUGTEN et al. (Cham: Springer International Publishing, 2023), 143–67, https://doi.org/10.1007/978-3-031-09982-3_7.

[8] MAZÚR, Ján and ĽAHKÁ, Veronika: "Stručný popis politiky a stratégie Hlavného mesta SR Bratislavy vo vzťahu k obchodným spoločnostiam s majetkovou účasťou mesta" [Brief description of the policy and strategy of the Capital City of the Slovak Republic of Bratislava in relation to companies with equity participation of the city] (Hlavné mesto SR Bratislava, 2019), https://bratislava.blob.core.windows.net/media/Default/Dokumenty/Stránky/Chcem%20vediet/Stručný%20popis%20politiky.pdf .

[9] Material for the hearing of the City Council of the Capital City of the Slovak Republic Bratislava. Principles for the selection of members of the bodies of companies with the capital participation of the Capital City of the Slovak Republic Bratislava and budgetary and contributory organizations of the Capital City of the Slovak Republic Bratislava. 2019. See online: https://zastupitelstvo.bratislava.sk/data/att/40200.pdf. We can also track a change in formalizing and depoliticizing selection procedures of some SOEs or similar organizations under some ministries since 2020, although the outcomes remain inconclusive. See a study: TIBENSKÁ, Alžbeta: "Hodnotenie transparentnosti a odbornosti výberových konaní do štátnych a mestských firiem a inštitúcií" [Evaluation of the transparency and professionalism of selection procedures for state-owned and municipally owned companies and institutions] (INEKO, 2021).

The new rules introduced an open call for applications, a structured selection process, and final approval for all board appointments by the City Council (as legally required).[10] Transparency was prioritized, though a balance had to be struck between public accessibility and candidate privacy, as too much transparency may serve as a deterrent to applicants. After a job description is prepared and published, anybody can apply for the role of board member, while the process assumes two consequent votes of the selection committee to narrow down the list of applicants to a maximum of five applicants to be invited to a closed-session hearing and a public hearing in front of the selection committee.

The selection process involves a multi-member selection committee, including: (i) senior manager to secure serious managerial experience; (ii) sectoral experts, depending on the sector of the company, to secure field expertise; (iii) council representative to secure transparency and control of the City Council; (iv) mayor's representative to secure mayor's say in the selection of senior management; (v) senior HR professional.

Additionally, a professional HR expert (different from the member of the selection committee) provides additional guidance, ensuring the selection adheres to best hiring practices. The selection procedure is guided by the HR expert and has the following stages:

1. Application and initial screening: Candidates submit their applications and undergo initial screening. The selection committee selects candidates to be invited for an interview with HR experts.
2. Interviews and background checks: HR experts conduct structured interviews and prepare an assessment of each candidate for the selection committee.
3. Shortlisting: A shortlist of up to five candidates is selected by the committee and published along with their CVs.
4. Closed hearing session: Candidates participate in a confidential session to address committee concerns.
5. Public hearing: Finalists present their qualifications to the public and respond to the committee's or public questions.
6. Deliberation and selection: The committee makes a final recommendation to the mayor, who forwards the selection for the City Council approval.

Enhancing Oversight and Control

Like any shareholder, even municipalities face agency problems when it comes to control of their companies.[11] Naturally, overcoming agency problems leads to increased agency costs; in this case, represented, for instance, by expanded personnel capacity at City Hall. To ensure effective governance, oversight, and control of its MOEs, Bratislava has increased the capacities of the unit controlling the MOEs. The unit includes not only legal expertise, which is typically represented in similar ministerial units controlling SOEs, but also financial, managerial, and occasionally even sectoral expertise, characteristic of a professional market-based holding structure. This decreases information asymmetry between the shareholder (the city) and the companies (MOEs).

The city also strengthened the scope of shareholder rights over MOEs, which meant a more intensive discussion of the management board with the shareholder's representatives (e.g., the above-mentioned unit) and the requirement of prior approval of the shareholder with specific actions (such as important legal acts or transactions). The companies' bylaws were modernized to enhance their governance structures. Moreover, the MOEs were tasked with increased reporting and informational requirements, as well as the contractual setup of managers (members of the management boards) was changed to make them more accountable to shareholder(s). As described below, their compensation packages have also been changed to stress performance-based components of the compensation.

[10] See § 4 (3) (l) of the Municipal Government Act No. 369/1990 Coll (MGA).

[11] JENSEN, Michael C. and MECKLING, William H.: "Theory of the Firm: Managerial Behavior, Agency Costs and Ownership Structure," *Journal of Financial Economics* 3, no. 4 (October 1976): 305–60, https://doi.org/10.1016/0304-405X(76)90026-X.

Strategic and Operational Objectives

There is a tension between financial and non-financial objectives at the heart of the existence of MOEs. On one hand, they exist to provide public service or compensate for incomplete markets, on the other, they are at times driven by profit-seeking impulses, typical for modern corporations. These dynamics, or even the conflict of two *raisons d'être*, must be resolved at the level of the shareholder (e.g., the city), not the management board, which must get a clear mandate and objectives.

The Slovak law does not specifically regulate MOEs or SOEs; a general company law applies to their creation, existence, and dissolution.[12] Yet, there are some guiding principles and rules included in the general laws governing municipalities and ministries[13], and there are sectoral laws that may set certain tasks, expectations, or limits on these companies.[14] Additionally, there may be some sectoral strategies set by the central government or even the European Union. Yet, for municipalities in Slovakia, the most relevant strategic tool would be their overarching strategy, which would typically be the strategy developed under the Regional Development Promotion Act.[15]

For the City of Bratislava, the multisectoral strategy under the act is the city strategy Bratislava 2030, which includes a number of objectives for respective city MOEs.[16] The MOEs must, of course, align their objectives with city policies, yet conflicts can arise due to multiple shareholders having differing priorities (in companies with more shareholders) or in situations with trade-offs between financial sustainability and public service affordability.

For instance, a transportation company may tend to increase its revenue by increasing fares, yet this may go directly against the city's policy to make public transportation as affordable as possible. Similarly, a water management company may be incentivized to sell as much water as possible to show rising revenues, yet the policy in most cities is to save water. These tensions must therefore be resolved by the shareholder to provide clear guidance to MOEs' management.

To operationalize objectives for MOEs, the Bratislava City Hall follows a structured framework:

1. Define policy strategies and seek political approval (the strategy gets approved by the City Council).
2. Set measurable objectives and KPIs for respective MOEs and board members, approved by the City Council.[17]
3. Establish mandate contracts linking remuneration to performance indicators.
4. Conduct annual performance evaluations to determine incentive allocations.

Performance-Based Remuneration

Remuneration structures of the Bratislava MOEs board members integrate both fixed and performance-based pay (typically a 60:40 ratio). Performance-based part of the compensation package is contingent on

[12] Most prominently, the Commercial Code no. 513/1991 Coll.

[13] E. g. The MGA sets out in § 4 (3) that the municipality directs economic activity in the municipality and provides public utility services. The municipality may also carry out its own investment and entrepreneurial activities to provide for the needs of the inhabitants of the municipality and the development of the municipality. For any of these and other purposes it is allowed to establish, dissolve and control its legal entities.

[14] For example, Act No. 442/2002 Coll. on public water supply and public sewerage and on amendment and supplementation of Act No. 276/2001 Coll. on regulation in network industries; Act No. 332/2023 Coll. on public passenger transport and on amendment and supplementation of certain acts; Act No. 79/2015 Coll. on waste and on amendment and supplementation of certain acts and others.

[15] § 5 to § 8a of the act no. 539/2008 Coll. on support for regional development.

[16] MAZÚR, Ján et al., eds.: "Bratislava 2030: Program rozvoja mesta 2022-2030" [Bratislava 2030: City Strategy 2022-2030] (Hlavné mesto SR Bratislava, 2022), https://bratislava2030.sk/.

[17] See for instance items 10-13 of the Bratislava City Council meeting of 12.12.2019. Available online: https://zastupitelstvo.bratislava.sk/mestske-zastupitelstvo-hlavneho-mesta-sr-bratislavy-zasadnutie-12122019/.

achieving key performance indicators (KPIs) representing respective objectives. These KPIs need to fulfill the SMART criteria, i.e., be Specific, Measurable, Assignable, Realistic, Time-bound.[18] These objectives ensure that performance evaluations are objective, transparent, and adaptable to changing circumstances.
The objectives are prepared at the city's holding unit together with the board members, often sourced from the strategic documents of the city, such as the Bratislava 2030 City Strategy or sectoral strategies.[19] The KPIs are also presented at the Municipal Assembly and formulated in an agreement on objectives with respective managers.[20] It is critical to weigh them properly against each other (% of the overall performance part of the compensation package) and pick or define a precise industry-standard methodology for the evaluation of the KPIs. Occasionally, there is a need to consider exceptional circumstances (vis maior), allowing for the possibility of waiving certain targets as they may be objectively impossible to achieve.
Performance evaluations consider financial targets (e.g., revenue, profit margins), typically non-financial sector-specific KPIs (waste management efficiency, energy or electricity production and use, public transportation accessibility in both geographical and financial sense, water supply infrastructure improvements), and investment targets (reduction of investment debt), as well as debt reduction strategies, some of which may be project-defined.

Conclusion

Governance of MOEs is a complex but vital component of public administration. As several tasks previously executed by municipalities have been transferred to MOEs, often as a part of the New Public Management initiatives, the municipalities need to consider the specific agency problems arising in relation to MOEs. Not only must the municipalities strengthen their oversight and related capacities, but they must also be able to manage conflicts in the dual nature of MOEs visible in both financial and non-financial objectives.
Bratislava's reforms have improved transparency, oversight, and strategic alignment of MOEs with municipal policies. However, challenges remain, particularly in managing the tension between transparency and market-benchmarked protection of the privacy of candidates for managerial positions at MOEs over the course of the selection procedures. We see a tendency to stress the privacy standards of the selection procedures to attract more managers from private companies.
Challenges remain in maintaining the financial viability of MOEs with clear public and political demands for high-quality public services in situations where the cost of services far exceeds the ability or willingness of customers (e.g., voters) to pay for the service. A clear example is public transportation, which is heavily subsidized in every city with functioning public transportation to solve the collective action problems and externalities.
On the other hand, there are also new opportunities for cities with multiple MOEs or other organizations. These include, for instance, cash pooling, allowing for more efficient use of cash and debt financing strategies, or the use of shared service centers, which centralize the provision of non-essential corporate functions, such as HR, payroll, IT, finance, and accounting, etc., to be provided by an affiliated entity. A harbinger of change may be the recently established Bratislava Service Center, which currently services so-called contributory and budgetary organizations of the City of Bratislava (i.e., not the MOEs).[21]

[18] DORAN, George T.: "There's a S.M.A.R.T. Way to Write Management's Goals and Objectives," *Management Review* 70, no. 11 (1981): 35–36.
[19] MAZÚR, Ján et al., eds.: "Bratislava 2030: Program rozvoja mesta 2022-2030" [Bratislava 2030: City Strategy 2022-2030] (Hlavné mesto SR Bratislava, 2022), https://bratislava2030.sk/.
[20] See for instance items 10-13 of the Bratislava City Council meeting of 12.12.2019. Available online: https://zastupitelstvo.bratislava.sk/mestske-zastupitelstvo-hlavneho-mesta-sr-bratislavy-zasadnutie-12122019/.
[21] See: https://bcs.bratislava.sk/en/bcs-hp-eng/.

The described Bratislava MOEs governance reform had multiple objectives: to strengthen transparency and control, but also to improve the quality of public services and increase the efficiency of MOEs. Especially the efficiency relies on certain economies of scale, which dictates that only larger cities will be able to afford it. Some of the elements of the reform are nonetheless applicable in smaller contexts (e.g., use of KPIs).

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Contact details:

Mgr. Ján Mazúr, PhD., EMPA
jan.mazur@flaw.uniba.sk
Department of Financial Law, Comenius University in Bratislava, Faculty of Law

PRINCIPLES OF PLANNING AN URBAN ENVIRONMENTAL NETWORK IN UKRAINE

Nataliia Petretska

Abstract: Eco-approaches to urban planning in the 21st century are of considerable interest to residents, associating them with the ecological footprint of the city. The urbanized environment fosters the improvement of transport, energy, social, cultural, and telecommunications infrastructure. The economic interest in the development of the urban environment causes its growing fragmentation, creation of a competitive space through the use of natural resources, and exploration of new territories for economic activity.
The topical issue concerns the content of environmental requirements in urban planning documentation when planning and building up areas that have recently performed environmental & recreational functions. The ecological debt of business entities can now be interpreted as an interest-free loan taken from future generations.
In Ukraine, the issues of restoring the damaged territories caused by military operations and human-induced pollution are being discussed, which is why the formation of a nature network in these areas, following the example of the Chornobyl zone, is worth summarizing.

Keywords: urban planning; environmental network; urban environment; management; renewable areas.

Introduction

This study adopts a legal research methodology combining legal analysis with policy-oriented and interdisciplinary environmental approaches. The research primarily relied on desk-based methods, including a comprehensive review of legal documents, national legislation, and international treaties relevant to the environmental requirements in urban planning documentation when planning and building up areas that have recently performed environmental & recreational functions. Forcing transformational processes in the economy and management of territorial development in the context of armed aggression, military conflicts, and legal uncertainty will inevitably have environmental consequences. In this regard, there is a need to analyse and assess the risks of territorial development planning.
This issue is elaborate and complex, including both the administrative-territorial structure and the political-territorial organization of power. As a rule, territory (the Latin word *territorium* means area, from terra – land) refers to various spaces of the globe with its land and water surfaces, subsurface and airspace, as well as outer space and celestial bodies located in it. The term 'territory' is used to define different categories of terrestrial and extraterrestrial space, separated from other corresponding spaces by certain surfaces (borders), which have a certain legal status and a respective legal regime. [1]
The interdisciplinary nature of the research integrates environmental law and natural resource management, highlighting the ecological consequences of war. Proposed recommendations for Ukraine's environmental recovery to ensure the expansion of protected areas, especially those affected by military actions, will become an absolute necessity for post-war Ukraine to ensure environmental and climate security.
Globally, the value of a territory is related to the functions it performs, in most cases determined by its resource potential. The resource potential includes natural resources (components of the Earth's interior,

[1]Batanov, Oleksandr Terytoriya yak instytut konstytutsiynoho prava. Chasopys Kyyivs'koho universytetu prava, [Batanov, Oleksandr Territory as an Institute of Constitutional Law. Journal of the Kyiv University of Law] (2015), №2, S.49-53. URL: http://nbuv.gov.ua/UJRN/Chkup_2015_2_13.

water, flora and fauna, land) and natural conditions (climate, relief, zonation, ecological situation of the region).[2] An important feature of natural resources that affects their economic evaluation from an environmental perspective is their exhaustibility. Therefore, the organization of space through territorial planning makes it possible to organize the use of natural resources rationally and to employ natural conditions for the benefit of the environment. In fact, the length and continuity of the environmental network contribute to ensuring a healthy ecological situation, preserving natural conditions that play a significant role in the sustainable development of regions.

Research findings

Ukraine is faced with a difficult situation, when on the one hand, there is ongoing armed aggression and the destruction of entire cities and regions, and on the other hand, there is the development and opening up of new territories, whose intended purpose was not related to construction. The problem is twofold: some cities have been destroyed, while others are being built up at a rapid pace and are undergoing urbanization processes. The development of new territories within the state is associated with urban planning activities, which are subject to comprehensive legal regulation and determine city planning conditions and restrictions for the development of a land plot. According to the Law of Ukraine 'On Regulation of City Planning Activity' that regulates a set of planning and architectural requirements for the design and construction regarding the number of storeys and density of development on a land plot, derogation of houses and structures from red lines, boundaries of a land plot, its improvement and landscaping, as well as other requirements for construction objects established by legislation and city planning documentation.[3] In view of this, particularly relevant is the need to devise a methodology for rational planning and use of territories, which also involves the development of comprehensive plans for spatial development of territories that the territorial community must approve. Due to the unique geographical features of the state, the development of comprehensive spatial development plans has not yet been ensured. To be more specific, comprehensive plans are a kind of business plan for communities to see development zones, make investments, and take into account the interests of the state and neighbouring communities. In practice, communities have common problems such as landfills, maintenance, and development of social and transportation infrastructure etc. Each budget year, local governments must approve land management schemes, which are cartographic representations of zoning and are almost the same as comprehensive spatial development plans.

The settlement of land issues and the registration of land documentation directly relate to public administration and the ability of the community to be an effective manager. In terms of development, inter-territorial and cross-border cooperation, communities that do not create problems with the preparation of urban planning documentation have advantages, thus being attractive for investments. In practice, there is a tendency for some territories to develop based on the interests of communities, while others are developed in the interests of business. This peculiarity lies in the subject of the development of land management projects as one of the components of urban planning documentation. If the municipality develops urban planning documentation in the interests of the community on the principles of sustainable development, one witnesses a development of social infrastructure and expansion of the environmental network, while business is limited to the obligations to comply with the requirements for the use of the territory stipulated in the documentation.

However, the perspective of spatial planning and zoning is quite different if a business invests resources in the development of urban planning documentation. Admittedly, the permissibility of violating building codes and regulations is becoming latent; we face the replacement of the concepts of greening areas with green roofs or balconies, as well as the so-called 'green buildings' in parks and green zones, and even

[2] Ekonomika dovkillya i pryrodnykh resursiv :monohrafiya [Economics of agriculture and natural resources: monograph]/ YU.V. Dzyadykevych ta in. Ternopil': Aston, 2016. 392 s. ISBN 978-966-308-660-6.

[3] Law of Ukraine: On Regulation of City Planning Activity (2011) February № 3038-VI, from 17, 2011. Official Bulletin of the Verkhovna Rada of Ukraine, 2011, No. 34, Art. 343

worse, in protected areas, which, until recently, was prohibited. Thus, the assessment of the environmental impact by a business entity is carried out fragmentarily, rather than comprehensively. Unfortunately, this is causing an excessive burden on the environment, and with it, a negative impact on public health.

Martial law has been in effect for a long time, which contributes to the negative transformation of management procedures in the field of environmental protection and urban development. Protected areas are at risk of losing their special protection status and changing their designated purpose. The legislative practice of countries that are signatories to international agreements on environmental protection indicates a trend towards an increase in protected areas, while in Ukraine, recently, the opposite has been true. The Verkhovna Rada of Ukraine adopted a law on the possibility of cancelling the status of objects of the nature reserve fund. According to this law, the oblast and Kyiv city councils will make decisions on the abolition of protection zones of territories and objects of the nature reserve fund of local and national importance.[4] One of the strategically important environmental tasks linked to maintaining the unique natural qualities of resources is the transition to sustainable development. We believe that for the state, as a democratic institution that guarantees the right to the environment which is safe for life and health (Article 50 of the Constitution of Ukraine), and pursues to obtain the status of an economically developed country, it is crucial to avoid the ideology of economic race and develop the necessary legal mechanisms of preserving natural resources – the national natural asset.[5]

Thus, as we can see, there are various types of environmental governance and management problems, which are exacerbated by the armed aggression of the Russian Federation. In addition, the devastating blows inflicted by the aggressor on the energy system and ecosystem, violating its integrity, destroying entire cities and regions, pose a threat of human-induced and natural emergencies, especially in the frontline areas. These processes cause new problems with increased migration and threats to environmental security. All of these aspects have a disproportionate impact on vulnerable populations and can exacerbate social problems such as segregation, poverty, and inequality, which is also a challenge to international law.

The downside of environmental management, which bears the marks of war, is obviously the weak development of innovation, especially in the resource-saving area. Most of the so-called innovations that military administrations are trying to introduce to support the energy distribution system are outdated and irrelevant, which will become an additional problem of accumulating waste that needs to be disposed of in a few years. The most considerable ecological pain is the disruption of the mountain ecosystem in the Carpathian region of Ukraine due to the construction of windmills. Along with all the advantages of using wind energy, there are twice as many disadvantages, namely the negative impact on wildlife due to noise pollution and the need to maintain wind turbines, which occupy a large land area. Environmental restrictions and the mandatory environmental impact assessment have made the Carpathian region safe and sustainable for developing the environmental network. However, this is changing due to the abuse of martial law, which has made it possible to shrink protected areas at the legislative level and grant rights to certain entities to these land plots, as mentioned above.

Cooperation in the energy sector and the development of renewable energy are important aspects of European integration. According to the European Energy Security Strategy of 2014, the goal is to reach 27% of renewable energy use by 2030.[6] However, the legislator understood European integration literally as 'here and now'. This poses a danger of destroying the environmental network and recreational areas,

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[4] Sudovo-yurydychna hazeta [Judicial-Law newspaper]. URL: https://sud.ua/uk/news/publication/320209-verkhovnaya-rada-prinyala-zakon-o-vozmozhnosti-uprazdneniya-statusa-obektov-prirodno-zapovednogo-fonda?fbclid=IwY2xjawHsts1eHRuA2FlbQIxMQABHe_-zFxZ6sy8N6K85Aoruy1geZWpB5DltJDnsCggKWLtSmMofKZ2WCm2dA_aem_YA5IzXssaeNhzS59NbeXng

[5] Petretska, Nataliia The need for comprehensive regulation of mineral water utilization in Ukraine. Journal of Environmental Law & Policy (2024). 04 (02). P.102-117.

[6] European Energy Security Strategy. Brussels, 28.5.2014. COM (2014) 330 final. URL: https://www.eesc.europa.eu/resources/docs/european-energy-securitystrategy.pdf.

which are the property of the entire Ukrainian people. Alongside this, it is possible to achieve energy goals and sustainability through cooperation with the EU in areas that are more favourable for wind energy production, such as southern Ukraine. Admittedly, the development of small hydroelectric power plants cannot be justified for the Carpathian region. Such issues can be resolved through comprehensive spatial development plans, and based on them, a state development strategy can be formed.

The absence of comprehensive plans for the development of the territory also negatively affects the development of regional infrastructure, creating a strong urban-rural divide. Typically, urban areas often have high population density, intricate transportation networks, and dense commercial and industrial zones, which can exacerbate existing environmental, health problems, and social inequalities.[7] Urbanization processes are typical, but they accelerate in times of war. Added to this phenomenon is the problem of relocating enterprises to safe regions of Ukraine in parallel with the migration of people searching for a safe environment.

As noted by K. Vasiutynska, S. Barbashev, and M. Kiminchydzhy, the indicator of the share of the territory occupied by cities in relation to the total territory of the region reflects the level of urban load and enables further determination of the ecological boundaries of urbanization. Ecological urbanization essentially coincides with spatial urbanization and is measured as the share of urbanized territory in the total area of a region or country. The development and implementation of the index groups of the urbanity indicator proposed by scientists in the practice of managing the environmental security of the country and regions will allow for a broader application of compensatory mechanisms by considering the positive aspects of urbanization. The substantiated and calculated index of ecological urbanization is the foundation of the system for measuring the ecological sustainability of the territory.[8]

According to UN-Habitat, about three-quarters of Europeans live in cities, with their concentrated population and infrastructure, and are especially vulnerable to certain effects of climate change and other environmental stresses like heatwaves, flash floods, pollution, noise, and soil contamination. Their aggregated consumption patterns can also lead to biodiversity loss.[9]

Air pollution is Europe's largest environmental health risk, causing cardiovascular and respiratory diseases that impact health, reduce quality of life, and cause preventable deaths.[10]

At the same time, cities have the capacity to shape the transition to a more sustainable future through international territorial cooperation. The role of cross-border cooperation of institutions should be emphasized. Historically, municipalities have played a crucial role in improving waste, sewage, and water management, public transport, and land use through integrated urban planning approaches. Today, they play an increasingly significant role in climate change mitigation and adaptation, ecosystem conservation and restoration, as well as the circular economy. In addition, there are accessible, high-quality green spaces in cities, along with projects to expand the environmental network in settlements and territories affected by armed aggression. Formation of a safe and favourable pan-European ecological space and risk management can be observed.

The need to create and unite environmental networks into a single pan-European environmental network urges countries' environmental legislation to be brought to common requirements and standards. The Council of the European Communities created NATURA 2000, a European network of protected areas. As for the countries that are not members of the European Union, including Ukraine, they form a similar European Emerald Network.

According to the Law of Ukraine 'On Environmental Network of Ukraine' the environmental network means a single territorial system created to improve conditions for the development and restoration of the environment, to increase the natural resource potential of Ukraine, preservation of landscape and

[7] Urban sustainability. URL: https://www.eea.europa.eu/en/topics/in-depth/urban-sustainability

[8] Vasyutinskaya E., Barbashev S., Kiminchigi M. Evaluation of the environmental urbanization's complex indicator of the Ukraine regions. Ekolohichni nauky : naukovo-praktychnyy zhurnal. – Kyiv: DEA, 2020. № 3(30). S. 7-15.

[9] Urban sustainability. URL: https://www.eea.europa.eu/en/topics/in-depth/urban-sustainability

[10] Europe's air quality status 2024. URL: https://www.eea.europa.eu//publications/europes-air-quality-status-2024

biodiversity, habitats and growth of valuable species of fauna and flora, genetic fund, animal migration routes through combination of territories and objects of the nature reserve fund, as well as other territories that have a special value for the protection of the natural environment and in accordance with the laws and international obligations of Ukraine are subject to special protection.[11]

Based on the above, it is worth paying attention to the idea of planning the expansion of the environmental network in cities. There is a tendency towards increasing activity linked to implementing international and cross-border projects aimed at sustainable development, projects to overcome environmental threats and risks, various social projects, etcetera.

The expansion of protected areas in the regions most affected by the hostilities is urgent for Ukraine. Civil society activists within the framework of the project 'Reducing Vulnerability to Disaster Risks in Ukraine (Phase II)', in the framework of the Risk Reduction Consortium (ACTED, IMPACT Initiatives, CF 'Right to Protection', World Health Organization), prepared two interrelated analytical documents on the future reconstruction of Ukraine. The peculiarity of this project is 'The Designing of Recovery' of the frontline territories, which is based on the Fourth Priority. Sendai Framework— 'Build Back Better'.[12] The Framework was adopted at the Third UN World Conference on Disaster Risk Reduction in Sendai, Japan, on March 18, 2015.[13]

The Sendai Framework for Disaster Risk Reduction 2015-2030 outlines seven clear targets and four priorities for action to prevent new and reduce existing disaster risks: (1) Understanding disaster risk; (2) Strengthening disaster risk governance to manage disaster risk; (3) Investing in disaster reduction for resilience; and (4) Enhancing disaster preparedness for effective response, and to "Build Back Better" in recovery, rehabilitation and reconstruction. It aims to achieve the substantial reduction of disaster risk and losses in lives, livelihoods, and health, as well as losses in the economic, physical, social, cultural, and environmental assets of persons, businesses, communities, and countries over the next 15 years.[14]

Global collaboration between cities will be key to achieving a recovery that tackles climate change at a local and global level. We have a once-in-a-generation opportunity to rebuild our cities and economies to be greener, fairer, and more sustainable. —Sadiq Khan, Mayor, London, UK, in Mayors Launch a Green and Just COVID-19 Recovery Plan & Demand National Governments End Fossil Fuel Subsidies.[15]

To accelerate the implementation of the Sendai Framework for Disaster Risk Reduction (2015-2030) at the local level, the Ten Frameworks for Urban Resilience were developed. The Ten Essentials map directly against the Sendai priorities of action and its indicators for monitoring actions on disaster risk reduction:

1. Organize for disaster resilience;
2. Identify, understand, and use current and future risk scenarios;
3. Strengthen financial capacity for resilience;
4. Pursue resilient urban development and design;
5. Safeguard natural buffers to enhance the protective functions offered by natural ecosystems;
6. Strengthen institutional capacity for resilience;
7. Understand and strengthen societal capacity for resilience;
8. Increase infrastructure resilience;
9. Ensure effective preparedness and disaster response;
10. Expedite recovery and build back better.[16]

[11] Law of Ukraine: On Environmental Network of Ukraine № 1864-IV. June 24, 2004. The Official Bulletin of the Verkhovna Rada of Ukraine (2004), № 45, Art. 502

[12] Sendays'ka ramkova prohrama zi zmenshennyam ryzykiv lykh ta ukrayins'kyy kontekst: analityka [The Sendai Framework for Disaster Risk Reduction in the Ukrainian Context: analytics]. URL: https://r2p.org.ua/page/sendajska-ramkova-programa-zmenshennya-lyh

[13] What is the Sendai Framework for Disaster Risk Reduction? URL: https://www.undrr.org/implementing-sendai-framework/what-sendai-framework

[14] Sendai Framework for Disaster Risk Reduction 2015-2030. URL: https://www.undrr.org/publication/sendai-framework-disaster-risk-reduction-2015-2030

[15] Making Cities Resilient 2030 (MCR2030) My city is getting ready. Is yours? URL: https://mcr2030.undrr.org/

[16] The Ten Essentials for Making Cities Resilient. URL: https://mcr2030.undrr.org/ten-essentials-making-cities-resilient

The expansion of protected areas, especially those affected by military operations, will be an absolute necessity for post-war Ukraine to ensure environmental and climate security.

There is an ongoing debate about restoring the destroyed territories in Ukraine that have suffered from both military operations and anthropogenic pollution. One of the proposals is to create an environmental network in these territories, following the example of the Chornobyl zone. In this way, the hope is to restore the ecosystem and eventually make it safe for people to live there. International conventions prohibit conducting any military operations on the territory of radioactive waste management facilities or those related to nuclear energy. Perhaps it is precisely because of the awareness of the catastrophic consequences of a nuclear power plant explosion that the disaster at the Zaporizhia Nuclear Power Plant has been avoided so far, as such actions are classified as nuclear terrorism. Unfortunately, the Chornobyl zone still contains a high level of radiation. In 2016, the Chornobyl Radiation and Ecological Biosphere Reserve was established by the Decree of the President of Ukraine to preserve the most typical natural complexes of Polissia in their natural state, to maintain and improve the barrier function of the exclusion zone and the unconditional (mandatory) resettlement zone, to stabilize the hydrological regime and rehabilitate the territories contaminated with radionuclides, to facilitate the organization and conduct of international scientific research in accordance with the Law of Ukraine 'On the Legal Regime of the Territory Exposed to Radioactive Contamination as a Result of the Chornobyl Disaster'[17]. The inclusion of territories and objects in the lists of territories and objects of the ecological network is based on their importance in terms of ecology, botany, zoology, and landscape studies. According to the Law of Ukraine 'On Environmental Network of Ukraine', the consolidated chart of formation of the environmental network of Ukraine, regional and local charts of formation of the environmental network, programmes in the field of formation, preservation and use of the environmental network are the basis for the development of all types of project documentation as well as the implementation of economic and other activities.[18]

The development, preservation, and rational, inexhaustible use of the environmental network is one of the most important prerequisites for sustainable, ecologically balanced development of Ukraine, environmental protection, modern and promising economic, social, ecological, and other public interests. Changes are being introduced around the world through innovative approaches to urban environmental protection methods that deal with special computer programs and artificial intelligence. OpenMCR offers live data on the hundreds of cities that have joined Making Cities Resilient 2030, tracking their progress on the resilience roadmap from Stage A, raising awareness, to Stage C, mainstreaming DRR into all areas of policymaking. This data is shared in two ways: the first, widgets for easy drag-and-drop placement on any website. These widgets update automatically, with live data from MCR2030; the statistics will stay fresh without any intervention from the end user. OpenMCR also offers an Application Programming Interface (API) and encourages users anywhere to make visualizations or other apps using the data it provides. A front-end web developer can create custom features for websites or apps that show, for example, city progress by country, size, population, or region [19]

In Ukraine, the use of information technologies has been imposed in the implementation of environmental monitoring since last year. According to the Law of Ukraine 'On Amendments to Certain Legislative Acts of Ukraine on the State Environmental Monitoring System, Information on the State of the Environment (Environmental Information) and Information Support for Environmental Management', modern information technologies, in particular automated information systems in the field of forestry, are used to provide information support for decision-making management, to ensure data transparency and exchange of information on the state of forests, as well as to meet other information needs of

[17] Chornobyl's'kyy radiatsiyno-ekolohichnyy biosfernyy zapovidnyk [Chornobyl Radiation and Ecological Biosphere Reserve]. URL: https://wownature.in.ua/oberihaymo/biosferni-rezervaty-v-ukraini/chornobylskyy-radiatsiyno-ekolohichnyy-biosfernyy-zapovidnyk/

[18] Law of Ukraine: On Environmental Network of Ukraine № 1864-IV. June 24, 2004. The Official Bulletin of the Verkhovna Rada of Ukraine (2004), № 45, Art. 502

[19] OpenMCR2030. URL: https://mcr2030.undrr.org/resources/openmcr

management in the field of forestry. Within the framework of the information received, technological compatibility shall be ensured, and information interaction of automated information systems in the field of forestry with the national environmental automated information-analytical system for decision-making management and access to environmental information, and with its network shall be carried out.[20]
Due to the martial law regime, alas, access to environmental information is limited, although the Constitution of Ukraine (Article 50) guarantees access to information on the state of the environment and the right to disseminate it. When ensuring the ecological sustainability of territories and achieving sustainable development goals in the context of integration processes, attention should be paid to the European experience in making decisions on the application of economic restrictions and the introduction of environmental requirements for various types of economic activity in order to preserve the environmental network and provide for rational use of nature, access to environmental information, public participation in decision-making and access to justice in environmental matters (the Aarhus Convention).

Conclusion

Hence, eco-approaches to urban planning are of high interest to residents, who associate them with the city's ecological footprint. On the one hand, the urbanized environment advances the development of transport, energy, social, cultural, and telecommunications infrastructure. The growing fragmentation of the urban environment is driven by economic interest in its development, the creation of a competitive environment through the use of natural resources, and the exploration of new territories for business. On the other hand, urbanization processes are typical, but they accelerate in times of war. Added to this phenomenon is the problem of relocating enterprises to safe regions of Ukraine and Europe in parallel with the migration of people searching for a safe environment.
In addition, the devastating blows inflicted by the aggressor on the energy system and ecosystem, violating its integrity, destroying entire cities and regions, pose a threat of human-induced and natural emergencies, especially in the frontline areas. These processes cause new problems with increased migration and threats to environmental security. All of these aspects have a disproportionate impact on vulnerable populations and can exacerbate social problems such as segregation, poverty, and inequality, which is also a challenge to international law.
In conclusion, the problems caused by the war in Ukraine are not limited exclusively to its territorial borders. Therefore, the need to create and unite environmental (natural) networks into a single Pan-European environmental network urges countries' environmental legislation to be brought to common requirements and standards.
After all, the expansion of protected areas, especially those affected by military actions, will become an absolute necessity for post-war Ukraine to ensure environmental and climate security. The restoration of territories damaged by military operations and human-induced pollution is viable through expanding the environmental network. In this case, we showed a positive trend towards restoration of disturbed areas, following the example of the formation of an environmental (nature) network in the Chornobyl zone.

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Contact Details

Assoc. Prof. Doc. Nataliia Petretska, CSc,
nataliya.petretska@uzhnu.edu.ua
Vice Dean for International Affairs of the Law Faculty of
Uzhhorod National University
26, Kapitulna street, Uzhhorod,
88000
Ukraine

LEGAL INSTRUMENTS TO SUPPORT THE FIGHT AGAINST CORRUPTION IN PUBLIC ADMINISTRATION: SLOVAK EXPERIENCES AND RECOMMENDATIONS FOR UKRAINE

Kristína Slámková

Abstract: The fight against corruption remains one of the most pressing challenges in public administration worldwide. For countries like Ukraine, which aspires to EU membership, the implementation of robust anticorruption mechanisms is essential to meet EU standards in transparency, accountability, and public trust in state institutions. This paper examines the Slovak Republic's anticorruption policy and its applicability in shaping effective public administration reforms in Ukraine. Slovakia, which has transformed from a post-communist country to an EU member state, serves as a relevant case for understanding the structural, legal, and institutional frameworks necessary to combat corruption and promote transparency in public service. The paper analyses key legal tools and policies implemented by Slovakia over the past two decades and explores their impact on reducing corruption in the public sector. The focus is on legislation and practices that have proven essential in building an environment of transparency and accountability, including the Whistleblower Protection Act, etc. These measures have not only strengthened Slovakia's legal framework but also fostered a culture of transparency and accountability.

Keywords: Ukraine, corruption, EU, legal tools, transparency

Introduction

Corruption is one of the most significant challenges facing public administration, not only in Slovakia and Ukraine but also globally. Its consequences are particularly severe in countries striving for reforms and the strengthening of the rule of law. Ukraine, which aspires to European Union membership, faces this challenge to align its legal and institutional frameworks with EU standards in transparency, accountability, and public trust in state institutions.

The experiences of countries that have already undergone transformative processes can serve as an important source of inspiration and concrete solutions for Ukraine.

The Slovak Republic, as a post-transition country and EU member, has made significant progress in implementing anticorruption policies, although ongoing legal reforms raise questions about the consistency of these efforts.

Its journey demonstrates how it is possible to strengthen legal and institutional frameworks to minimize corruption and foster a culture of transparency in public services.

This article focuses on the legal instruments and policies that Slovakia has introduced over the past two decades, analysing their impact on reducing corruption in the public sector. The aim is to identify best practices that could be applied in Ukraine's reform process. Key areas of examination in this article, considering the breadth of the topic, include laws and initiatives such as whistleblower protection and the Register of Public Sector Partners. These measures have not only strengthened Slovakia's legal system but have also contributed to creating an environment that promotes transparency and accountability in the public sector.

The introduction thus lays the foundation for a deeper analysis of Slovakia's anticorruption measures, emphasizing their relevance not only for Slovakia but also as a potential model for countries facing similar challenges, such as Ukraine.

This paper is based on a qualitative legal analysis of selected Slovak anti-corruption instruments, primarily the position of the anti-corruption coordinator and the Ultimate Beneficial Owners Register. The aim is to assess their practical effectiveness and potential applicability in the Ukrainian context. The research combines descriptive, analytical, and comparative legal methods, with a focus on normative documents, official policy materials, and relevant academic literature.

The main research questions are:

1. What are the key legal and institutional anticorruption tools used in Slovakia?
2. To what extent can these tools be adapted to the Ukrainian legal system?

3. What are the shortcomings and challenges in the current Slovak regulation that should be considered?

Reducing Grand Corruption in Ukraine: Insights from the EU Special Report [1]

Corruption has been a major issue in Ukraine for years, but the 2021 Special Report of the European Court of Auditors (ECA) reveals that the European Union's initiatives to combat grand corruption have not yet delivered the expected results. The existence of recommendations and the emphasis on challenges that need to be overcome were one of the motivations for this contribution, as it led us to explore whether there are recommendations from Slovakia that could help address these challenges.

First, it is necessary to understand the context and significance of the issue with which Ukraine is struggling. Grand corruption in Ukraine represents the abuse of power at a high level, where small groups of individuals profit at the expense of the entire society. Oligarchs and interest groups control state institutions, the economy, and even the judiciary, preventing fair economic competition. The European Union has identified corruption as a key problem and has made the fight against it a priority in its cooperation with Ukraine. Nevertheless, EU interventions have not had a sufficient impact on grand corruption. The reason may be the EU's insufficient focus on grand corruption. The ECA stated that although the EU financed rule-of-law reforms, its strategy did not directly focus on tackling grand corruption. The projects supported institution-building but did not cover key areas such as controlling the influence of oligarchs, lifting moratoriums on state-owned enterprises, or improving the effectiveness of anti-corruption institutions. Only a minimal share of the available financial resources was allocated to direct anti-corruption measures.

One of the EU's priorities was judicial reform, which was intended to strengthen the independence and integrity of the courts. However, the implementation of these reforms encountered resistance from unreformed institutions. A significant portion of judges and prosecutors have not yet undergone integrity checks. Anti-corruption institutions, which were created with EU support, face great pressure from oligarchs and politically exposed persons.

A tool for addressing various cases involving the mentioned individuals could be objective journalism or targeted digital tools. The EU supported the development of digital tools to combat corruption, but problems with data quality and resistance to change reduced their effectiveness. Investments in civil society organizations and independent journalism have yielded positive results, helping to expose corruption schemes and increase transparency. Nevertheless, according to the information published in the ECA report, these initiatives alone cannot independently resolve systemic corruption.

The ECA report, among other things, highlights several significant challenges, among which we have identified the problem of state capture by oligarchs, where there is a connection between oligarchs and state-owned enterprises, and overly liberal competition conditions provide room for the abuse of power. Furthermore, there is the inefficient use of financial resources, where EU projects aimed at combating corruption had problems with the measurability of results and often focused only on secondary activities. Lastly, the ECA report also notes weak coordination and insufficient cooperation between anti-corruption institutions and their ties to unreformed sectors. In this regard, the ECA proposed several measures, such as eliminating benefits for companies with political connections, increasing pressure on the integrity of judges and prosecutors, and strengthening digital tools for publishing certain data.

In this context, we have therefore decided to focus our recommendations within this article on two specific legal tools that we consider, in Slovakia's fight against corruption, to have the potential to achieve tangible results in Ukraine as well. The first tool is the position of an anti-corruption coordinator in public administration, and the second tool is the beneficial owners register.

[1] This section was prepared based on the findings of the Special Report of the European Court of Auditors (ECA) pursuant to Article 287(4), second subparagraph, of the TFEU – "Reducing grand corruption in Ukraine: several EU initiatives, but still insufficient results. Online: https://op.europa.eu/webpub/eca/special-reports/ukraine-23-2021/sk/.

Anti-Corruption Coordinator as a Means of Corruption Prevention [2]

The Anti-Corruption Coordinator plays a key role in the fight against corruption and ensuring transparency in public administration. They act as a guardian of public sector integrity, understood as the consistent alignment of actions with shared ethical values, principles, and norms to promote and prioritize the public interest over private interests in the public sector. In the context of public authorities, integrity is also understood as honesty, fairness, impartiality, objectivity, respect for dignity, decency, correctness, transparency, and credibility in the performance of official duties and entrusted powers. It is undeniable that there is an inverse relationship between public integrity and corruption. The Anti-Corruption Coordinator supports transparency and accountability in public administration. Their role involves monitoring corruption, developing anti-corruption policies, providing training for employees, and, where necessary, cooperating with law enforcement authorities. These responsibilities are closely linked to the principles of the rule of law.

For the purposes of reporting anti-social activity (which also includes corruption), anti-social activity refers to actions that constitute a criminal offense, as well as actions that are considered misdemeanours or other administrative offenses. Anti-social activity also includes conduct that, while not classified as a misdemeanour or other administrative offense, has a negative impact on society. In other words, it encompasses any action that negatively affects society and extends beyond the interests of an individual.[3] Reports concerning anti-social activities, in accordance with the law on anti-social activities, are received and investigated by responsible persons or, where applicable, anti-corruption coordinators.

The position of the Anti-Corruption Coordinator as one of the pillars of institutional implementation of anti-corruption policy in Slovakia is defined by the Anti-Corruption Policy of the Slovak Republic for the years 2019-2023(hereinafter referred to as the "Anti-Corruption Policy"). The Anti-Corruption Policy was approved by Government Resolution No. 585 of December 12, 2018 (hereinafter referred to as the "Government Resolution"). Based on Task B.1 of the Government Resolution, all ministries and other central government authorities were assigned the task of establishing the position of an Anti-Corruption Coordinator. Based on Task C.1, the same recommendation was made for the General Prosecutor's Office of the Slovak Republic, the Judicial Council of the Slovak Republic, the Supreme Audit Office of the Slovak Republic, and the Association of Towns and Municipalities of Slovakia. Some other public authorities also decided to establish the position of Anti-Corruption Coordinator, including the Office for Spatial Planning and Construction, the Environmental Fund, and the Agricultural Payment Agency, among others.

The fundamental document that forms the legal basis for the establishment of this position is not Act No. 54/2019 Coll. on the Protection of Whistleblowers of Anti-Social Activities and on Amendments and Supplements to Certain Acts (hereinafter referred to as the "Whistleblower Protection Act"), as might be expected, given that this act serves as the main legal framework for reporting anti-social activities and establishes rights and obligations for public authorities and other entities. For better understanding, if a whistleblower reports suspected corruption to a public authority via a designated anti-corruption channel, the Anti-Corruption Coordinator is responsible for handling and investigating the report. However, both the whistleblower and the processing of the report fall under the Whistleblower Protection Act, since corruption is, in fact, considered an anti-social activity under the law.

This applies even though there are no explicit provisions stating that corruption-related matters should be handled by the Anti-Corruption Coordinator. The Anti-Corruption Coordinator is closely linked to the Ethical Code of the public administration entity and is also involved in conflict of interest matters under the Act on the Performance of Work in the Public Interest[4]. Conflict of interest is understood as a situation where a private interest may influence the independent performance of duties conducted in the public interest. Such situations can compromise impartiality and independence in decision-making, thereby

[2] The author published the conclusions and texts of this chapter in the article SLÁMKOVÁ, K. The role of anti-corruption coordinator in applying of the principles of the rule of law in public Administration. In: Bratislavské právnické fórum 2023: garancie uplatňovania právneho štátu vo verejnej správe /Viera Jakušová, Šimon Bleho, Veronika Ťažká (zost.). Bratislava : Právnická fakulta Univerzity Komenského v Bratislave, 2023. 237 s. Online: https://www.flaw.uniba.sk/fileadmin/praf/Veda/Konferencie_a_podujatia/BPF/2023/BPF_2023_spravne_pravo.pdf. P. 190-200.

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[4] Act No. 552/2003 Coll. on the Performance of Work in the Public Interest, as Amended.

affecting the reputation and financial stability of an organization.[5] Public administration employees, therefore, turn to the Anti-Corruption Coordinator when they find themselves in a conflict of interest and seek to resolve it while maintaining their internal integrity.

Within the institution, the Anti-Corruption Coordinator operates primarily in accordance with the Whistleblower Protection Act. As previously mentioned, although the legal basis for the establishment of this position is not found in this law, its activities fall under it because corruption is classified as an anti-social activity. Simply put, if a single individual within an institution performs both whistleblower protection and anti-corruption coordination functions, the only difference lies in which internal reporting channel the report is submitted through and how records are maintained. If a public administration authority distinguishes between these functions, separate records should be maintained for each agenda. This law defines who qualifies as a whistleblower of anti-social activity in Art. 2.[6]

It also establishes conditions for protecting individuals in employment relationships or similar work-related situations in connection with reporting criminal offenses or other anti-social activities. Additionally, it regulates the rights and obligations of individuals in reporting anti-social activities and the establishment, status, and responsibilities of the Office for the Protection of Whistleblowers.[7]

Other relevant regulations governing the work of the Anti-Corruption Coordinator include the anti-corruption program of the respective public administration authority and internal regulations related to whistleblowing, particularly the internal directive on handling reports of anti-social activities. The internal system for submitting and investigating reports (including the role of the Anti-Corruption Coordinator) should be based on four key principles: openness, credibility, competence, and independence.

Typical Procedure Followed by the Anti-Corruption Coordinator:

1. Receives the report (which may also be anonymous).
2. Informs the whistleblower without delay, no later than 7 days after receiving the report.
3. Conducts a preliminary investigation of the report.
4. Evaluates whether the report falls within their competence and is relevant.
5. If necessary, contacts the whistleblower to obtain additional information.
6. Provides the accused individual with an opportunity to respond to the allegations.
7. Forms a position based on the gathered information.
8. Recommends corrective measures (such as disciplinary action, referral to law enforcement authorities, etc.).
9. Informs the whistleblower of the investigation results and measures taken within 90 days of receiving the report.

The Anti-Corruption Coordinator acts impartially and enforces the same rules and obligations for all employees, including the statutory authority, regardless of the position or influence of the person against whom the report is directed.

It is essential to note that in Slovakia, employees are still not accustomed to reporting such activities and often remain silent, even when they witness them. This is primarily due to the fear of retaliation from the employer, despite legal provisions that protect whistleblowers, including protection against dismissal in such cases.

Ultimate Beneficial Owners Register

The second institution we propose as an effective tool in the fight against corruption is the Ultimate Beneficial Owners Register, a unique solution to regulating the beneficial owners of legal entities in Slovakia. The regulation of beneficial ownership is a significant measure that has spread to many countries worldwide. In addition to the EU Member States, it is currently in effect in many countries in Europe,

[5] Manual for Public Administration. Available online: https://www.oznamovatelia.sk/nase-cinnosti/#interne-oznamovacie-systemy. Citované dňa 6.10.2023, str. 4.

[6] § 2 of Act. No. 54/2019 Coll., on the Protection of Whistleblowers of Anti-Social Activities and on Amendments and Addition to Certain Acts.

[7] § 1 of the Act. No. 54/2019 Coll., on the Protection of Whistleblowers of Anti-Social Activities and on Amendments and Addition to Certain Acts.

Africa, Asia, and South America. Altogether, approximately 32 states have established a public register of beneficial owners today, and many others have adopted it as a commitment to the future.[8]

We have chosen this mechanism because, in reference to the points outlined earlier in this article, such a register could help Ukraine uncover the ownership structures of companies that receive payments from the state. The Ultimate Beneficial Owners Register was established in 2017 as a response to previous non-transparent practices in public procurement and state support. Any entity that enters into contracts with the public sector above a certain financial threshold or applies for state subsidies must be registered in this database. The registration requirement also extends to subcontractors if they are directly involved in fulfilling a state contract.

One of the key conditions for registration is the disclosure of the ultimate beneficial owners—the individuals who derive actual economic benefits from the company. This mechanism is designed to prevent situations in which companies with unclear ownership structures win public contracts or receive financial resources.

In Slovakia, such non-transparent or questionable companies are commonly referred to as "shell companies." A shell company is a legal entity that serves as a corporate vehicle, exists officially, and is registered, but it has no real office, employees, or legitimate business activity. It may hold a bank account or passive investments or serve as the registered owner of assets, such as intellectual property or vehicles. In 2021, Zigo conducted a detailed study analysing objective data to assess the effectiveness of the Ultimate Beneficial Owners Register in fulfilling its intended purpose. He concluded that the decline in the number of companies with non-transparent ownership structures that successfully participated in public procurement procedures since the adoption of the Ultimate Beneficial Owners Register Act may indicate its preventive effect and its fulfilment of its designated social objective.[9] If Ukraine aims to build a modern, transparent, and competitive market, implementing a similar public sector partners register could be a significant step forward. Slovakia's experience demonstrates that this system works in practice and can be an effective means of protecting state resources from financial losses while fostering a fair business environment.

By introducing such a register, Ukraine could prevent anonymous companies with unclear ownership backgrounds from exploiting state funds and international financial aid. Additionally, it would enhance transparency in supplier relationships, which is particularly crucial in the post-war reconstruction period. A similar register could also be linked to international beneficial ownership databases, further strengthening its effectiveness.

Conclusion

Setting up an anti-corruption policy and implementing effective mechanisms for detecting and investigating illegal activities represents a strategic step toward protecting the interests of public administration or a specific public authority. Internal reporting and verification systems for whistleblowing have the potential to identify risk areas and processes within an organization. In this way, an organization not only saves resources but also minimizes financial losses and prevents reputational damage. For public institutions, this translates into the efficient use of public financial resources.

The 2020 research conducted by Stephen Stubben and Kyle Welch[10] clearly shows that internal reporting systems play a crucial role in organizations. They enhance internal efficiency, and a higher number of internal reports can lead to a reduction in external litigation. This means not only financial savings related to legal proceedings but also the opportunity to resolve issues internally without negatively impacting the

[8] ZIGO, D. CJEU: WM AND SOWIM SA v. LUXEMBOURG BUSINESS REGISTERS (Joined Cases C-37/20 and C-601/20): Rethinking Transparency of Ultimate Beneficial Owners Registers. In Bratislava Law Review. D. p. 228.

[9] ZIGO, D. Register partnerov verejného sektora a odhaľovanie vlastníckych štruktúr spoločností. In: Acta Facultatis Iuridicae Universitatis Comenianae, 2/2021. p.237.

[10] STUBBEN, S. – WELCH, K. Evidence on the Use and Efficacy of Internal Whistleblowing Systems. In: S&P Global Market Intelligence Research Paper Series. 2020. Available online: https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID3757758_code342237.pdf?abstractid=3273589&mirid=1.

organization's reputation. It is therefore evident that preventing corruption is more cost-effective than dealing with and investigating existing corruption cases.

It can be stated that the Anti-Corruption Coordinator acts as one of the preventive measures and safeguards for the principles of the rule of law. In Slovakia, a significant percentage of Anti-Corruption Coordinators perform this role alongside their primary job responsibilities. Given the nature of the agenda, the unpredictable number of reports that whistleblowers may submit, and the obligation to provide education on this matter, we believe it is inappropriate not to have a dedicated employee assigned exclusively to this role.

Additionally, we find it problematic that the Whistleblower Protection Act does not mention the objective (or optional) role of the Anti-Corruption Coordinator alongside the designated responsible person, nor does it clarify their differences. For this reason, in our recommendations for Ukraine, we would certainly emphasize the need for a more precise and well-defined appointment of such a position, highlighting the shortcomings of this institution in Slovakia.

The Ultimate Beneficial Owners Register, as discussed above, has proven to be an effective tool in Slovakia for combating non-transparent business practices and enhancing public oversight over the use of public funds. As part of anti-corruption reforms, we believe that Ukraine could use it as a model. However, challenges remain, such as the need for a more thorough examination of ownership structures and the expansion of registration obligations to cover additional types of business relationships with the state.

Despite Slovakia's progress, there are several critical issues that need to be addressed. For instance, the dual role of anti-corruption coordinators—often performed alongside other responsibilities—may reduce the effectiveness of the position. Moreover, the Whistleblower Protection Act does not clearly define their mandate, creating ambiguity in practical application.

In the case of the Register of Beneficial Owners, concerns remain about the depth of verification mechanisms and the lack of public accessibility to certain data.

These weaknesses should be considered in Ukraine's efforts to implement similar measures, and improved clarity, independence, and resourcing should be ensured from the outset.

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Contact details

JUDr. Kristína Slámková, PhD.
kristina.slamkova@flw.uniba.sk
Comenius University Bratislava, Faculty of Law, Department of Administrative Law and Environmental Law

E-GOVERNMENT AS A PATHWAY TO TRANSPARENCY AND EFFICIENCY: INSIGHTS FROM THE SLOVAK EXPERIENCE

Soňa Sopúchová[1]

Abstract: This article examines Slovakia's e-Government implementation as a case study for enhancing transparency and efficiency in public administration. By analysing legislative frameworks, digital tools, and specific projects that have facilitated Slovakia's transition towards a more transparent public sector, the study offers actionable insights for the Transcarpathian region of Ukraine. Key lessons, including both successes and challenges, are identified to inform Ukraine's progress towards EU membership. The findings aim to support Ukraine's public administration reform by highlighting strategic and transferable elements of Slovakia's digital transformation.

Keywords: e-Government, electronic public administration, digital transformation, public sector efficiency, public administration reform, Slovakia

Introduction

For the European Union (EU), transparent and efficient public administration is a fundamental value that lies at the core of its governance framework. Digitalisation can play a pivotal role in achieving this vision. It can simplify bureaucratic processes, increase citizen participation in governance, and reduce opportunities for corruption, all while enhancing public sector services. Several countries have already begun their digital transformation journeys, and Slovakia stands out as a key example of successful e-Government implementation in Central Europe. Over the years, Slovakia has managed to modernise its public administration through digital solutions, improving its services and fostering greater transparency in the process. These efforts provide valuable lessons that could help guide other countries in their own digitalisation endeavours.

This article analyses how e-Government can enhance transparency and efficiency in public administration, focusing specifically on Slovakia's achievements. Through the examination of concrete examples from Slovakia, it aims to highlight the role of digital tools in modernising governance. Moreover, the article seeks to explore how these lessons can be applied to Ukraine, a country that is currently undertaking similar reforms in its public administration system.

The methodology of this article involves an analysis of the legal and strategic framework governing electronic public administration in Slovakia, with the aim of identifying specific tools and measures that have contributed to increasing transparency and efficiency in the public sector. This includes a review of relevant legal acts, national digitalisation strategies, evaluation reports, and selected e-Government projects that illustrate practical implementation. The article also applies elements of comparative analysis by contrasting Slovakia's experience with the current state of public administration in the Transcarpathian region of Ukraine. While it does not attempt to provide a comprehensive comparative study, it seeks to highlight transferable aspects of Slovakia's digital transformation that could inform Ukraine's reform efforts in the context of aligning with European Union standards.

Concept of e-Government

The digitalisation of public administration, or its outcome, electronic public administration, is referred to as e-Government. As one definition states: "*Apart from the technical side (e.g. infrastructure, equipment, programs), e-Government can be defined as a set of practices or activities of various kinds ranging from*

[1] Comenius University in Bratislava, Faculty of Law

political decisions, national legislation, international actions, and so forth, to public services for citizens on a local level which use ICTs. Such practices can be not only high-level decisions and general regulations, but also information and services available for individuals, groups, communities connected with public support, job opportunities, online payments, various advice and so on."[2]

The European Commission defines e-Government as "*the application of information and communication technologies in public administration combined with organisational changes, new processes, and skills aimed at improving service delivery, increasing transparency, and strengthening public policy*."[3] According to Pavol Mates, e-Government encompasses a broad spectrum of issues, ranging from access to information for recipients of public administration, through electronic communication, to the creation of necessary technical infrastructures, all of which share the common denominator of adopting and utilising information and communication technologies. Jiří Grospič notes that e-Government is associated with the transition from authoritative and bureaucratic public administration to governance perceived as a service to the public. The mission and purpose of e-Government are aptly summarised by the Organisation for Economic Co-operation and Development (OECD), which defines e-Government as the use of electronic communications, particularly the Internet, as a tool for achieving better governance. Based on these definitions, it can be concluded that the digitalisation of public administration should be viewed as a comprehensively managed process to be implemented across the entire structure of public administration. It involves the creation of societal, legislative, methodological, technological, and organisational-human resources conditions for the effective application of information and communication technologies (hereinafter referred to as "ICT") in governance.

The result is an electronic form of public administration based on three strategic principles:

1. digitalisation of services[4]
2. open data and public oversight[5]
3. electronic communication[6]

The digitalisation of public administration ensures cost reduction, further minimising time spent unproductively, as the electronic format allows for handling administrative matters from home or the office. Finally, e-Government ensures greater citizen participation in the execution of public administration by offering the opportunity to discuss or propose suggestions. Moreover, the transformation of most public services from paper-based to electronic form is also positive in terms of environmental protection.

On the other hand, based on experience and research thus far, it is not yet known whether the use of ICT to promote transparency can create a sustained culture of transparency. In terms of information access generally, results to date are mixed.[7]

The concept of e-Government has evolved significantly over the past two decades, transitioning from basic digital service delivery to more sophisticated, data-driven governance models. According to the

[2] ANTTIROIKO, Ari-Veikko: Electronic Government: Concepts, Methodologies, Tools, and Applications: Concepts, Methodologies, Tools, and Applications. New York: Information Science Reference, 2008, p. 23.

[3] COMMISSION OF THE EUROPEAN COMMUNITIES: The Role of eGovernment for Europe's Future. Brussels, 2003, p. 7.

[4] This involves transforming traditional, paper-based processes into digital formats. Citizens no longer need to wait in queues at government offices; instead, they can access services such as tax declarations, business registrations, or social benefits online. This not only saves time but also increases public satisfaction with government services.

[5] e-Government promotes the publication of government data, including budgets, public contracts, and procurement processes. This enables citizens, journalists, and watchdog organisations to scrutinise public spending and decision-making. Open data initiatives are a cornerstone of transparency.

[6] Through digital platforms, citizens can directly interact with government authorities, whether it is submitting requests, filing complaints, or participating in public consultations. This two-way communication builds trust and strengthens the relationship between citizens and their governments.

[7] BERTOT, John C, JAEGER, Paul T, GRIMES, Justin M.: Using ICTs to create a culture of transparency: E-government and social media as openness and anti-corruption tools for societies. In: Government Information Quarterly, Vol. 27, Issue 3, 2010, p. 267.

United Nations E-Government Survey (2022), countries worldwide have increasingly adopted e-government strategies to enhance public sector efficiency and accountability.[8]
E-Government has revolutionised public administration by enhancing efficiency, reducing corruption, and increasing transparency. However, challenges such as cybersecurity threats, the digital divide, and regulatory gaps must be addressed to maximise its potential. Future governance models must integrate AI, blockchain, and big data responsibly, while ensuring legal and ethical safeguards.

Slovak experience and transferable insights for Ukraine

In this chapter, we will examine Slovakia's experience with the implementation of e-Government and its impact on the transparency and efficiency of public administration. Slovakia ranked 49th out of 190 countries in the United Nations e-Government Development Index, which measures the level of digitalisation in state and public administration. This represents an improvement of 18 places compared to the previous study from 2017.[9]

Positive examples

Slovakia's e-Government initiatives have yielded several successful outcomes that have contributed to a more transparent and efficient public administration. These examples demonstrate how the integration of digital tools and strategies can enhance service delivery, foster greater accountability, and facilitate citizen engagement. In the following sections, we will examine specific legal institutions that have ensured the effective provision and utilisation of public administration services through electronic means.

e-Government legislation

One of the key positive outcomes of Slovakia's e-Government implementation is the establishment of a robust legislative framework that supports the transition to digital public services. Efforts to improve national regulatory policy in this sector were first introduced in 2007 with the Better Regulation Agenda and the Action Plan for Reducing Administrative Burdens for Businesses, approved by Government Resolution No. 833/2007.[10]
In the initial phase of the Slovak Republic's e-Government journey, the creation of public sector information systems played a crucial role. This foundational step was codified in Act No. 275/2006 Coll.[11], which set out the legal framework for the development of electronic services, assigned responsibilities, and defined operational standards for all public authorities involved. Complementing this effort, Act No. 177/2018 Coll.[12], adopted in 2018, introduced concrete measures to reduce administrative burdens by promoting the systematic use of public administration information systems and enacting related legislative amendments.[13]

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[8] SHARMIN, Shabnam, CHOWDHURY, Rakibul Hasan: Digital Transformation in Governance: The Impact of e-governance on Public Administration and Transparency. In: Journal of Computer Science and Technology Studies, 2025, p. 362.
[9] UNITED NATIONS: United Nations e-Government Survey 2018. New York: United Natios. Available at: https://publicadministration.un.org/egovkb/Portals/egovkb/Documents/un/2018-Survey/E-Government%20Survey%202018_FINAL%20for%20web.pdf
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[12] Act No. 177/2018 Coll. on Certain Measures to Reduce Administrative Burden through the Use of Public Administration Information Systems and on Amendments and Supplements to Certain Acts (the Anti-Bureaucracy Act)
[13] OECD: Regulatory Policy in the Slovak Republic: Towards Future-Proof Regulation, OECD Reviews of Regulatory Reform. Paris: OECD Publishing, 2020, p. 29.

One of the key legislative instruments that gave concrete form to the framework of e-Government is the e-Government Act[14] and other related legal instruments, which created a clear legal foundation for the digitalisation of public administration. This legislation imposes a duty upon cities and municipalities to perform public administration electronically, i.e. to receive electronic filings from clients and to deliver electronic official documents.[15]
Concrete legal and technical measures ensure that electronic services are not only legally recognised but also efficiently integrated into the functioning of public authorities. The foundation lies in the codification of electronic communication as a major form of interaction between citizens and public authorities, and between public authorities themselves.[16]
It is precisely this law that introduced the legal institutions we have identified as positive examples, which we will present below.

Central public administration portal

This portal is an information system of public administration through which electronic official communication with any public authority can be centrally conducted, and access to common modules is provided, primarily via the internet.[17] In simpler terms, it is a unifying platform for delivering information, utilising public services, or directing users to their use.
Citizens and entrepreneurs who have an electronic identity card with the activated Online eID function can log into the portal using their login credentials and use their state electronic mailbox for communication with public authorities.
Additionally, Slovakia has developed a mobile application called *Slovensko v mobile* (*Slovakia in Mobile*), which further facilitates access to public services. This app allows users to manage their interactions with government services directly from their smartphones, enhancing convenience and accessibility. It enables citizens to access a variety of public services, receive notifications, and securely communicate with public authorities.

Electronic delivery (communication) and electronic mailboxes

Electronic delivery is a process that allows the transmission of legal and administrative documents[18] through electronic means, such as an electronic mailbox. This process is legally recognised[19] and requires both parties (the sender and the recipient) to have access to the relevant electronic tools, such as an electronic mailbox or other secure platforms.
Electronic delivery enables fast and efficient exchange of information between citizens, entrepreneurs, and public authorities, while reducing the need for paper-based communication and ensuring the legal effectiveness of delivery, faster resolution of matters, and greater transparency in the communication process.
Interaction with public authorities electronically often requires a full set of skills, including information management, communication, document creation, awareness of the security aspects of interaction, particularly regarding personal data and a user who is relatively familiar with modern technology.[20]

[14] Act No. 305/2013 Coll. on the Electronic Exercise of the Powers of Public Authorities and on Amendments and Supplements to Certain Acts (the e-Government Act)
[15] ROMÁNOVÁ, Anna, ČERVENÁ, Karolína: Implementation of e-Government in the Slovak Republic at the level of local self-government. In: Proceedings of the 17th European Conference on Digital Government. Reading: Academic Conferences and Publishing International, 2017, p. 172.
[16] This means that electronic communication does not have to completely replace the classic paper form of the communication.
[17] The provision of section 5, par. 2 of the e-Government Act.
[18] The provision of section 29, par. 1 of the e-Government Act: "*An electronic submission and electronic official document are delivered electronically, with the place for electronic delivery being the activated electronic mailbox*."
[19] Governed in provisions of sections 29-33 of the e-Government Act.
[20] TOKOVSKA, Miroslava, FERREIRA, Vanessa Nolasco, VALLUŠOVA, Anna, SEBERÍNY, Andrea: E-Government—The Inclusive Way for the Future of Digital Citizenship. In: Societes, 2023, Vol. 13, Issue 6, p. 5-6.

For electronic delivery, electronic mailboxes were established in Slovakia by the e-Government Act.[21] These are accessible through the central public administration portal[22]. The established system ensures that electronic submissions made by citizens or entrepreneurs, as well as electronic official documents sent by public authorities, are legally valid and recognised, providing an effective tool for authorised communication.
Authorisation plays a crucial role in this process, as it represents the expression of consent to the content of a legal act and the execution of that act.[23] This ensures that the sender has agreed to the legal content and is fully aware of the legal implications of the action being taken.
An accepted method of authorisation ensures the reliable identification of the person who performed the authorisation, as well as the reliable capture of the content of the legal act authorised, and consistency between the authorised legal act and the legal act that the person intended to authorise. One of the methods of performing authorisation is the use of a qualified electronic signature.[24]
In the Slovak Republic, electronic mailboxes were launched on 1 January 2014. The legal basis for their launch was the e-Government Act, which defines an electronic mailbox as an electronic repository in which electronic messages and notifications are stored.[25]

Public sector partners register

The public sector partners register in Slovakia was implemented as part of a broader effort to increase transparency and accountability in the management of public funds. Established under the Register of Public Sector Partners Act,[26] it requires that information about legal entities entering into contracts with the public sector be made publicly available. This initiative aims to enhance the oversight of public expenditures, ensuring that citizens and relevant authorities have the tools to monitor how public resources are being allocated.
The register specifically includes information on entities awarded public contracts, which is publicly accessible through the central register maintained by the administrator and operator, namely the Ministry of Justice of the Slovak Republic.[27] The public sector partners register is aligned with Slovakia's commitment to the European Union's directives on public procurement, which emphasise transparency, competition, and fair access to government contracts. It further contributes to the Slovak Republic's compliance with the EU's anti-corruption and good governance standards.

Electronic services of public administration

According to the general definition of the term e-Government provided by the European Commission, its essence lies in the use of ICT in public administration to improve public administration services. In this context, the European Union primarily associates the improvement of public administration services with their provision in electronic form.
The introduction of electronic public administration services is generally based on the following key principles:

- The fundamental mission of public administration is to provide services to the public.
- The public has a legal right to the timely, transparent, and efficient delivery of these services.

[21] The provision of section 11-16 of the e-Government Act.
[22] The official website of the portal is available at: https://www.slovensko.sk/sk/titulna-stranka
[23] The provision of section 3, let. o) of the e-Government Act.
[24] The provision of section 23, par. 1 of the e-Government Act.
[25] The provision of section 3 let. i) of the e-Government Act.
[26] Act No. 315/2016 Coll. on the Register of Public Sector Partners and on Amendments and Supplements to Certain Acts (the Register of Public Sector Partners Act).
[27] The provision of section 3, par. 1 of the Public Sector Partners Act.

- The level of complexity in societal interactions tends to increase in modern and modernising societies, which places growing demands on the administration of public affairs.[28]

Electronic public administration services enable users to access information and submit applications via their computers and the internet from home or work, or through a network of integrated service points. These services also allow users to obtain decisions, certificates, and other documents, as well as access additional services.

Four main categories of services can be carried out electronically:

1. Providing information to citizens via the internet.
2. Enabling two-way communication between public authorities and citizens or entrepreneurs, as well as between public authorities themselves.
3. Performing financial transactions.
4. E-Governance, which extends the principles of e-Government to the general population, enabling citizens to participate in public governance through ICT.

"By increasing quality of the public service delivery, it is hoped to bridge the often-felt gap that exists between corporations and citizens on the one hand, and government agencies an administration on the other hand."[29]

In Slovakia, responsibilities and competencies related to e-Government are divided among several central public authorities. The Ministry of Investment, Regional Development and Informatisation of the Slovak Republic holds a key coordinating role within this structure. However, the list of actors involved in the digitalisation of public administration is broader and includes municipalities and cities, which provide electronic services to their residents as part of their original competencies.[30]

Shortcomings and challenges in the Slovak context

The development of public authority in all developed countries, including Ukraine, is influenced by ICT, which significantly increases citizens' access to information and creates specific operational tools to control it. However, alongside the significant benefits that digitalisation brings to transparency, there are also certain risks and challenges. [31]

Implementation issues

One of the main challenges Slovakia has faced in implementing e-Government was, and still is, the lack of digital literacy among certain groups of the population. Many citizens, especially older people or those from smaller towns, feel disadvantaged when accessing digital services. This digital divide creates a significant barrier to the successful adoption of e-Government tools.

Despite efforts to expand broadband infrastructure, Slovakia continues to face challenges in providing high-speed internet access to rural areas. According to the Digital Economy and Society Index (DESI) 2022, Slovakia ranked 23rd out of 27 EU Member States in broadband connectivity.[32] Limited internet access directly excludes some citizens from participating in e-Government services, particularly in remote regions.

[28] MINISTRY OF TRANSPORT, POST AND TELECOMMUNICATIONS OF THE SLOVAK REPUBLIC: Roadmap for the Implementation of Electronic Public Administration Services. Bratislava, 2005, p. 1.

[29] HOMBURG, Vincent: Understanding e-Government. Information systems in public administration. Oxon: Routledge, 2008, p. 5.

[30] RUČINSKÁ, Silvia, FEČKO, Miroslav: E-Government and Digitalization in the Slovak Republic – Current Development and Political Strategies. In: CEE e|Dem and e|Gov Days. Austria, Conference Proceedings, 2021, p. 256.

[31] MYNENKO, Serhii: The Impact of Digitalization on the Transparency of Public Authorities. In: Business Ethics and Leadership, 2022, Vol. 6, Issue 2, p. 113.

[32] INTERNATIONAL TRADE ADMINISTRATION: Slovakia Country Commercial Guide. Available at: https://www.trade.gov/country-commercial-guides/slovakia-digital-economy?

Bridging this gap requires targeted investment in rural broadband expansion and mobile network coverage, as well as ensuring that e-Government services are accessible on low-bandwidth connections. This approach would help prevent the further marginalisation of rural populations in the digital era. [33]
Moreover, limited public awareness of available e-Government services exacerbates the issue. Citizens often remain unaware of the range of services they can access online, such as submitting tax returns or registering vehicles. While entrepreneurs are legally required to use several e-Government services, citizens are not bound by similar obligations and often lack sufficient knowledge of these digital tools. [34]
If e-Government is not accessible to all citizens, it loses its purpose as a tool for promoting transparency and efficiency. It is therefore essential to provide training and support for different demographic groups.

Failures in ensuring cybersecurity

Although Slovakia invests in security systems, failures in cybersecurity have demonstrated that safeguarding sensitive data remains a challenge. A notable incident occurred in 2020, when hackers targeted Slovak government email systems, exposing vulnerabilities in public sector IT infrastructure.[35]
Similarly, reports of ransomware attacks on municipal offices underscore the need for strengthened preventative measures. The National Cyber Security Centre reported an increase in cyberattacks targeting the public sector.[36] These breaches undermine public trust in e-Government, as citizens become concerned about the confidentiality and security of their personal information.
Improving cybersecurity requires both technical investments and a cultural shift within public administration. This includes mandatory cybersecurity training for civil servants, stronger encryption measures, and regular audits to identify system vulnerabilities.
However, Slovakia has enacted the Cybersecurity Act[37] to address these concerns. This law aims to improve the security of network and information systems, including those involved in public services. Despite this, the effectiveness of the law remains dependent on continuous adaptation to new technological threats and the comprehensive implementation of cybersecurity measures.

Inefficiencies in service integration

While the Slovak government has made progress with initiatives such as the central public administration portal, full integration across public authorities remains incomplete. The OECD's Digital Public Administration Factsheet for Slovakia, published in 2022, outlines the new national e-Government concept approved by the Slovak government in December 2021. This concept sets out the strategy for achieving interoperability of public administration services in Slovakia, including data interoperability of information systems, semantic data interoperability, and the interoperability of publicly available open data from base registries published on the central open data portal.[38] Enhancing system interoperability would significantly improve the user experience and reduce administrative costs.

Conclusion

[33] Ibid.
[34] Ibid.
[35] Cyber Security Incident DataBase. Cyber Incident Victim: Slovak government. Available at: https://www.csidb.net/csidb/incidents/aa8d7c18-447c-457f-aecd-4c2483a4f24e/
[36] NATIONAL CYBER SECURITY CENTRE SK-CERT: Significant ransomware attacks on Slovak targets. Available at: https://www.sk-cert.sk/en/national-security-authority-has-detected-an-increased-number-of-cyberattacks-read-the-recommendations-on-how-to-secure-your-system/index.html
[37] Act No. 69/2018 Coll. on Cybersecurity and on Amendments and Supplements to Certain Acts (the Cybersecurity Act).
[38] THE EUROPEAN COMMISSION: Digital Public Administration factsheet for Slovakia, 2022, p. 9. Available at: https://interoperable-europe.ec.europa.eu/sites/default/files/inline-files/DPA_Factsheets_2022_Slovakia_vFinal.pdf?

Slovakia's experience demonstrates that e-Government implementation is not a one-time goal but rather a dynamic, continuously evolving process that requires legislative, technological, and organisational adjustments. The introduction of electronic services, such as the central public administration portal (*Slovensko.sk*), which integrates various digital services into a single platform and enables more efficient communication between citizens, entrepreneurs, and public authorities, or electronic identity (eID), which ensures secure access to digital services and allows for the digital signing of documents, highlights how digitalisation can improve public administration.

Another key initiative is the public sector partners register, which enhances transparency in business transactions with the state. A particularly noteworthy aspect of Slovakia's e-Government model is electronic document delivery, which enables citizens and entrepreneurs to receive official decisions and other government-issued documents digitally, with the same legal validity as traditional paper-based communication. These solutions, which have been gradually refined based on user feedback and legislative developments, provide valuable insights for Ukraine as it advances its own e-Government strategy.

However, the transition to digital public administration is not solely a technological endeavour; it is also a matter of international cooperation. Countries that have already navigated the complexities of digital transformation can offer valuable guidance to those just beginning the process. Slovakia could play an active role in supporting Ukraine's e-Government development by facilitating technology transfer, offering professional training, or providing expert consultations. This collaboration would not only contribute to a smoother rollout of digital services in Ukraine but also enable Slovakia to refine its own model by addressing emerging challenges and needs.

Successfully implementing e-Government in Ukraine requires addressing several critical questions: What are Ukraine's specific needs in the area of e-Government that must be taken into account to ensure its successful implementation? What innovations could be integrated into Slovakia's model before adapting it to Ukraine's conditions? How can public trust in new digital systems be strengthened to ensure their widespread adoption?

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Contact Details

doc. JUDr. Soňa Sopúchová, PhD.
sona.sopuchova@flaw.uniba.sk
Comenius University in Bratislava, Faculty of Law, Šafárikovo nám. č. 6, 810 00 Bratislava

DIRECT LOCAL DEMOCRACY IN THE LIGHT OF A TWENTY-YEAR EXPERIENCE IN THE EUROPEAN UNION- CHALLENGES AND PERSPECTIVES

Lívia Trellová, Veronika Munková

Abstract: This article offers a historical-descriptive appraisal of direct local democracy in the Slovak Republic two decades after the country's accession to the European Union. Framed by pertinent constitutional and fiscal structures, the analysis identifies the most persistent impediments to an effective local-referendum regime. Drawing on the 2022 Sliač referendum and on selected recent judgments of the Slovak Constitutional Court, the authors expose deficiencies in both the substantive regulation of local plebiscites and the mechanisms by which they are financed. Particular attention is paid to the legislature's introduction of a "floating quorum" for Bratislava and Košice-an experiment intended to resuscitate a chronically under-used instrument that has, thus far, yielded limited practical benefit. The article closes with concrete proposals for doctrinal and budgetary reform, emphasising that, notwithstanding twenty years of EU membership and the attendant principles of subsidiarity and local self-government, Slovakia has made scant progress in rendering direct local democracy a credible and accessible instrument for civic participation.

Keywords: direct democracy, local referendum, municipal budget, fiscal decentralisation, European Union

Introduction

Direct democracy enables the public to participate in lawmaking and policy decisions, which can improve broadly defined resource allocation in several ways. Local democracy is intended to ensure that local policies reflect the needs and preferences of local communities. Effective local democracy can facilitate public participation, improve service delivery, strengthen communities, and improve development outcomes.[1] In this context, direct democratic mechanisms at the municipal level serve as a valuable complement to representative institutions, introducing the electorate as an additional veto player in the policy-making process. Before turning to the operation of direct local democracy in Slovakia, it is instructive to survey the country's historical trajectory culminating in its accession to the European Union a process driven by an overriding imperative to obtain EU membership - which has since shaped the character of many democratic institutions and procedures.

Direct local democracy in the EU member state

The Slovak Republic acceded to the European Union on 1 May 2004, completing an integration trajectory formally launched by its 1995 membership application. The path, however, was neither swift nor straightforward. In 1997, Slovakia became the sole post-communist candidate to receive an unfavourable Commission opinion, having failed to satisfy the Union's democratic conditionality. Following a change of government in 1998, it was rapidly transformed into the 'model pupil' of enlargement, drawing level with the remaining Visegrád states - Czechia, Hungary, and Poland - and ultimately joining alongside them in May 2004. This success was predicated upon profound political change, confirmed by the 1998 parliamentary elections, and the construction of a constitutional order grounded in democracy, the rule of law, and the protection of human and minority rights. EU membership not only conferred the benefits of

[1] ASATRYAN, Z., DE WITTE, K.: Direct democracy and local government efficiency. In: European Journal of Political Economy, Volume 39, 2015, p. 58-66, ISSN 0176-2680, https://doi.org/10.1016/j.ejpoleco.2015.04.005.

participation in European integration but also occasioned far-reaching amendments to Slovakia's constitutional architecture, most notably the so-called *Euronovel* (Constitutional Act No 90/2001 Coll.), to ensure congruence between domestic law and the acquis. Throughout the accession negotiations, particular emphasis was placed on satisfying the Copenhagen criteria - first articulated by the European Council in 1993 and reaffirmed in Madrid in 1995 - while Articles 49 and 6(1) TEU codify the substantive conditions and principles that every acceding state must meet.

These criteria comprise:

- Stable institutions that secure democracy, the rule of law, human rights, and the protection of minorities.
- A functioning market economy capable of withstanding competitive pressures and market forces within the Union; and
- Administrative and legislative capacity to assume the obligations of membership—namely, the effective implementation of the EU acquis and adherence to the objectives of political, economic, and monetary union.

A precondition of Slovakia's successful accession was the consolidation of stable, sustainable institutions capable of safeguarding democracy and the rule of law. One of the Union's cardinal aims is to respect the national identities of the Member States as embodied in their fundamental political and constitutional structures, including regional and local self-government. For that reason, the evolution of direct local democracy in Slovakia under the influence of EU membership warrants detailed examination. Central to this inquiry is the interplay between local governance and the principle of subsidiarity. That principle holds that public authority should intervene only insofar as the needs of individuals, families, local communities and other social groupings cannot be met at their own level. Subsidiarity thus transcends mere institutional design: it governs, first, the relationship between the individual and society and, only thereafter, the allocation of powers among institutions-ultimately providing an intellectual basis for vertical divisions of competence. [2] Its overarching purpose is to secure a measure of autonomy for the lower authority vis-à-vis the higher, or for local government vis-à-vis the central state. In practice this entails a sharing of powers across multiple tiers of governance, a concept that underlies many federal arrangements. Within the EU framework, subsidiarity disciplines the exercise of the Union's non-exclusive competences: Union action is ruled out where the objectives of a proposed measure can be adequately achieved by the Member States at the central, regional, or local level, and permitted only where an intervention at Union level would demonstrably add value. [3]

Legal Foundations of Local Democracy in Slovakia

Constitutional foundations of local democracy in Slovakia are set in Articles 64-71 of the Slovak constitution. The territory of the Slovak Republic is divided into the following layers of local government: eight self-governing regions (samosprávny kraj) and the local level-municipalities, cities and towns (obec, mesto).[4] Articles 64 to 71 of the Slovak Constitution publish under no. 460/1992 Coll. (hereinafter as "Constitution") deal with the territorial self-administration. According to Article 64 municipality ("obec") is the central element of territorial self-administration, being an independent territorial and administrative unit. A municipality has its own elected municipal bodies: the municipal council and the mayor of a municipality. The mayor, an executive authority of the municipality, is elected by the residents of the municipality permanently residing therein based on a universal, equal, and direct right to vote by secret ballot for a four-year term. The municipality mayor shall perform municipality administration and shall represent the municipality externally (art. 69). The Municipal council is a representative body, composed

[2] Definition and Limits of the Principle of Subsidiarity. See: Report prepared for the Steering Committee on Local and Regional Authorities (CDLR), Local and regional authorities in Europe, No. 55, p. 9, available online: https://rm.coe.int/1680747fda

[3] See: https://www.europarl.europa.eu/factsheets/en/sheet/7/the-principle-of-subsidiarity

[4] The local layer of self-government of the Slovak Republic is composed of around 2900 municipalities (including magistrate of Bratislava: 22 city districts, and Košice: 17 city districts and 4 military districts).

of deputies. The municipal council consists of the municipal council deputies. The deputies are elected for a four-year term by residents of the municipality with permanent residence on its territory. Elections of deputies are held by universal, equal, and direct right to vote by secret ballot.[5] A municipality is a legal person that, within statutory parameters, manages its own property and financial resources independently (Article 65). It is expected to meet its needs chiefly from its own revenues, supplemented where necessary by State subsidies. Under Article 68, the municipality enjoys original self-governing powers, including authority to adopt generally binding ordinances on matters of local self-administration and on the performance of self-government tasks assigned by statute. Conversely, specific competences of State administration may be delegated to municipalities by law; any costs incurred in exercising such delegated powers must be borne by the State. When discharging delegated functions, the municipality may likewise issue generally binding ordinances (všeobecne záväzné nariadenia, VZN) within the limits of statutory authorisation, and its actions are subject to governmental supervision pursuant to Article 71. More than a century after John Stuart Mill, European constitutional theory recognises that direct democracy is not a rival to representative democracy but rather complements and stabilises it. [6]

To ensure the effective functioning of direct democracy, the State assumes those responsibilities that municipalities or cities cannot discharge more efficiently themselves, while entrusting other matters exclusively to local authorities. The Constitution recognises the dual competence of Slovak municipalities, namely, their original self-governing powers and their derived powers exercised through delegated State administration. It also lays down the principles of municipal finance: each municipality manages its property and financial resources independently, under statutory conditions, and is expected to cover its needs from its own revenues. Article 65(2) specifies that municipalities shall fund their expenditure primarily from these revenues and only subsidiarily from State subsidies. Legislation determines which taxes and fees constitute municipal income, and such subsidies may be claimed solely within the limits prescribed by law. The Act on the Budgetary Rules of Local Self-Government provides a more detailed framework for the financial relations between the State budget and the budgets of municipalities and higher territorial self-governing units. In substance, these relations primarily encompass (i) shared revenue from taxes administered by the State, (ii) grants intended to reimburse the costs incurred in carrying out delegated State-administration functions, and (iii) other forms of subsidy.

The Municipal Budget

Currently, a municipal budget is divided into two sections: revenue and expenditure. Its revenue side is composed chiefly of: Local taxes and charges; Non-tax revenues arising from the ownership, disposal and use of municipal assets, and from the activities of the municipality and its budgetary organisations; Interest and other returns on the municipality's financial holdings; Fines imposed by the municipality for breaches of fiscal discipline; Donations and proceeds of voluntary collections raised for municipal purposes; Subsidies from the State budget covering the costs of delegated State administration, together with transfers from earmarked State funds; Additional State-budget grants awarded under the State Budget Act; Earmarked grants received from the budget of another local authority or municipality in implementation of contractual arrangements; European Union funds and other foreign financing; and any further revenue sources specified by special regulation.

A municipal budget likewise encompasses the income-and-expenditure plans of budgetary organisations created by the municipality under specific legislation, together with the financial relations attaching to legal persons for which the municipality is the founding authority. The financial management of both budgetary and contributory entities is regulated by a distinct statutory framework. At present, perhaps the most acute challenge confronting Slovak municipalities is the structure of the tax regime that sustains

[5] More details see: TRELLOVÁ, L.: Územná samospráva, p. 327-357. In: GIBA, M. (ed.).: Ústavné právo. 2. edition. Bratislava: Wolters Kluwer, 2025.

[6] MAGNUSSON: Local Self-Government and the Right to the City, McGill-Queen's Studies in Urban Governance (number 1 in series). Kanada: McGill-Queen's University Press, 2015, p. 35.

local-government revenue. Under the existing arrangement, municipalities struggle to meet routine operating costs and possess only a narrow fiscal margin for developmental projects. Intensified inter-municipal co-operation, therefore appears a promising strategy for achieving economies of scale and alleviating budgetary pressure.

Before the Slovak EU accession in 2004, the municipal budget was influenced by the national financing system. Prior to 2004, Slovakia's system of public administration was transformed from a highly centralised model to a decentralised one in which the competences of territorial self-government were substantially expanded. This institutional shift made a corresponding reform of local-government finance indispensable. Fiscal decentralisation was therefore conceived as a comprehensive framework characterised by qualitative changes - most notably, a relative strengthening of the fiscal autonomy of lower levels of government and an overall improvement in the alignment of tax and expenditure decisions with national macro-economic objectives.[7] The process of fiscal decentralisation unfolded in three distinct phases:

1. First phase (1990 – 2001).
2. Second phase – the transitional period (2002 – 2004).
3. Third phase (2005 – present), which ushered in the financing regime that remains in force today.

Historically, municipalities and towns have operated on comparatively modest means: the revenue side of their budgets has consisted chiefly of local taxes and charges, State-budget subsidies, and occasional borrowing in the form of credits and loans. This narrow fiscal base has generated several difficulties, most notably a lack of revenue diversification, restricted capacity to finance capital investments, and an overall shortfall of funds for development programmes.

The municipal budget essentially benefits from EU membership[8], following the example of the state. Given the nature of the municipality's own revenues and the scope of self-government tasks that municipalities provide, it is necessary to assume that the municipality is predominantly dependent on state budget funds. The municipality's own revenues are rather of a purely subsidiary nature. Municipal revenues can be defined as public revenues. These are funds generated on the revenue side of the budget of a self-governing unit, mainly on the principle of non-returnability, non-equivalence, and involuntariness.[9] The majority of public budgets are made up of tax revenues, which are supplemented by other types of public revenues. The decisive share of taxes for municipalities is the tax revenue transferred to the territorial self-government from the state, which is the so-called state budget share tax. This is a personal income tax. The tax in question is a shared personal-income tax linked to residents' permanent place of residence. Pursuant to § 2 of Act No. 564/2004 Coll. on the Budgetary Allocation of Personal Income-Tax Revenue to Territorial Self-Government (as amended), the Tax Office apportions and remits the revenue to municipalities and self-governing regions according to criteria laid down by a Government Decree of the Slovak Republic. That decree specifies the parameters governing the distribution of personal-income-tax receipts between municipal budgets and the budgets of higher territorial self-governing units. For the fiscal year 2025, 55.1 % of the yield constitutes revenue of municipal budgets, while 29.5 % accrues to the budgets of the self-governing regions.

Non-tax revenues - such as administrative fees - represent only a negligible portion of municipal income. By contrast, grants and transfers from the State constitute a significant share, chiefly in the form of subsidies that reimburse municipalities for tasks carried out under delegated State administration. Municipal outlays are public expenditures, i.e., funds disbursed within the public-budget system to finance the various items of public spending.

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[7] KOVÁČOVÁ, E.: Vplyv decentralizácie na výkon a riadenie územnej samosprávy v SR. Banská Bystrica: Belianum, 2020, p.130.

[8] Author's note: In practice, various grant and support options are available, such as the Europe for Citizens 2014-2020 programme, which supported the activities of partner cities and municipalities, and its successor for the new programming period 2021-2027 is the EU Citizens, Equality and Rights Programme. Financial support options are also available from individual operational programmes financed by the European Union, the European Structural and Investment Funds.

[9] TEKELI, J., TOMAŠ, L.: Komunálne právo. Praha: Wolters Kluwer, 2022, p. 139.

Since Slovakia's accession to the European Union, municipal budgets have also received EU and other earmarked foreign funds; in practice, Union resources now account for roughly 20 per cent of municipal revenues. Through the European Structural and Investment Funds and the Cohesion Fund, municipalities have been able to finance projects that would otherwise have been beyond their means—modernising transport infrastructure, extending sewerage and water-supply networks, upgrading wastewater treatment, improving environmental performance and energy efficiency, boosting tourism and local enterprise, and supporting rural development. These additional resources have opened new opportunities to enhance local infrastructure, raise residents' quality of life, and promote regional growth. The chief drawback, however, is that EU funding is strictly earmarked and accompanied by a heavy administrative burden - the bureaucracy.

The state, with municipalities as the basis of territorial self-government, continues to hold the position of the original public administration entity, which is supposed to create legal and economic guarantees so that the municipality, as another public corporation (different from the state), is able to ensure at least a minimum standard in fulfilling its tasks, regardless of the actual social situation. The municipality must find sufficient funds for all the activities of the municipality related to the implementation of the municipal competences, as well as for the payment of expenses in the delegated exercise of the state administration. It is also very difficult to implement and apply all forms of direct democracy without sufficient funds in the municipal budget. For example, also in connection with the holding of the referendum itself. In practice, municipalities-including towns, cities-frequently resort to comparatively less time, technology, and cost-intensive modalities of participatory co-decision, such as an assembly of municipality inhabitants, an open public meeting, or the referral of the matter for deliberation by a municipal committee - or city-district committee.

The constitutional foundations of direct democracy, whether at the national or local level, are anchored principally in Article 2(2) of the Constitution, which enshrines the principle of popular sovereignty as a defining feature of the democratic state. The specific legal bases for local referendums and citizens' initiatives are found in Article 67 of the Constitution and in Act No 369/1990 Coll. on Municipal Establishment. In recent years, local referendums have become an increasingly prominent instrument of direct citizen participation for resolving issues of fundamental importance to community life. They remain, however, subject to the general constitutional guarantees of the right to participate in the administration of public affairs. The Constitutional Court has interpreted this right broadly, holding that "*the administration of public affairs embraces citizens' participation in the political life of the State, the conduct of State administration, and the management of public affairs within municipalities*." [10] These characteristics align with Article 3(1) of the European Charter of Local Self-Government, which defines local self-government as "*the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.*" [11] Although local referendums share many general features with their national counterparts, certain organisational aspects inevitably differ, as local regulatory frameworks are often less elaborate. Accordingly, the general rules governing referendums must be adapted to the municipal context while still respecting the overarching principles of free and fair elections.

Local Referendums

Local referendums must be conducted in conformity with Council of Europe standards - most notably the *European Charter of Local Self-Government*[12] and the Venice Commission's *Revised Code of Good Practice on Referendums*, endorsed by the Congress of Local and Regional Authorities - together with other

[10] The Slovak Constitutional Court decision II. ÚS 9/00, of 27 April 2000.

[11] KRUNKOVÁ, A.: Vývojové etapy miestneho referenda v Slovenskej republiky. In: Medzinárodné a vnútroštátne právne aspekty priamej účasti obyvateľov na miestnej samospráve. Bratislava: Univerzita Komenského v Bratislave, Právnická fakulta, 2020, p. 29.

[12] Slovakia acceded to the Council of Europe on 30 May 1993. It signed the European Charter of Local Self-Government on 23 February 1999 and ratified it on 1 February 2000.

pertinent international norms and best practices.[13] Respect for human rights is an indispensable precondition of any democratic referendum. Among the soft-law instruments, special prominence attaches to the Venice Commission's *Code of Good Practice in Electoral Matters*. Recognising the continuing need for clearer guidance on referendums, the Commission complemented that text with a dedicated *Code of Good Practice on Referendums*. The latter delineates the core principles of Europe's electoral heritage - universal, equal, free, and secret suffrage - and prescribes the conditions for their implementation, including respect for fundamental rights, legal stability, impartial electoral administration, and an effective system of judicial review. Its third part deals exclusively with rules specific to referendums. In 2020 the Venice Commission updated this instrument by adopting the *Revised Guidelines on the Conduct of Referendums*. [14]

Article 28 of the Constitution guarantees the right to peaceful assembly as a political right, while its detailed statutory implementation is set out in Act No 84/1990 Coll. on the Right of Assembly (as amended). Notwithstanding the terminological resemblance between a public assembly (verejné zhromaždenie) and an inhabitants' assembly (zhromaždenie obyvateľov obce), the two are doctrinally distinct. A public assembly—regulated by Article 28 of the Constitution and the Assembly Act—constitutes the exercise of a fundamental right and may be convened for any purpose; it is explicitly exempt from any requirement for prior authorisation by a public authority (Article 28(2)). By contrast, an inhabitants' assembly is a modality of local self-government: it may be convened only pursuant to a resolution of the municipal council under Article 11(4)(f) of the Municipal Establishment Act (No 369/1990 Coll.). Whereas any citizen of the Slovak Republic aged eighteen or over may organise a public assembly, an inhabitants' assembly may be called solely by the municipal council or the mayor, and, in certain circumstances, by the district authority for the seat of the region. This power is reserved; no other municipal bodies (such as the council board, a commission, or the municipal office) or private persons may convene such an assembly. [15]

Slovak law classifies local referendums as either mandatory or optional, the distinction turning on the substantive necessity of holding the vote rather than on its legal effect. A referendum is mandatory where any alteration to municipal boundaries is at issue. By contrast, an optional referendum may be initiated either at the discretion of the territorial self-government authority or upon a petition endorsed by a stipulated proportion of voters.

A notable recent example is the referendum held in the town of Sliač on 29 October 2022. Prompted by a petition signed by 1 343 residents (approximately 31 per cent of the electorate), the municipal council submitted to the voters the proposition:" *I agree that the Town Council of Sliač shall take all legal measures to prevent the location of a United States military base on the territory of Sliač Airport*." Of the 4 083 eligible voters, 1 515 participated; 1 127 (nearly 75 per cent of participants) supported the proposition.[16] The referendum was characterised by the council as "binding", yet the general by-law on which it was based contravened several statutory provisions. The District Prosecutor's Office in Zvolen, therefore, lodged a protest, obliging the town council to address the by-law's legality.

This referendum underscores the occasional inefficiency with which Slovak municipalities expend time and money on local referendums. All costs associated with such a vote are borne exclusively by the municipal budget; allocations must therefore be deployed purposefully and cost-effectively. Yet no metric, criterion currently exists by which to gauge the efficiency of the resources spent against the referendum's result. One may nonetheless assume that territorial self-governing bodies, constrained by limited finances, are unlikely to call a referendum without compelling reasons.

The Sliač referendum also illustrates residents' attitudes towards this instrument and the degree to which they engage with it. Several difficulties emerge. The first concerns proclaiming a local referendum to be "binding". A referendum's outcome may bind councillors only insofar as it does not infringe the principle

[13]See detailes:
https://rm.coe.int/en-holding-referendums-web-a6-collection-elections-democratiques/1680a8774f

[14] https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2022)015-e

[15] Available at: https://cep.slu.cz/pdfs/cep/2018/02/07.pdf

[16] For more details see: https://www.sliac.sk/samosprava/volby-2022/referendum/

that representatives cannot be subject to an imperative mandate. Consequently, even where a local referendum is valid, its implementation cannot legally be compelled, enforcement rests solely on councillors' political accountability to the electorate. One must therefore rely on elected members to translate the referendum result into legislation voluntarily and to refrain from acting contrary to the expressed will of the voters.

A second point of contention lies in the wording of the referendum question, which addressed a matter arguably extending beyond purely local concern. A local referendum is a constitutional instrument designed to secure residents' direct participation in the formation of municipal will. Although the subject matter of such a referendum is not expressly defined by statute, interpretation suggests it must relate to a public issue falling within the sphere of territorial self-government. Unlike national referendums—whose admissibility is subject to the Constitutional Court's preventive review—no equivalent mechanism exists for local referendums. The absence of a clearly delimited subject criterion occasionally results in substantively inadmissible questions, precipitating unnecessary referendums and foreseeable legal disputes.

Finally, the district prosecutor ordered the municipal council to align the relevant generally binding ordinance (VZN) with the law; this occurred only in January 2023, after the referendum had taken place. The episode also highlights chronically low voter turnout, a factor that repeatedly undermines the validity of local referendums in Slovakia.

Municipal questions that sometimes require settlement by referendum are in fact often highly complex, engaging a wide array of competing interests; as such, they are seldom amenable to unequivocal resolution at the ballot box. Easing the procedural thresholds for residents' participation in local decision-making could broaden the reach of direct democracy by building community confidence in an effective mechanism for resolving disputes and issues which, either by their nature or by operation of law, cannot - or ought not - be determined solely by the municipal authorities.

A distinct regulatory regime applies to local referendums in the capital city of Bratislava and, separately, in the city of Košice. Each is governed by a special statute that tailors the institute to the specific needs of the two largest urban centres. Although the Capital City of the Slovak Republic enjoys the legal status of a municipality, local referendums held for Bratislava as a whole - or for its individual city districts - are regulated by the Act of the Slovak National Council No 377/1990 Coll. on the Capital City of the Slovak Republic Bratislava, as amended, notably in § 8-9. Analogous provisions governing Košice and its city districts appear in § 8 and 8a Act of the Slovak National Council No 401/1990 Coll. on the City of Košice. These statutes were amended in 2023 to refine the wording of the relevant sections, a reform prompted by the fact that city-wide and district-level referendums in Bratislava and Košice are exceedingly rare; when held, their outcomes underscore the electorate's limited appetite for this essentially consultative form of direct democracy. The new wording incorporated into the laws is as follows:"*The outcome of a local referendum in Bratislava shall take the place of a resolution of the City Council, provided that at least the same number of eligible voters participate in the referendum as voted in the most recent elections to the City Council preceding the proclamation of the referendum.*"[17]

The President exercised his petitioning power and applied to the Constitutional Court of the Slovak Republic, arguing that it is incompatible with the Constitutional provisions on account of their discriminatory character and their conflict with the principles of a democratic state governed by the rule of law. In the petitioner's view, the contested legislative scheme infringes the equality of the right to vote in a referendum for the inhabitants of Bratislava and Košice, because it accords their votes a different weight from those of residents of other towns and municipalities. The petitioner maintains that the qualitative guarantees attaching to elections under Article 30(3) of the Constitution-universality, equality, directness and secrecy-must apply by analogy to referendum voting. He criticises the impugned provisions for altering the quorum required for a valid local referendum in Bratislava and Košice (and in their

[17] §8 (3) Act of the Slovak National Council No 377/1990 Coll. on the Capital City of the Slovak Republic Bratislava, as amended, §8 (3) Act of the Slovak National Council No 401/1990 Coll. on the City of Košice.

respective city districts), while leaving unchanged the quorum governing referendums elsewhere, which continues to be regulated by Act No 369/1990 Coll. on Municipal Establishment. In enacting this differential regime, the legislature advanced no legitimate reason for treating the two largest Slovak cities differently from all other municipalities.[18]

According to the legislature, the purpose of the contested provisions is to strengthen citizens' electoral rights in local self-government by making referendums in Bratislava and Košice - and in their respective city districts - easier and more effective. This is pursued in two ways:

Lower signature thresholds. The number of signatures required on a petition to call a referendum is reduced from the former 30 % of all eligible voters to 20 %, or alternatively:

- at least 5 000 eligible voters for a referendum in a Bratislava city district, and
- at least 2 500 eligible voters for a referendum in a Košice city district.

Reduced turnout quorum. The quorum for a referendum to be valid is lowered from the previous requirement of 50 % of eligible voters to a level equal to the turnout achieved in the most recent elections to the organs of territorial self-government of the relevant city or city district held prior to the proclamation of the referendum.

It was precisely this line of argument that persuaded the Constitutional Court, which upheld the constitutionality of the so-called floating quorum governing local referendums in Bratislava and Košice.[19]

Further guidance may be drawn from the other Visegrád countries, whose legislation on local referendums is generally more detailed and of higher quality, having already addressed many of the problems still encountered in Slovakia. The Czech Republic, for example, enacted Act No 22/2004 Coll. on Local Referendums (and amending certain statutes), which adapts the institute to local conditions, removes numerous restrictions, and thereby promotes greater scope for residents' self-realisation. Poland and Hungary likewise elaborate the relevant provisions both in their fundamental laws and in legislation on municipal self-government, supplemented in some cases by specialised secondary instruments.[20]

Conclusion

In its broader sense, a "local referendum" denotes any plebiscite confined to a specific territorial unit within the State's administrative structure. The Constitution, however, employs the term more narrowly, referring only to a referendum held at municipal level-the basic unit of Slovak self-government. EU membership has curtailed certain facets of national sovereignty, notably the power to legislate and to exercise competences transferred to the Union. This prompts the question whether direct democracy - and, more particularly, direct local democracy - remains an effective instrument within an EU Member State. One notable advantage of the local referendum is its capacity to galvanise civil society, drawing it more actively into decision-making and offering an alternative forum for surfacing issues and concerns of immediate relevance to the territorial community.

Even after more than two decades of Union membership, Slovakia faces several constitutional obstacles to a robust system of direct local democracy:

- balancing State oversight with municipal autonomy;
- overcoming legal hurdles to organising local referendums;
- addressing persistent fiscal constraints; and
- mitigating disparities in municipal revenues and the consequent reliance on central transfers.

A core difficulty is the precise demarcation of municipal competences. As many policy areas as possible must be clearly identified as forming part of a municipality's original powers, while others must just as clearly be recognised as delegated State administration. The challenge is exacerbated by the country's

[18] The Slovak Constitutional Court decision PL. ÚS 13/2023, of 4 September 2024.

[19] See The Slovak Constitutional Court decision PL. ÚS 13/2023, of 4 September 2024

[20] ALMAN T. Local referendum and assembly of municipality inhabitants in the Slovak Republic. Central European Papers. 2018;6(2): p. 61. doi: 10.25142/cep.2018.014.

extreme fragmentation-some 2 900 municipalities-which underscores the need for comprehensive public administration reform. Although EU membership has opened additional funding channels, it does not resolve the chronic under-financing of local government by the State. Municipal indebtedness has risen markedly, much of it incurred to repair roads, refurbish public buildings (notably primary schools), and modernise sports facilities. Small municipalities, in particular, struggle to finance the delegated performance of State administration - difficulties arise in day-to-day application-several of which have already been identified by scholars in earlier doctrine.[21] Practical difficulties in discharging delegated competences are illustrated by the recent education amendment that took effect on 1 January 2025, which replaced the 40 per cent share of personal-income-tax revenue earmarked for nursery schools with a direct State-budget appropriation of only 24.9 per cent. Whether this change will improve the establishment and funding of kindergartens remains uncertain.

These problems stem not only from the expanding obligations imposed on municipalities but also from inadequate State reimbursement of eligible costs - an issue starkly exposed during the COVID-19 pandemic, when the central government had to refinance municipal testing operations. Under-funding pervades many spheres of local life and, by straining budgets, undermines the practical operation of referendums. Insufficient legal regulation, coupled with fiscal constraints, breeds public scepticism: legitimacy and trust have thus become systemic concerns. Citizens increasingly doubt that democratic mechanisms can reliably express local preferences, and confidence in the binding nature of referendum outcomes - by definition more than merely consultative - remains fragile. An illustration of the legislature's determination to preserve the institution of the local referendum is the amendment introduced with effect from 1 August 2023 - §8 of the Bratislava Act and the Košice Act introduced a "floating quorum" for local referendums, pegged to voter turnout in the most recent municipal elections. According to the Slovak Constitutional Court, it is constitutional even in the case that it applies exclusively to Bratislava and Košice.

Three avenues for local referendum improvement are particularly promising:

- strengthening constitutional and statutory safeguards for local referendums;
- enhancing fiscal transparency and municipal financial autonomy; and
- drawing on EU best practice to widen and deepen citizen participation.

Despite the challenges, there is ample scope to bolster direct local democracy within the EU framework. Territorial self-government and direct democracy are among the Union's core values. Targeted legislative amendments could provide clearer rules for local referendums, thereby reconciling the obligations of EU membership with citizens' ability to influence matters of local concern.

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14. 14.TRELLOVÁ, L.: Územná samospráva, p. 327-357. In: GIBA, M. a kol.: Ústavné právo. 2. edition. Bratislava: Wolters Kluwer, 2025.

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LEGAL REGULATION OF ADMINISTRATIVE PROCEDURES AFFECTING A LARGE NUMBER OF PERSONS IN THE SLOVAK REPUBLIC AND UKRAINE

Yuliia Vashchenko[1]

Abstract: This paper is dedicated to comparative research of the legal regulation of administrative procedures affecting a large number of persons in the Slovak Republic and Ukraine in order to define the best practices and provide recommendations for their enhancement. It is concluded that the laws on general administrative procedure of both countries have commonalities and differences. To enhance the legal regulation of the administrative procedures with a large number of persons in Ukraine, it is recommended to stipulate the compulsory means and terms for informing the public in administrative procedures with a large number of persons by the law. A continuous information campaign on the requirements of the Law of Ukraine "On Administrative Procedure" for the public officials, in particular, for the public officials of the local self-government authorities, regarding the peculiarities of administrative procedures that affect a large number of persons, is needed.

Keywords: administrative procedure, administrative procedure with a large number of participants, administrative act, public interest.

Introduction

Every modern legal order needs a set of general rules to enforce administrative law[2]. Numerous national legal systems have implemented administrative procedure legislation[3]. On 15th of December 2023 Law of Ukraine "On Administrative Procedure" No 2073-IX of 17.02.2022 came into force. It is the first law in Ukraine on general administrative procedure. This Law introduced several novelties in the legal regulation of administrative procedures. The peculiarities of administrative procedures affecting a large number of persons are among them. Law of the Slovak Republic "On Administrative Procedure" No 71/1967 of 29.06.1967, which has a multiannual history of its implementation, was amended with certain provisions related to the administrative procedures affecting a large number of persons in 2003 in the framework of the European integration of the Slovak Republic. The experience of the Slovak Republic in legal regulation of the administrative procedure with a large number of persons will be useful for Ukraine on its way to the European Union. Whereas the legal aspects of general administrative procedure have been explored by scholars from both countries[4], only some aspects of administrative procedure with a large number of persons have been analysed, mostly in the framework of more complex research[5]. Therefore, this paper is

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[2] UHLMANN, Felix (2023). Introduction. In: UHLMANN, Felix (ed.). *Codification of Administrative Law: A Comparative Study on the Sources of Administrative Law*. 1st Edition. Oxford: Hart Publishing. 2023, 438 p, p. 1, ISBN 978-1-50995-492-6.

[3] GALETTA, Diana-Urania, ZILLER, Jacques (2024). EU Administrative Law (Elgar European Law series). 2024, 282 p., p. 204, ISBN: 978 1 80037 574 1.

[4] E.g., VRABKO, Marián a kol. (2019). Správne právo procesné. Všeobecná časť. 2. vydanie. Bratislava : C.H. Beck, 2019, s. 232. ISBN 9788089603763; VASHCHENKO, Yuliia (2024). Administrative Law in Ukraine. In: DEVIATNIKOVAITE, Ieva *(ed.). Comparative Administrative Law: Perspectives from Central and Eastern Europe*. Routledge, 2024, 270 p., P. 193–224. ISBN 9781032592909.

[5] E.g., CEPEC, Branislav (2008). Osobitnosti konania a rozhodovania na úseku ochrany prírody a krajiny vo vzťahu k správnemu poriadku. – Acta Universitatis Brunensis. Juridica, No. 337) In: *Dny práva – 2008 – Days of law [elektronický zdroj].* Brno: Masarykova Univerzita, 2008. – ISBN 978-80-210-4733-4. S. 1381-1386. Retrieved from: https://www.law.muni.cz/sborniky/dp08/files/pdf/sprava/cepek.pdf (accessed on 09.01.2025); TYMOSHCHUK, Viktor at al.

devoted to comparative research of the legal regulation of administrative procedures affecting a large number of persons in the Slovak Republic and Ukraine to define the best practices and provide recommendations for their enhancement.

Administrative procedure with a large number of persons: an approach of the Committee of Ministers of the Council of Europe

Private persons participate in different administrative procedures that affect their individual rights and/or legal interests. However, there are administrative procedures that affect a large number of persons (hereinafter – AP LNP).

The most common AP LNP are related to the following fields:

- construction and spatial planning (e.g., issuing/ revoking the construction permit),
- land use,
- and environmental protection.

To protect the rights and/or legal interests of private persons in such administrative procedures, special attention shall be paid to their peculiarities by the laws/codes on general administrative procedure.

The development of general administrative law in the last half-century was the main focus of efforts to form the administrative and legal standard of the Council of Europe (acquis du Conseil de l'Europe)[6]. The documents of the Committee of Ministers express the basic, i.e. minimum requirements, that a member state of the Council of Europe should guarantee with its legal order and enforce in public administration activities[7]. The Committee of Ministers of the Council of Europe, in its Recommendation No R (87) 16,[8] elaborated the general principles of AP LNP that should be fulfilled by the member states. Based on the status of the private person in the administrative procedure three categories of a large number of persons have been defined in the above-mentioned Recommendation: the addressees of the administrative act (persons of the first category), the persons, whose rights, liberties or interests could be affected by the administrative act, but not the addressees of such administrative act (persons of the second category), and the persons that, according to national law, have the right to claim a specific collective interest that is liable to be affected by the administrative act (persons of the third category).

The principles that shall be applicable to the AP LNP at the national and international levels are defined in the above-mentioned Recommendation. The key principles are referred to the rights of the persons to be duly informed about the administrative procedure, all factors important to the decision making, and the administrative decision (including the main conclusions, reasons for the decision, and the ordinary remedies against the administrative act, and the time-limit within which they must be utilized), to be provided with the access to the all decision-relevant factors, the participation procedure in forms of written observations, private or public hearing, representation in an advisory body of the competent authority and to be heard during this procedure (facts, evidences and arguments provided by the persons concerned shall be taken into account), and to challenge the administrative act in the court. As to the requirements of the AP LNP at the international level, it is stated that the persons concerned from the neighbouring state shall have access to the participation and control procedures related to the administrative act issued by another neighbouring state.

(2023). Naukovo-praktychny komentar do Zakonu Ukrajiny "Pro administratyvnu procedure". Kyiv, 2023. p. 545, P. 333-339 [TYMOSHCHUK, Viktor et al. Research and practical commentary to the Law of Ukraine "On Administrative Procedure". Kyiv, 2023. p. 545, P. 333-339]. Retrieved from: https://pravo.org.ua/wp-content/uploads/2023/06/lap_commentary_web-1.pdf (accessed on 09.01.2025).

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[8] Recommendation No R (87) 16 of the Committee of Ministers to Member States on administrative procedures affecting a large number of persons. Retrieved from: https://rm.coe.int/16804eaa5c (accessed on 09.01.2025).

The Slovak Republic and Ukraine, as member states of the Council of Europe, implemented certain principles into their general administrative procedure acts (hereinafter – APAs). The requirements in both countries have commonalities and differences as presented below.

Administrative procedure with a large number of persons: legal regulation in the Slovak Republic

The general administrative procedure in the Slovak Republic is regulated by the Law of the Slovak Republic "On Administrative Procedure" No 71/1967 of 29.06.1967 (hereinafter – the APA of the SR)[9]. The peculiarities of the different types of administrative procedures are regulated by special laws.

The issues of administrative judicial proceedings with a large number of participants were the subject of special research in Slovakia, whereas issues of AP LNP require more scientific attention. In particular, Slámková, K., Radosa, M., Horvat, M. analysed the problems of administrative court proceedings with a large number of participants (more than 10)[10].

It should be noticed that the APA of the SR does not include the term "a large number of persons". The term "a large number of participants of the procedure" can be found in the special laws (e.g., Law No 50/1976 Zb. "On Construction"[11]).

The APA of the SR includes the following institutes related to the AP LNP:

- delivery by a public notice (doručovanie verejnej vyhláškou) (para. 26);
- representation of common interests (para. 17);
- institute of a participating party (inštitút zúčastnenej osoby) (para. 15 a).

According to the APA of the SR the administrative authority shall inform the participants of the administrative procedure about the commencement of the administrative procedure via public notice if the participants of the procedure or their place of residence are unknown or if it is required by the special law (para. 18). The public notice shall be placed on the official board of the administrative authority for the period of 15 days; the last day of this period is considered as the day of delivery (para. 26). Additionally, the public notice can be placed on the web page of the administrative authority, other appropriate usual place, e. g., in local media, broadcast, or on the temporary official board of the administrative authority at the place related to the administrative procedure. The Law "On Construction" also includes provisions related to the public notice. According to this Law, the construction authority shall inform the participants of the AP LNP by a public notice about the commencement of the procedure (para. 36, p. 4). The decision on construction in the AP LNP shall be delivered by a public notice at the usual place for the period of 15 days; the last day of this period is the day of delivery (para. 42, p. 2).

The APA of the SR includes provisions related to the representation of the interests of the participants in the case of the collective application. Thus, the participants shall choose the common representative for the purpose of delivery. Otherwise, the representative will be designated by the administrative authority. The decision on the designation of the common representative cannot be challenged in administrative procedure (para. 17, p. 4).

The institute of a participating party (inštitút zúčastnenej osoby) is regulated by para. 15 "a" of the APA of the SR. It should be noticed that the status of the participating party differs from the status of the participant of the administrative procedure: the participating party has fewer procedural rights than the participant of the administrative procedure. According to the APA of the SR, the participating party:

- represents the public interest (e.g., protection of the environment),
- can participate in the administrative procedure under the conditions stipulated by the special law,

[9] Zákon č. 71/1967 Zb. o správnom konaní (správny poriadok). [Law on Administrative Procedure No 71/1967 of 29 June 1967]. Retrieved from: https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1967/71/ (accessed on 09.01.2025).

[10] SLÁMKOVÁ, Kristína, RADOSA, Matúš., HORVAT, Matej (2023). Peculiarities of Service in Slovakian Administrative Court Proceedings with a Large Number of Participants. *ELTE Law Journal, 2023, 2023(1), pp. 163–174.*

[11] Zákon č. 50/1976 Zb. o územnom plánovaní a stavebnom poriadku (stavebný zákon). [Law on spatial planning and construction procedure (law on construction) No50/1976 Zb. of 27 April 1976]. Retrieved from: https://www.slov-lex.sk/ezbierky/pravne-predpisy/SK/ZZ/1976/50/ (accessed on 09.01.2025).

- and has the right to be informed about the commencement of the administrative procedure and other submissions of the participants of the administrative procedure, to participate during the oral hearings and local inspections, to submit the evidence and documents necessary for the decision.

More rights of the participating party can be stipulated by the special law.

In recent years, the persons who represent the public interest are provided with the status of a participant of the administrative procedure by the special Law (e.g., Law No 543/2002 z. z. on the Protection of Nature and Landscapes, para. 82, p. 3)[12].

Administrative procedure with a large number of persons: a legal framework in Ukraine

In Ukraine, the Law on Administrative Procedure was adopted after several decades of deliberations and discussions at the most painful time for this country – during the full-scale aggression of the Russian Federation against Ukraine[13]. Considering that Law of Ukraine "On Administrative Procedure" No 2073-IX of 17.02.2022 (hereinafter – the APA of Ukraine)[14] is among the more recent national laws on general administrative procedure in Europe, it considers the key European principles stipulated, in particular, by the above-mentioned Recommendation of the Committee of Ministers of the Council of Europe, and experience of the European countries in this sphere. Art. 59 of this Law includes special provisions on the AP LNP. Thus, it is stated that a large number of persons means more than 10 persons. A large number of persons can be represented by the representatives or, in cases defined by the law, by the representatives of the public associations. A large number of persons with common interests can be represented by the representative upon the request of the administrative authority. The notification about the commencement and the merits of the AP LNP shall be published by the administrative authority in the media and/or on its official web page or by other means appropriate for the citizens (shall include the procedure on access to the files, submission of documents, objections and explanations, information on other circumstances important for the case resolving, and the procedure on involvement of the representatives). The participants of the administrative procedure and the public shall be regularly informed by the administrative authority about the administrative procedure by means and in terms stipulated by the administrative authority. All interested persons and the public shall be informed by the administrative authority about the administrative decision issued in the case concerned. Such notification may be made via the media and include the information on the appeal procedure and terms for the appeal. Art. 27 of this Law stipulates the following types of the participants of the administrative procedure: an addressee of the administrative act (an applicant that initiated the administrative procedure, a person in relation to whom the administrative authority has initiated the administrative procedure, and a complainant), and an interested person (other person, whose right, liberty or legal interest is negatively influenced or can be influenced by the administrative act. It should be emphasised that an interested person in the Ukrainian case has the status of a participant in the administrative procedure.

The APA of Ukraine has been in force since 15th of December 2023. Currently, there is a practice of the implementation of its provisions, including the requirements regarding the AP LNP. As an example, the public notice from the Sumy city military administration on the commencement of the AP LNP upon the complaint of 21.12.2023 No. B-63/03.01-04 on the provision of the aid to owners of flats of the 3rd block of flats of building 81, Petropavlivska str. in Sumy city, for their reconstruction, submitted during the personal

[12] VRABKO, Marián a kol. (2019). Správne právo procesné. Všeobecná časť. 2. vydanie. Bratislava : C.H. Beck, 2019, s. 232, S. 70. ISBN 978-80-89603-76-3.

[13] DEVIATNIKOVAITE, Ieva, VASHCHENKO, Yuliia (2024). The Administrative Procedure Act in Ukraine: Recent Development, Challenges and Solutions. In: HUGG, P. R., LUCHENKO, D., JAKULEVICIENE, L. (2024). *The Impact of War and Extraordinary Situations on Law in the Context of Agression against Ukraine*. Berlin, Germany: Peter Lang Verlag (pp. 249–273). Retrieved from: 10.3726/b22448 (accessed on Mar 11, 2025).

[14] Zakon Ukrajiny "Pro administratyvnu proceduru" [Law of Ukraine "On Administrative Procedure"] of 17 February 2022 No2073-IX. Holos Ukrajiny, 15.06.2022, No123. Retrieved from: https://zakon.rada.gov.ua/laws/show/2073-20#Text (accessed on 09.01.2025).

appointment in the Sumy city military administration can be provided[15]. It should be noticed that the number of the AP LNP will be increased in the nearest years, in particular, due to necessity of reconstruction of the building sector damaged during the war of aggression of the Russian Federation in Ukraine, liquidation of the damage to the various components of the environment caused by the military actions[16], as well as the construction of the new residential buildings for internally displaced persons, in particular, in Zakarpatsky region.

The case law of administrative courts reveals the problems in the implementation of the requirements of the APA of Ukraine regarding the AP LNP. In particular, the Supreme Court in its judgement of 13.02.2024 in case No320/5934/22, administrative proceeding No K/990/26581/23[17], remained without any changes to the judgements of the administrative courts of the first and appeal instances concerning the recognition as unlawful and revoke the decision of the local self-government authority on termination of activity of the educational institution in 2022/2023 academic year. Non-fulfilment by the local self-government authority of the requirement of the APA of Ukraine regarding the AP LNP was among the key arguments of such judgment. Also, it is worth mentioning that the Supreme Court, in its judgement, provided a reference to the above-mentioned Recommendation No. R (87) 16 of the Committee of Ministers of the Council of Europe.

Conclusion

The basic principles of the administrative procedure with a large number of participants have been stipulated by the Regulation of the Committee of Ministers of the Council of Europe No R (87) 16 and have been implemented in the administrative procedure legislation of the Slovak Republic and Ukraine as members of the Council of Europe.

Approval in 2022 of the APA of Ukraine is a significant step on the way of the European integration of Ukraine. The Law stipulated the key issues of the general administrative procedure, including the administrative procedure with a large number of persons, based on the European principles and values. The APA of the Slovak Republic has a long tradition of legal regulation of the general administrative procedure and was amended with certain provisions related to the administrative procedures affecting a large number of persons in 2003, in the framework of the European integration of the Slovak Republic. Therefore, the rights of persons in the administrative procedures affecting a large number of participants shall be considered as an important element of the right to good administration, and their encouragement via the appropriate legal regulation, as an important precondition of European integration.

It is expected that several administrative procedures affecting a large number of persons will be increased in Ukraine in the nearest future due to the necessity of the reconstruction of building's sector damaged during the full-scale aggression of the Russian Federation of Ukraine, liquidation of the damage to the environment caused by the military actions, as well as the construction of the new residential buildings for internally displaced persons, in particular, in Zakarpatsky region. Therefore, the improvement of the legal regulation and practical implementation of the AP LNP is very important.

To enhance the legal regulation of the AP LNP in Ukraine, it is recommended to stipulate the compulsory means and terms for informing the public in the AP LNP by law (like in the Slovak Republic). Additional means of informing (e.g., boards placed inside the residential buildings, delivery to the associations of co-owners, etc.) could be stipulated by the administrative authority. A continuous information campaign on the requirements of the APA of Ukraine for public officials, in particular, for public officials of the local self-government authorities, regarding the peculiarities of the AP LNP, is needed.

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Contact Details

Prof. Mgr. Yuliia Vashchenko, PhD.
yuliia.vashchenko@flaw.uniba.sk
Department of Administrative Law and Environmental Law
Faculty of Law, Comenius University in Bratislava

THE POTENTIAL OF GOOD PUBLIC GOVERNANCE TO INFLUENCE AN OPEN SOCIETY

Marián Vrabko, Mária Srebalová[1]

Abstract: The article focuses on the actual challenges of open and good public administration. The authors analyse selected problems of a new generation of principles and rules of the concept of good administration and new procedural rules in administrative proceedings, which are connected to the current state of society. Due to the nature of the research topic, we have applied analysis and synthesis in the processing of this issue. However, in addition to the mentioned scientific methods of research, we also used scientific literature and fundamental European documents. The article can be beneficial by researching the development of issues associated with ethical and legal principles of the given concept in states with a similar historical development of society.

Keywords: Public administration, open society, right to good administration, principles in law, principles in proceedings.

Introduction

It is necessary to begin by defining what we mean by good public administration, and then to question what the possibilities of good governance are, influencing an open society. There are several characteristics of good governance. In a narrower sense, this term is used for the proper and fair exercise of public administration[2]. Similarly, a process of governance that is closely linked to transparency and the participation of the population in this process is referred to in this way. The main features of good administration include respect for the rule of law, openness, accountability, and fairness[3]. Good public administration is usually characterised and described by the requirements imposed on it, or its principles and rules. In other words, the concept of good governance consists of the basic requirements for the quality of the activities of managing entities in relation to the addressees of their activities.

The impact of public administration on society is extensive. This is due to the fact that public administration bodies represent the largest group of bodies operating within the mechanism of state governance. These are not only state administration bodies, but also territorial self-government, organisations, and institutions based on the right of association, i.e. interest self-government. Its organisation and activities are primarily governed by the principle of legality and strict adherence to the wording of specific legal norms. However, the application and other implementations of legal norms cannot be separated from the guiding ideas of legal regulation. In a specific situation, the result of the decision-making process depends not only on the wording of the legal norm. The starting point is the rules that result from the values of the company at a given stage of its development.

The right to good administration and the principles and rules contained therein are subject to gradual development. Since the beginning of the 20th century, they have been profiled within the framework of European administrative law. They were developed mainly by several documents of the Council of Europe, the European Union (hereinafter referred to as the „EU"), as well as the decision-making activities of the European Court of Human Rights and the European Court of Justice. They are evolving in accordance with the need to respond to new challenges, fundamentally economic and political. They represent one of the

[1] Faculty of Law, Comenius University Bratislava.

[2] CHALMERS, Damian, DAVIES, Gareth, MONTI Giorgo: European Union Law. Text and Materials. Cambridge University Press, 2014, p. 98.

[3] HENDRYCH, Dušan: Theory of Public Administration. 2nd. edition. Praha: ASPI Wolters Kluwer, 2003, ISBN 978-80-7357-248-8., p. 57.

unifying factors of Europe and harmonise legal certainties in the European area. Although the concept is well known, the interpretation of its principles has similarities and differences across the EU countries. According to the Swedish Agency for Public Administration, which carried out a survey and study[4] on the subject in 2023, in most of the countries surveyed, compliance with the law, proportionality, impartiality, non-discrimination, democratic legitimacy and high quality of the services provided by the public administration are considered essential. Nowadays, public administration services are increasingly associated with the need to make use of technological innovations, particularly in the field of electronisation and digitalisation.

In the following text, we will focus on important milestones in the development of principles and rules of a substantive and procedural nature in the national conditions of the Slovak Republic and also within the framework of European law. The ambition of this article is not to map the development of all the principles and rules that make up the right to good governance, but rather to point out the nature of their development and the changes that have occurred in their enforcement, specifically based on the Slovak Republic's membership in the European Union. On this basis, we will also highlight the current challenges of the right to good administration.

European Development of Principles and Rules of the Right to Good Administration vs. Transformation of Public Administration in the Slovak Republic

Public administration is subject to significant changes in the long term. It is a permanent and complex process. The modern existence and activities of public administration are associated with national and later international legal regulations based on respect for the principles and rules of its functioning (guarantees of human and civil rights and freedoms, separation of powers in the state or compliance with the Constitution and laws). The development and quality of public administration in its static and dynamic meaning is influenced by many factors in individual countries. Among others, for example, socio-economic conditions, tradition in relation to the openness of power structures and also on the basis of international influence. On the European continent, this influence can be included under European administrative law in the sense of the law common to the public administration of European democratic states, i.e. the administrative law of the European Union supplemented by the law of the Council of Europe[5]. Within the framework of European administrative law, the basic requirements for the quality of the activities of managing entities towards the addressees of their activities have also gradually evolved.

From the second half of the 1970s to the beginning of the 1990s, the Council of Europe's attention focused on the protection of the rights of individuals in relation to the activities of public administration. In particular, it was about protection when issuing decisions on the rights and obligations of the addressees of the message. To illustrate, this was the case of Resolution (77) 31 of the Committee of Ministers of the Council of Europe on the protection of the individual in respect of all administrative acts. This document formulates the five basic principles of administrative procedure: the right to be heard, the right of access to information, the right to representation and assistance in proceedings, the right to state reasons for an individual administrative act and the right to be informed about legal remedies. Recommendation No (80) 2 of the Committee of Ministers of the Council of Europe[6] concerns individual administrative acts that are issued based on administrative consideration. Recommendation No (81) 19 concerns access to information held by public administrations. Recommendation No (87) 16 on administrative proceedings affecting a large number of persons, Recommendation No (91) 10 on access by third parties to personal data held by public administrations, and Recommendation No (91) 1 on administrative sanctions.

[4] Study Good administration in European countries [Online] Available at: Good administration in European countries

[5] PEKÁR, Bernard In: VRABKO, Marián et al.: European Administrative Law. Substantive Administrative Law. General part. 2nd. edition. Bratislava: C. H. Beck 2018, ISBN 978-80-89603-68-8. p. 338.

[6] In the following text, Recommendation of the Committee of Ministers of the Council of Europe is referred to as the „Recommendation".

With regard to the current state of society, the development of public administration in the territory of the Slovak Republic after 1989 can be characterized as a transformation of its structure within several reform steps[7]. Specifically, it has concerned the gradual creation of a dual model of public administration with the reintroduction of territorial self-government. The starting principles of these changes were decentralization, deconcentration and specialization, and the view of public administration as a service to society. Simultaneously with extensive society-wide changes, the administrative judiciary began to be reformed based on the application of the principles of the democratic and legal state as a guarantee of the legality of public administration. Its gradual formation and expansion of control over the activities of public administration meant a significant strengthening of the protection of the rights of individuals, also in relation to individual decision-making activities.

When proceeding within the outlined changes, it was necessary to consider that the form and direction of application practice and its legal regulation largely depend on the specific development of society and the possibility of its correction. Any direction of public administration activities is most effective through influence on decision-making processes. Of course, there will be several interventions in the activities of public administration at various levels. First of all, it was about interference in decision-making processes in the creation of territorial and administrative units. Their essence is to influence decision-making processes at the central and local level, especially in their creation and subsequently in their standard-making. The other case is the impact on decision-making processes in the application of the law. These interventions are very precisely manifested in both the first and the second case in the use of principles in law or in the application of principles in proceedings. The first case, as we have already mentioned, is the creation of territorial and administrative units at the central level. For legal reasons, it is necessary to distinguish the establishment and activity of territorial units from the establishment and operation of administrative units. The establishment and operation of territorial units is a manifestation of decentralisation and the consolidation of democracy in the activities of public administration in the form of the creation of local government bodies. We have the form of territorial self-government modified in a normative form[8].

The creation of territorial units at the central level has its political basis and normative form. The basic territorial units are municipalities at the local level and self-governing regions at the regional level. Elections to these structures create two bodies in both structures. In the municipality, it is the mayor and the municipal council. In a self-governing region, it is the chairman of the self-governing region and the assembly of the self-governing region. The creation of these bodies and their competence is given by the normative form from the central level. After their creation, both groups of bodies have extensive powers and competencies in their territorial districts, including the creation of their new bodies. The problem is that there were 2,890 of these self-governing territorial units in Slovakia at the beginning of this year. Of this number, 404 municipalities have fewer than 199 inhabitants, and 720 municipalities have from 200 to 499 inhabitants; otherwise, about 1100 municipalities have fewer than 500 inhabitants, and two-thirds of municipalities have fewer than a thousand inhabitants[9].

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[7] In the years 1948 – 1989, the model of socialist state administration operated in Slovakia according to the Soviet model, implemented by state authorities and state administration. After extensive social changes, Act No. 294/1990 Coll. abolished the national committees, and the administration at the local level was modified by the adoption of Act No. 472/1990 Coll. on Local State Administration Bodies. This divided the competencies of self-government bodies and state administration bodies. The adoption of Act No. 369/1990 Coll. on Municipal Establishment reintroduced local self-government at the level of towns and municipalities that became legal entities. The Act on Municipal Establishment, as well as the Act on the Property of Municipalities, transferred demanding self-government tasks to local self-governments. For more details, see VRABKO, Marián. In: SLÁDEČEK, Vladimír, FRUMAROVÁ, Kateřina, MELOTÍKOVÁ, Petra. (eds.): Organization of state administration – development trends. Prague: Leges, 2014, ISBN 978-80-7502-048-2, p. 17 et seq.

[8] The Constitution of the Slovak Republic, Act No. 460/1992 Coll., then it is Act No. 369/1990 Coll. on Municipal Establishment and Act No. 302/2001 Coll. on Self-Government of Higher Territorial Units (Act on Self-Governing Regions).

[9] Data on website of the Statistical Office of the Slovak Republic. https://slovak.statistics.sk/wps/portal/ext/home/!ut/p/z1/hY7LDoIwEEW_hQVbOqQg1Vo1hkeIEaIRuzFgEDDQklLh923UhQsfs7tzz5kMYihDjOdjU-WqETxvdT6y2SnxQrJc2hTIJl1DuKNbP4ocGxwXHf4BTNfwZShonz2QlU8Dx4sBSOy7ENJgn84TjIHiF_DjRoRY1Yri-

The first impression may give the perception that the public authorities are close to the population, they know the problems of the population, as well as the ways of solving them, which was a frequent "goal" of public administration reforms in the past – to bring the performance of administration closer to the citizens. Appearances are deceiving.

A large number of authorities do not fulfil their primary powers or competences, if they are created, they become dysfunctional, they are uninterested in managing or acquiring property because they have no funding, they have a lack of interest in the development of the municipality, they fail to fulfil the basic tasks of local government, their only task is to maintain their own operations. A specific group consists of municipalities, where the authorities are often not capable of forming due to the lack of interest of the citizens. This state of affairs has been unbearable for a long time, and political structures have not addressed it.

The situation is similar, but not identical, to the administrative division of Slovakia. At present, the territory of Slovakia is divided into 79 districts and 8 regions. The districts are represented by the structure of bodies, which is created by the parliament and supplemented by the government. It is a structure of general state administration bodies and specialised state administration bodies at the district and regional level[10].

As we have mentioned, the influence of the parliament and the government is decisive in the creation of state administration bodies, and therefore, the process of change is much simpler. A political consensus at the central level is enough to change here; decentralisation is not required, and deconcentration is often enough.

Individual decision-making at the local level, which results in individual administrative acts, is a particular problem. All this activity can be determined from a central level. Its primary requirement will be the use of centralisation in solving the normative form of decision-making processes. A particular problem will be the elimination of the undesirable influence of the human factor in the decision-making processes themselves, on the one hand, and the use of artificial intelligence in decision-making processes, whose individual steps must be controlled by the human factor at the last stage of the decision-making process, on the other hand. Here, the responsibility of public administration in relation to the managed entities and their transparency while protecting personal data will come to the fore.

In the second half of the 1990s, the Council of Europe focused on strengthening the standards influencing the position and activities of public administration authorities and their control. The results of these efforts were: Recommendation (2000) 6 on the status of public officials in Europe and Recommendation (2000) 10 on a Code of Ethics for Public Officials. Since 2000, the Council of Europe has focused its attention on a number of issues relating to administrative justice, namely the Recommendation (2003) 16 on the enforcement of administrative and judicial decisions in the field of administrative law and the Recommendation (2004) 20 on judicial review of administrative acts.

In 2004, when the Slovak Republic became a member of the EU, its model of public administration was already close to those that have been operating in the decisive member states for a long time and continuously. The focus of the changes has become the interpretative rules of the application of law, as the membership in the Council of Europe and the EU implies the obligation of the Slovak Republic to respect the values of the concept of the right to good administration and the right to a fair trial, respectively the basic rules of administrative procedure regulated by Act No. 71/1967 Coll. on Administrative Procedure (hereinafter referred to as the "Code of Administrative Procedure"). Their importance lies in the fact that the Code of Administrative Procedure has the character of a code and regulates the most common type of decision-making by administrative authorities on the rights and

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[10] For more on the issue of territorial and administrative division of the Slovak Republic, see: TRELLOVÁ, Lívia - VRABKO, Marián: Direct expressions of the right to municipal self-government in the context of public administration. Praha, Leges 2022. ISBN 978-80-7502-617-0. p. 11 et seq.

obligations of specific natural persons and legal entities. In 2004, an amendment to the Code of Administrative Procedure11 incorporated some of the principles of the right to good administration into its basic rules. These were the principle of substantive equality, which expresses the requirement of continuity and foresight of decision-making, and the principle of providing information to the public, expressing the ethics of the system of managing entities in the European legal area.

Current challenges for the concept of the right to good administration and open governance

Nowadays, new challenges and trends are evident in the further development of the concept of the right to good administration. A new generation of principles and rules of the concept of good administration and new procedural rules in administrative proceedings are connected by the current state of society, marked by the development of technological innovations. Effective rules, including those in the form of principles and rules of good governance, need to be adopted in a coordinated manner to address the challenges outlined. Within the European area, we can observe the efforts of several bodies of the European Union to do so. The granting of candidate status to Ukraine in June 2022 and the decision by EU leaders in December 2023 to launch the accession negotiations signal a strong commitment to support Ukraine on its path towards European integration. The new phase of strategic cooperation should focus on concrete projects that would bring mutual benefits in different areas. Among others, in the field of public administration and the tasks entrusted to it. Progressively developing initiatives and cooperation projects to promote European standards have an important role to play in this field. For instance, the project[12] of the Association of Towns and Municipalities of Slovakia aimed at developing interpersonal contacts and capacity development at the local level in Ukraine is interesting for the public administration sector. The project aims to promote cross-border cooperation between local actors in the border regions of Slovakia and Ukraine, raising awareness of the potential of Slovak - Ukrainian territorial cooperation. The transfer of experience in reform and modernisation processes in local self-government and in the provision of public services, based on experience from Norway and also from V4 countries, is in the interest of promoting European standards and good, transparent, and accountable governance in Ukraine. Currently, for illustration, the cross-border cooperation programme Interreg VI-A NEXT Hungary-Slovakia-Romania-Ukraine 2021 -2027 [13] is also being implemented in the territory of Slovakia in the Košice Self-Governing Region and the Prešov Self-Governing Region, and in the territory of Ukraine in the Zakarpattia Region, the Ivano-Frankivsk Region and the Chernivtsi Region. Both harmonised solutions and improved and new forms of cooperation aim to improve the overall coherence of the whole area. The specific objective of the programme is to strengthen effective public administration by promoting legal and administrative cooperation and cooperation between citizens, civil society actors and institutions, in particular to address legal and other obstacles in border areas. EU membership implies that legislation, including the principles of good governance, must be harmonised with EU law. Inevitably, therefore, the challenges that arise from the modern evolution of society, also characterised by the rapid development of technology, will also come into play for the candidate for membership. The public administration must reflect them when ensuring the tasks entrusted to it. Among several, we can mention, for instance, the risk of exclusion of older people or various communities from access to public services. This is due to the fact that a significant number of public services are available online, and others are increasingly being moved online. Current challenges can therefore include ensuring equal access to services provided by

[11] Act No. 527/2003 Coll.

[12] The project Cross-border cooperation for Ukraine and Slovakia - CBC4US is implemented by the Association of Towns and Municipalities of Slovakia in cooperation with partners from Ukraine (Ukrainian Association of Cities), Slovakia (FEMAN Association) and Norway (Norwegian Association of Local and Regional Authorities) from December 2020 to April 2023 under the EEA and Norway Grants. [Online] Available at: www.zmos.sk/mdO/1132*mid/536720/slovakia-and-ukraine-support-specific-projects-collaboration-between-countries-oznam.

[13] Project [Online] Available at: miriri.gov.sk/projekty/projejtyesif/programy cezhraničnej-spoluprace/ programove-obdobie 2021-2027/program-cezhraničnej-spoluprace-interreg-next-madarsko.

public administration online and offline, ensuring wide access to the Internet[14] so that every individual can be a full recipient of public administration activities (services provided by public administration bodies to the public). In addition to the need to address digital inclusion, the need to deal with a higher standard of protection of public sector information, especially in connection with the expansion of IT systems with biometric data, or also, for example, the use of artificial intelligence tools in issuing administrative acts without human intervention, is a prerequisite. The optimal result of formulating the "next generation" of principles and principles of good governance should be a modern, non-discriminatory public administration. In relation to the performance of its activities, its modernisation (currently in the field of digitalisation) should bring an increase in the operability, reliability and impartiality of decision-making and an increase in interactivity with its addressees, such as the smart cities[15] concept.

Conclusion

As we have already indicated at the beginning of this article, principles and rules in law have a fundamental impact on the application of law in specific practical cases. We have focused our attention on selected principles in law-making and selected rules in the application of law in the context of the concept of the right to good governance.

In general, we can state that adherence to the principles and rules of good administration contributes to a more efficient and open management of society. Of course, the possibility of their gradual enforcement seems to be optimal. For an open society, it is necessary to formulate a challenge that is related not only to the introduction of principles and rules of good governance, but also to the necessity to control the enforcement of the concept in question. In the conditions of the Slovak Republic, the application of one of the principles of administrative procedure, namely the principle of public and non-public administrative proceedings, seems to be a reason for increased attention. Its implementation is also closely linked to public sector transparency and open governance. Currently, we can notice a shift closer to the enforcement of non-public administrative proceedings as well as other processes carried out by public administration. While in the period from 1989 until the adoption of the Act on Free Access to Information in 2000 and one of the most extensive amendments to the Code of Administrative Procedure in 2004, we could observe the expansion of the concept of public administration or openness of public administration, currently from our point of view we see the opposite process, namely some elements indicating its closure and partial abandonment of the principle of transparency of public administration activities, although so far only fragmented.

As we have already mentioned, in the conditions of individual states, we can currently observe several challenges related primarily to technological innovations within the digitalisation of public administration. It is about the need to solve legal and non-legal issues related to the exclusion of older people and people from excluded communities from access to public services, but also, for example, about the so far only partial regulation of the digital space. We believe that in connection with the above development, national legal systems expect several changes linked to European or global regulation, including at the level of guarantees, principles, and rules.

We believe that, based on the above facts, we are entitled to state that the principles and rules in good public administration are the way that leads to a more effective performance of good public administration. They are also an effective means of influencing good governance in an open society. At the same time, it is important that society, and especially an open society, must be able to influence the improvement of the quality of governance.

[14] For more information contained e.g. in the Report of the European Union Agency for Human Rights [Online], see: fra.europa.eu/en/publication/2023/older-people-digital-rights.

[15] The smart city concept tends to focus on the learning city - the municipality, which means that it accepts feedback, uses resources efficiently and improves the quality of life of residents through better provision of public services. Smart cities: ranking of European medium-sized cities. Centre of Regional Science, Vienna University of Technology. 2007.

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Contact Details

prof. JUDr. Marián Vrabko, CSc.
marian.vrabko@flaw.uniba.sk
Department of Administrative and Environmental Law
Faculty of Law, Comenius University

prof. JUDr. Mária Srebalová, PhD.
maria.srebalova@flaw.uniba.sk
Department of Administrative and Environmental Law
Faculty of Law, Comenius University

PROFESSIONAL CONTRIBUTIONS

DIGITAL HUMAN RIGHTS: ESSENCE AND CONTENT

Dmytro Byelov, Ivan Peresh, Myroslava Bielova

Abstract: The rapid digitalisation of modern society has given rise to new categories of human rights that are specifically related to the digital environment. These digital rights, while fundamentally connected to traditional human rights, present unique challenges in their definition, protection, and enforcement. The increasing dependence on digital technologies in everyday life necessitates a comprehensive understanding of digital human rights as a distinct legal category that requires specific mechanisms of protection.

The unprecedented pace of technological advancement and the transformative impact of digital technologies on social interactions, economic activities, and political processes further amplify the complexity of digital human rights. This creates a dynamic environment where new forms of rights and their violations constantly emerge, challenging traditional legal frameworks and regulatory approaches. The interconnected nature of digital spaces also raises questions about the territorial scope of digital rights and the responsibilities of various actors in ensuring their protection.

Moreover, the emergence of digital human rights has highlighted the need to reconsider fundamental concepts of human rights law in the digital context. Issues such as digital identity, algorithmic discrimination, data sovereignty, and digital privacy require new theoretical approaches and practical solutions. The increasing role of private technology companies in managing digital spaces adds another layer of complexity to the protection of digital human rights, raising questions about the balance between state regulation, corporate responsibility, and individual rights in the digital realm.

Current state of the problem.

While the concept of digital human rights has gained significant attention in recent years, there remains considerable ambiguity regarding their precise nature, scope, and legal status. Existing research has primarily focused on specific aspects of digital rights, such as privacy protection or freedom of expression online, without developing a comprehensive theoretical framework for understanding digital human rights as a cohesive category. The rapid evolution of digital technologies continues to create new challenges for human rights protection, while legal frameworks and regulatory mechanisms struggle to keep pace with these developments. Furthermore, the transnational nature of digital spaces complicates the enforcement of digital rights within traditional jurisdictional boundaries.

The purpose of this article is to provide a comprehensive analysis of the essence and content of digital human rights as a distinct legal category. Specifically, the research aims to:

- define the conceptual framework of digital human rights and their relationship to traditional human rights categories;
- identify and systematise the key components and characteristics of digital human rights;
- analyse the specific challenges in protecting digital human rights in the modern technological environment;
- examine the evolving legal frameworks and mechanisms for digital rights protection at national and international levels;
- develop theoretical and practical recommendations for enhancing the protection of digital human rights in contemporary society.

Presentation of the main material.

A comprehensive approach to the study of digital human rights in Europe and Ukraine requires considering international standards, national legislation, and civil society initiatives. The main goal of such an approach is to ensure a balance between the use of digital technologies and the protection of fundamental human rights and freedoms in the digital age.

Today, several key reasons underline the importance of researching digital rights, as they:

- allow individuals to understand how their personal data is processed, stored, and used, and what opportunities exist for protecting privacy;
- help to identify restrictions related to Internet censorship, content blocking, and other aspects of digital freedom;
- develop mechanisms to combat cybercrime and counter cyber threats;
- help to create equal conditions for all Internet users to avoid discrimination and ensure access to online resources regardless of social status, ethnicity, or gender identity;
- lay the foundation for the development and improvement of legislation that addresses the challenges of the digital society;
- contribute to the development of civic awareness and the protection of each person's dignity.

In the Ukrainian academic community, pluralistic approaches to the concept of 'digital human rights' have emerged. According to O. Bratasyuk and N. Mentukh, digital human rights constitute a distinct group of human rights that are related to their use and implementation on the Internet through special devices (computers, smartphones, etc.). These include:

1) the right to access the Internet – the right of every individual to equal access to and use of free and secure Internet;
2) freedom of expression online – the right to freely express opinions, search for, receive, and disseminate information online;
3) the right to privacy and protection of personal data – the right of every individual to privacy online and protection of personal data on the Internet (social networks, Google forms, etc.);
4) the right to freedom and personal security online – the implementation of this right requires mechanisms of protection from unlawful acts, such as state guarantees against physical and psychological violence, harassment, hate speech, intolerance, and online discrimination. The state should promote the development and functioning of secure Internet technologies.
5) the right to peaceful assembly, association, and/or use of electronic democratic tools – the right of individuals to freely associate and use any services, websites, or applications to create, join, mobilise, and participate in social groups and associations;
6) the right to digital self-determination, or the right to disconnect from online, or be forgotten online – an individual, as a user in a system (social network, forum, online discussion), has the right to determine their name (identifier) or other information about them at their discretion that they will use in the system[1].

According to Y. Razmetayeva, the term 'digital human rights' encompasses two main understandings. In the first sense, it refers to all rights whose exercise and protection are closely linked to the use of digital tools or have a significant online component. In the second sense, it refers to those rights that arise or begin to claim the status of fundamental rights in the digital age. Thus, digital rights include fundamental rights such as freedom of expression, privacy, the right to information, the right to participate in the governance of public affairs, as well as the right to be forgotten, the right to anonymity, or even the right to the Internet[2].

[1] Bratasiuk O.B., Mentukh N.F. (2021). Poniattia ta klasyfikatsiia tsyfrovykh prav v Ukraini. Yurydychnyi naukovyi elektronnyi zhurnal. No 10. p. 59.

[2] Razmietaieva Yu.S. (2020). Tsyfrovi prava liudyny ta problemy eksterytorialnosti v yikh zakhysti. Pravo ta derzhavne upravlinnia. No 4. p. 19.

Digital rights are a relatively new legal category, as noted by N. Verlos. She argues that the concept of 'digital rights' should not be considered as a separate group of human rights but as a conditional category that encompasses the peculiarities of the implementation and guarantees of fundamental human rights on the Internet, particularly freedom of expression and the right to privacy online. Given the immense role the Internet plays in modern life, distinguishing such a category helps better systematise and study the needs for the protection of human rights in the online environment[3].

Analysing these approaches to understanding 'digital human rights', it should be noted that the rights under study are recognised as an integral part of universal human rights and are fundamental to the dignified existence of individuals in the digital realm[4].

However, Ukraine, like other countries, faces several challenges in the field of digital rights, including:

- ensuring the confidentiality and security of personal data;
- the need to increase the level of digital literacy and citizen awareness regarding Internet safety rules and protection of their personal data;
- ensuring access to broadband Internet across the entire country to guarantee equal opportunities for all segments of the population;
- strengthening cybersecurity at the state, legal, and individual levels to reduce cybercrime;
- developing systems and strategies for information security to protect critical infrastructure and key information resources;
- ensuring freedom of expression and combating misinformation, xenophobia, racism, and other forms of online extremism;
- raising media literacy levels among citizens for effective recognition and counteraction to misinformation;
- implementing transparent and effective mechanisms for acquiring and storing digital data in the context of the growing popularity of cloud technologies;
- developing regulations and standards for the exchange and storage of digital data, considering security and privacy requirements.

These challenges require a comprehensive approach from the government, businesses, civil society, and academia to effectively address and ensure the sustainable and safe development of the digital society[5].

Digital rights are regulated and protected both at the national and international levels. At the national level, it is important to mention the Ukrainian Law 'On the Protection of Personal Data', which defines the legal status of citizens' digital data and establishes mechanisms for its protection[6]. A notable example is the digitisation of public services, which led to the transition of a significant number of state services to electronic formats. This led to the emergence of the concept of 'e-government'. The phased transformation of state data management based on digital technologies and the development of comprehensive super-services for citizens and businesses to receive government services in one click (DIA) is referred to as 'digital public administration'.

At the international level, the European Court of Human Rights plays an active role in regulating digital rights. Its decisions in cases related to digital privacy and freedom of speech set precedents for EU member states[7]. Additionally, the European Union is actively implementing measures to protect digital consumer rights. The European Parliament and Council Directive (EU) 2019/770 of May 20, 2019, in certain aspects concerning contracts for the supply of digital content and digital services, sets standards for relations

[3] Verlos N.V. (2020). Konstytutsionalizatsiia tsyfrovykh prav liudyny: vitchyzniana praktyka ta zarubizhnyi dosvid. Chasopys Kyivskoho universytetu prava. No 2. p. 134.

[4] Ihnatov V.P. (2019). Tsyfrovi prava liudyny v konteksti informatsiino-komunikatsiinykh tekhnolohii. Kyiv. 256 p. Kovalenko O.S. (2020). Prava liudyny v internet-prostori: problemy ta perspektyvy. Lviv. 129 p.

[5] Petrenko N.M. (2018). Zakhyst personalnykh danykh v ukrainskomu ta yevropeiskomu pravi. Kyiv. 330 s.

[6] Zakon Ukrainy «Pro zakhyst personalnykh danykh». URL: https://zakon.rada.gov.ua/laws/show/2297-17#Text.

[7] Rishennia Yevropeiskoho Sudu z prav liudyny: https://www.echr.coe.int/home.

between consumers and digital services, particularly regarding the right to access information and transparency in data use[8].

The analysis of the European experience in the development of digital rights in Ukraine is of significant importance, especially the implementation of the General Data Protection Regulation (GDPR) and the European Convention on Human Rights in the Ukrainian legal area[9]. These are key steps toward guaranteeing privacy and the protection of citizens' rights.

The impact of GDPR on the Ukrainian legal system can be reflected in the following provisions:

- harmonisation with European standards: Ukraine, aiming to align its legislative acts with European laws, has adopted several laws harmonising domestic norms with the GDPR requirements. For example, the Ukrainian Law 'On the Protection of Personal Data' incorporates the key principles of GDPR and establishes rules for the processing and protection of citizens' personal data.
- consumer rights protection: GDPR defines the rights and responsibilities of those responsible for processing personal data. Ukrainian legislation also reflects these principles, ensuring high standards for the protection of consumers' rights in the area of personal data processing.
- penalties for violations: GDPR imposes significant fines for violations of personal data protection requirements. The Ukrainian version of the legislation also establishes liability for violations of personal data processing rules, helping to form an effective system of damage compensation[10] [4].

Overall, the analysis of these sources suggests that digital human rights in Europe and Ukraine are becoming subjects of growing attention and regulation. Ensuring a balance between innovation and the protection of fundamental rights is an important task for society in the digital era.

Conclusion

The study and protection of digital human rights in the modern world require a comprehensive approach, considering both Ukrainian and European experiences. Domestic scholars' works highlight the relevance of the issue and point to the need for further research in this area.

Digital human rights have become an integral part of modern society, where technology is rapidly changing the way we live. Ukraine, like other countries, faces many challenges in the field of digital rights, which are driven by the rapid development of information and communication technologies:

- Firstly, understanding digital rights and their importance is becoming essential for every member of society. People must know their rights and obligations in the digital space, especially concerning the protection of privacy and personal data.
- Secondly, the development of digital rights in Ukraine should consider the best practices of European countries and global standards. Improving legislation, raising public awareness, and developing cybersecurity are aspects that require immediate attention.
- Thirdly, cooperation between the government, citizens, businesses, and the academic community is crucial. Only through joint efforts can effective and sustainable solutions be created to ensure the digital rights of Ukrainians.

Thus, it should be emphasised that the development of digital rights is a key factor in ensuring a dignified and secure life in the age of technology. Given its unique challenges and opportunities, Ukraine has the potential to take a leading role in this process. Addressing these challenges will contribute to the creation of a sustainable and advanced digital society, where digital human rights remain an integral and protected part of modern civic life.

[8] Dyrektyva Yevropeiskoho Soiuzu pro prava spozhyvachiv v tsyfrovomu vitsi. URL: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32019L0770.

[9] Savytskyi O.V. (2017). Harmonizatsiia zakonodavstva Ukrainy ta Yevropeiskoho Soiuzu u sferi zakhystu personalnykh danykh. Kyiv. 188 p.

[10] Savytskyi O.V. (2017). Harmonizatsiia zakonodavstva Ukrainy ta Yevropeiskoho Soiuzu u sferi zakhystu personalnykh danykh. Kyiv. 188 p.

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11. Bratasiuk O.B., Mentukh N.F. (2021). Poniattia ta klasyfikatsiia tsyfrovykh prav v Ukraini. Yurydychnyi naukovyi elektronnyi zhurnal. No 10. S. 58-61.
12. Razmietaieva Yu.S. (2020). Tsyfrovi prava liudyny ta problemy eksterytorialnosti v yikh zakhysti. Pravo ta derzhavne upravlinnia. No 4. S. 18-23.
13. Verlos N.V. (2020). Konstytutsionalizatsiia tsyfrovykh prav liudyny: vitchyzniana praktyka ta zarubizhnyi dosvid. Chasopys Kyivskoho universytetu prava. No 2. S. 129-133.

Contact information

prof. Byelov Dmytro, DrSc.
belov_dimon@yahoo.com
Department of Constitutional Law and Comparative Law, Faculty of Law, State Higher Educational Institution "Uzhhorod National University", Honored Lawyer of Ukraine

doc. Ivan Peresh, CSc.
Department of Theory and History of State and Law, State Higher Educational Institution "Uzhhorod National University"

prof. Bielova Myroslava, Doctor of Law
Department of Constitutional Law and Comparative Law, Faculty of Law, State Higher Educational Institution "Uzhhorod National University"

TRANSPARENCY AND INTEGRITY IN PUBLIC ADMINISTRATION: ANALYSIS OF THE WORK OF THE ZAKARPATTIA REGIONAL COUNCIL IN THE CONDITIONS OF WAR.

Jaroslav Lazur, Iryna Suchan, Ivan Gabani

Abstract: The article examines the issues of transparency and integrity in public administration, using the example of the Transcarpathian Regional Council's work during wartime conditions. The key aspects of ensuring the openness of the authorities' activities, particularly the introduction of mechanisms for public control and accountability, are analysed. The main challenges faced by regional governments under martial law are considered, and recommendations for improving management processes are offered. Particular attention is paid to the issue of adaptation of local governments to modern conditions by increasing the level of public trust and ensuring the effectiveness of management decisions.

Keywords: transparency, integrity, public administration, corruption, Transcarpathian Regional Council.

Problem statement.

In the context of martial law, Ukraine's public administration bodies face new challenges related to ensuring the effectiveness of decision-making, transparency, and integrity. The Transcarpathian Regional Council, as a regional self-governing body, is compelled to operate in conditions of heightened social tension, limited resources, and rapid change. However, public trust in the authorities largely depends on their ability to ensure transparency, prevent corruption, and adhere to the principles of integrity. Insufficient consideration of these aspects can have a negative impact on the stability of the region, reduce the efficiency of state institutions, and undermine public trust in the authorities. This necessitates the study of transparency and integrity practices, as well as the development of recommendations for their improvement, using the example of the Zakarpattia Regional Council in the context of war.

Current state of the problem.

The issue of transparency and integrity in public administration has been the subject of numerous scientific studies by both Ukrainian and foreign scholars. Among Ukrainian researchers who have explored this topic, it is worth highlighting the works of M. Savchyn, T. Karabin, and Y. Bytyak. Their study "Humanitarian Assistance in Ukraine: Current Challenges" (2023)[1] examines pressing issues in this field. Additionally, B. Androshchuk, in his work "The Humanitarian Sector in Ukraine: Lessons Learned During the Year of Full-scale War" (2023)[2], summarises the experience gained, and the challenges faced by the humanitarian sector.

Particular attention is paid to the issue of criminal liability for the misuse of humanitarian aid. O. Kryshevych's study "Criminal Liability for Misuse of Humanitarian Aid or a Type of Fraud" (2022)[3] identifies legal approaches to the qualification of such acts. O. Marin, in "Problems of Criminal Legal Assessment of

[1] Volkov, S.V. (2023). Humanitarian Assistance In Ukraine: Modern challenges. Juridical scientific and electronic journal. 332-334. 10.32782/2524-0374/2023-8/77. https://visnyk-juris-uzhnu.com/wp-content/uploads/2025/01/35-4.pdf

[2] Androshchu B (2023) Humanitarian Sector in Ukraine: Lessons Learned in a Year of Full-Blown War https://life.pravda.com.ua/columns/2023/02/28/253104/

[3] Criminal liability for misuse of humanitarian aid or one of the types of fraud. Bulletin of the Association of Criminal Law of Ukraine. 2022. № 17. С. 173-183.

the Illegal Use of Humanitarian Aid under the Criminal Code of Ukraine" (2022)[4], examines the specifics of applying criminal law in such cases. M. Khavroniuk, in "For Illegal Use of Humanitarian Aid – Criminal Liability" (2022)[5], focuses on aspects of prosecution. Meanwhile, A. Shevchuk and O. Bodnaruk, in their study "Criminal Liability for Embezzlement of Humanitarian Aid" (2022)[6], provide a detailed analysis of the qualification of such offenses. Their research addresses the challenges of increasing government transparency, combating corruption, and strengthening accountability in the context of public administration reform.

Notably, M. Savchyn emphasizes the necessity of introducing innovative approaches to ensure transparency, such as utilizing digital platforms to monitor the activities of public authorities.[7] T. Karabin examines public oversight mechanisms, particularly the formation and operation of public councils within local self-government bodies[8]. Y. Bytyak analyzes successful anti-corruption practices that can be adapted to Ukrainian realities, while[9] N. Nyzhnyk explores strategies for enhancing the accountability of public authorities through the establishment of clear oversight and reporting procedures.[10]

At the same time, in the context of martial law, the issues of transparency and integrity are gaining new importance, which necessitates the study of the specific experience of regional authorities, particularly the Zakarpattia Regional Council. Given the new challenges, the introduction of civic monitoring mechanisms and the adoption of best practices from the research of these scholars are important steps to increase public trust and ensure stability in the region.

The purpose of this article is to analyse the work of the Zakarpattia Regional Council in ensuring transparency and integrity during the war. In addition, it aims to identify the most effective transparency tools that can be replicated in other regions of Ukraine. Specifically, the article seeks to identify practices that can strengthen public trust in the authorities, improve the quality of decision-making, and enhance the resilience of local governments in times of crisis.

To achieve the aim of the study, the following objectives were set:

- to analyse the legal framework governing the activities of local self-government bodies under martial law, particularly the Zakarpattia Regional Council.
- to examine the main challenges in ensuring transparency and integrity in the activities of regional authorities during the war.
- to explore the practices of openness and public oversight implemented by the Zakarpattia Regional Council and assess their effectiveness.
- to identify shortcomings and risks that may negatively impact the level of transparency and integrity in the activities of the Zakarpattia Regional Council.
- to develop recommendations for improving mechanisms to ensure transparency, accountability, and integrity in public administration under martial law.

[4] Marin O. "Problems of Criminal Law Assessment of the Illegal Use of Humanitarian Aid under the Criminal Code of Ukraine" (2022) http://www.lsej.org.ua/6_2022/74.pdf

[5]Khavroniuk M. "For Illegal Use of Humanitarian Aid – Criminal Liability" https://pravo.org.ua/blogs/za-nezakonne-vykorystannya-gumanitarnoyi-dopomogy-kryminalna-vidpovidalnist/

[6] Shevchuk A. V., Bodnaruk O.M. Criminal liability for theft of humanitarian aid / AV Shevchuk, OM Bodnaruk // Scientific Bulletin of Uzhhorod National University. Series: Law - Uzhhorod: Uzhhorod National University, 2022. - Issue 72, Part. 2. - C. 184-191. https://visnyk-juris-uzhnu.com/wp-content/uploads/2022/10/32-1.pdf

[7] Savchyn, M. Mykhailo Savchyn (2018), Fundamental Values and Principles of the Constitutional Order, lecture, 32 p. pdf. https://surl.li/eymzlw

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[10] Nizhnyk, N. R., Dolgopolov, A. M., & Muse, O. V. (2012). Citizens' participation in the protection of public order and the state border in Ukraine: history and modernity: a monograph. Kyiv: Fourth Wave.

Presentation of the main material.

Under martial law, the activities of local self-government bodies of the Zakarpattia Regional Council are regulated by several legal acts that ensure their functionality, transparency, accountability, and compliance with security requirements. The main regulatory acts are as follows:

1. **The Constitution of Ukraine.** Article 140 of the Constitution of Ukraine[11] establishes the status of local self-government bodies as independent entities of public authority. Under martial law, their powers are preserved but may be partially restricted in accordance with the Law of Ukraine "On the Legal Regime of Martial Law".
2. **The Law of Ukraine "On the Legal Regime of Martial Law"[12].**

This law defines the fundamental principles governing the activities of state authorities and local self-government bodies during martial law. According to the law:

- Local self-government bodies must coordinate their activities with military administrations.
- Certain powers may be delegated to military administrations to ensure defence capability and public order.

3. **The Law of Ukraine "On Local Self-Government in Ukraine"[13]**. This law remains the primary legal act regulating the activities of local councils, including the Zakarpattia Regional Council, even during martial law. It establishes that local self-government bodies:
   - They ensure continuous operation within their powers, except in cases where their functions are temporarily transferred to military administrations.
   - They must remain transparent and accountable to the community, even in conditions of restrictions.
4. **The Law of Ukraine " On Access to Public Information "[14]**.Despite the martial law, this law guarantees citizens access to information on the activities of local authorities. The Transcarpathian Regional Council is obliged to publish:
   - Decisions related to the allocation of budget funds.
   - Data on the implementation of programmes related to IDP support or the region's defence capability.
   - Information on humanitarian aid and its distribution.
5. **The Law of Ukraine " On Principles of Prevention and Counteraction to Corruption "[15]**, remains a key instrument in preventing corruption, including the activities of local self-government bodies. Within the law, we find these objectives:
   - Mandatory compliance with anti-corruption standards by local government officials, concerning the prevention of conflicts of interest, illicit enrichment, and abuse of power.
   - The declaration of income and property status of officials, even during martial law, is subject to possible restrictions determined by law.
   - Prohibition on obtaining undue advantage or using official position for personal gain.
   - The obligation to report corruption offences - citizens and officials have the right and opportunity to inform the competent authorities of corruption, including the misuse of budgetary or humanitarian funds.

Thus, even under martial law, local authorities, in particular the Transcarpathian Regional Council, must continue to ensure transparency, openness, and accountability of their activities, fulfilling the requirements of the current legislation of Ukraine.

[11] Article 140 of the Constitution of Ukraine https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text

[12] The Law of Ukraine "On the Legal Regime of Martial Law". https://zakon.rada.gov.ua/laws/show/389-19#Text

[13]The Law of Ukraine "On Local Self-Government in Ukraine" https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80#Text

[14] The Law of Ukraine "On Access to Public Information" https://zakon.rada.gov.ua/laws/show/2939-17#Text

[15] The Law of Ukraine "On Principles of Prevention and Counteraction to Corruption" https://zakon.rada.gov.ua/laws/show/3206-17#Text

6. **The Regulations of the Transcarpathian Regional Council dated February 25, 2021**[16], - are an internal regulatory document that governs the organization of its activities, the work of permanent commissions, deputies, and the decision-making process.

In the context of martial law, transparency in public administration at the regional level plays a special role, as it helps to strengthen public confidence in the authorities and maintain civil order. The Zakarpattia region, which borders several European countries, has a unique strategic position. This leads to specific challenges, in particular:

- *Migration processes*: Transcarpathia has become a refuge for tens of thousands of internally displaced persons (IDPs). In such circumstances, transparency in the use of state and international funds allocated to help IDPs is a key factor. Openness in the distribution of humanitarian aid helps to avoid abuse and corruption.
- *Humanitarian aid and its distribution:* A significant amount of humanitarian aid passes through the Zakarpattia region, crossing the state border. In the context of martial law, effective management of these resources is of particular importance, which should be based on the principles of transparency, accountability, and integrity. Local governments are obliged to ensure proper control over the processes of receiving, accounting, and distributing humanitarian aid. This involves systematic publication of reports, including data on the volume of goods received, their intended purpose, and final recipients. Adherence to these standards will help minimise the risks of misuse of aid and maintain public trust in the activities of local authorities.
- *Financial control and budget transparency:* Martial law requires increased attention to regional and local budget expenditures. In particular, it is important to refine electronic tools for monitoring expenditures so that the public can monitor the use of budget funds.
- *Fighting corruption in a crisis:* During the war, the risk of abuse of power increases due to weaker public control and more difficult inspections.

The regional executive authorities actively engage NGOs to monitor the distribution of aid and other resources. The local authorities also support the development of businesses that have relocated from the war-affected regions. As of the end of 2024, 282 businesses, including individual entrepreneurs, were operating in Zakarpattia Oblast, which were displaced because of relocation.

This process has significantly transformed the economic landscape of the region, causing significant changes in the budget structure. In particular, while in 2021 the regional budget was UAH 2.6 billion, in 2024 it is UAH 2.4 billion. Despite the slight decrease in the total budget, there has been a significant decrease in the level of dependence on government grants: in 2021, they accounted for 60% of the revenue side, while in 2024 this figure fell to 25%. This indicates an increase in the region's self-sufficiency, driven by an increase in tax revenues from relocated businesses. While tax revenues were estimated at millions of hryvnias before the process began, relocation has generated billions of hryvnias, which was not seen before. Thus, business relocation plays a key role in stabilising and developing the region's economy.[17]

The activities of the local authorities are based on transparent procedures for registering a business, renting premises, receiving subsidies or grants, which are necessary to attract investment and support the region's economy.

Zakarpattia is actively implementing digital solutions to improve the accessibility of administrative services, business support, and social adaptation of the population. Thanks to this, the region is consistently among the leaders in the number of implemented digital projects. One of the most successful is the Zakarpattia Help portal, which provides information on humanitarian and social support, as well as services for obtaining permits and compensation payments. In particular, as part of the Energy Help initiative, more than 200 companies received financial assistance worth UAH 27 million to purchase

[16] The Regulations of the Transcarpathian Regional Council, dated February 25, 2021 https://zakarpat-rada.gov.ua/normatyvni-dokumenty/rehlament-roboty/

[17] Transcarpathia is currently home to 40% of all relocated businesses in Ukraine https://zakarpattya.net.ua/News/235207-Na-Zakarpatti-narazi-perebuvaie-40-usoho-relokovanoho-biznesu-Ukrainy

energy-saving equipment. Special attention is paid to social initiatives, including the Dog for a Veteran programme, which helps rehabilitate combat veterans.

The development of the region's digital infrastructure includes a large-scale modernisation of administrative service centres (ASCs). Since 2021, 60 ASCs have been opened in the region, 63 remote workplaces for administrators have been introduced, and a new territorial unit has been created. Thanks to cooperation with international organisations, including the United Nations Development Programme, communities have received modern equipment that helps improve the quality of services. The introduction of the comprehensive service 'I am a veteran' provided quick access to social services for veterans and their families, which was used by more than 3,500 people.

Further development of the region's digital transformation is taking place through the introduction of electronic document management in communities, which contributes to the secure storage of data and optimisation of administrative processes. The Digitalisation of the New Economy 2024 Forum was an important event to promote digital initiatives. The goal was to position Zakarpattia as a promising IT hub, discuss the challenges of digital transformation, and establish partnerships. Thus, the region demonstrates a systematic approach to digital development based on the integration of innovations, attraction of international resources, and adaptation of successful practices.[18]

Public monitoring platforms: Initiatives such as Prozorro play a significant role in this process, creating a mechanism of public control and preventing corruption risks. Thus, digital monitoring tools are becoming an effective means of ensuring integrity in public finance and public administration.

Volunteer centres: In cooperation with local authorities, volunteer organisations have created databases of IDP needs and distribute assistance based on this data. The National Volunteer P2P platform is used. In the Zakarpattia region, there are several regional volunteer initiatives and organisations aimed at supporting internally displaced persons (IDPs) and others in need. One of these is the *Volunteers of Zakarpattia* NGO, founded in 2018, which is actively engaged in charitable activities and supporting IDPs. In addition, in 2023, the regional stage of the *Charitable Ukraine* National Competition, called *Charitable Zakarpattia*, was announced for the first time in the region. This competition aims to recognise and promote local charitable initiatives and volunteer organisations operating in the region.[19]

It is also worth noting the activities of the organization "Building Ukraine Together" (BUT), which has a branch in Zakarpattia. BUT is involved in reconstruction projects and volunteer camps, engaging youth in infrastructure restoration and community support.[20]

These initiatives demonstrate the active participation of local communities in the volunteer movement and contribute to the development of civil society in the Zakarpattia region.

Ensuring transparency and integrity in the work of the authorities is a key element of good governance. In this context, electronic services created at the initiative of the regional authorities play a significant role. They not only simplify citizens' access to administrative services but also help reduce corruption and increase public trust in government institutions. Here are some examples of such services:

- Applying for social benefits (subsidies, privileges).
- Making an appointment with the authorities or civil servants.
- Online business registration.
- Portal «Dopomoga Zakarpattya».[21]

[18] Digitalization of regions: more than five thousand people have registered on the "Dopomoga Zakarpattya" reference portal. https://hromada.gov.ua/post/cifrovizaciya-regioniv-ponad-pyat-tisyac-lyudei-zarejestruvalis-na-dovidkovomu-portali-dopomoga-zakarpattya

[19] The regional competition "Charitable Zakarpattia" has been announced for the first time. https://carpathia.gov.ua/news/upershe-oholosheno-rehionalnyi-konkurs-blahodiine-zakarpattia?

[20] Reconstruction volunteering: how does it work? https://volunteer.country/library/volunteering-in-rebuild?

[21] Digitalization of regions: more than five thousand people have registered on the Help Zakarpattia information portal https://thedigital.gov.ua/regions/news/tsifrovizatsiya-regioniv-ponad-pyat-tisyach-lyudey-zareestruvalis-na-dovidkovomu-portali-dopomoga-zakarpattya

Openness in decision-making, accessibility of information, and effective communication with citizens are key factors in building trust in government. However, despite the importance of these principles, certain shortcomings and risks stand in the way of their achievement:

- Irregular updates of data on official resources.
- Lack of a transparent mechanism for reviewing complaints and suggestions from citizens.
- Limited practice of auditing and monitoring of internal processes.
- Lack of sufficient motivation for officials to adhere to integrity standards.
- Lack of resources to implement modern technologies.
- The possibility of private interests influencing decision-making on the allocation of budget funds.
- Citizens' distrust.
- Risk of data leakage or manipulation in the information space.
- Use of fake information to discredit the work of the council.

Recommendations for eliminating deficiencies and minimising risk:

- **Create a schedule for updating information on official resources**. Regular updating of data on the authority's website and other official sources will allow citizens to receive up-to-date information and increase the transparency of management processes.
- **Implementation of an electronic platform for registering, monitoring, and resolving citizens' complaints and suggestions.** Such a platform will enable effective communication between citizens and government officials, speed up the processing of appeals, and increase trust in self-government bodies.
- **Ensure regular reporting on the results of consideration of appeals.** Publication of reports on the resolution of issues raised by citizens will promote accountability and create conditions for an objective assessment of the authorities' performance.
- **Engage independent experts or civil society organisations to conduct external audits.** An external audit will allow for an objective assessment of the effectiveness and transparency of the authority's activities, as well as identify weaknesses that need to be improved. We can also cite examples of such initiatives, namely external audits, thanks to Transparency International Slovensko[22]: The organisation conducts research and monitoring of the transparency of state institutions at the national and regional levels. It also conducts assessments related to the Transcarpathian region as a whole. Public control organisations can carry out civic monitoring of the activities of the authorities, including assessment of the effectiveness of electronic services. Decentralisation and e-governance projects, in cooperation with international partners, aimed at increasing transparency in the region.
- **Develop a system of incentives for employees who demonstrate a high level of integrity and responsibility.** Incentivising officials to work responsibly will help to strengthen professional ethics and increase the efficiency of their duties.
- **Introduce mandatory training on ethics and transparency for public officials.** Continuous professional development of employees will promote a culture of integrity and a responsible attitude to their duties.
- **Allocate budget funds to modernise information systems.** Investments in modern technologies will ensure more efficient information management, increase transparency, and minimise the risk of data leakage.
- **Organise trainings on monitoring budget processes, data analysis, and the use of anti-corruption tools.** This will allow activists and local government officials to better navigate complex management processes and implement effective methods of preventing corruption.
- **Receive technical and financial assistance to scale up successful initiatives.** Support from international partners and donors will help implement proven practices throughout the country.

[22] Transparency International Slovenskohttps://transparency.sk/sk/

- **Establish an independent body or commission to monitor the activities of public officials.** Such a body can perform the function of monitoring compliance with the rule of law, transparency, and ethical standards in the work of self-government bodies.
- **Establish regular roundtables or meetings to coordinate actions between different political groups in the council.** This will help to find consensus on important issues and minimise conflicts.
- **Active involvement of the public in decision-making through open hearings or online surveys.** Considering public opinion will help create more effective solutions that meet the real needs of the population.
- **Use of modern technologies to protect data from leaks and cyberattacks.** Strengthening cybersecurity is a prerequisite for maintaining trust in the authorities, especially in the context of information warfare.
- Building integrity is not only about rules or control, but also about changing culture and mindset. Every citizen, regardless of his or her status, should feel that he or she plays a role in building an honest and transparent society, which can be achieved through:
- Educational initiatives. Introduce ethics and integrity courses in schools and universities. Pupils and students should be taught the importance of honesty, transparency, and responsibility through interactive methods (cases, games, discussions)
- Role models and examples of leaders. Support public figures who demonstrate integrity. Opinion leaders, public figures, and politicians should be models of honesty and transparency.
- Recognising citizens who promote ethics and integrity through their actions. For example, give awards for civic engagement or anti-corruption activities.
- Promotion through media and culture, such as the development of a positive information space or systematic coverage of real success stories where integrity played a key role.
- Development of mobile applications and online platforms that teach integrity through interactive exercises or allow citizens to report cases of violations.
- Family education. Support for parents in raising ethical standards in children. Programmes for parents to teach their children responsibility, respect for the law, and other virtues.
- Long-term programmes at the state level. Development of a national strategy for building integrity. A clear vision and stages of achieving the goal, backed by a budget and political will. Introduction of social standards. Requirements for virtuous behaviour in all spheres of public life (education, business, medicine, etc.).

Conclusions

The study of transparency and integrity in public administration on the example of the Transcarpathian Regional Council in the context of war allows us to make a number of important generalisations. First, in the context of martial law, ensuring the openness of government activities is of critical importance. This helps not only to increase public trust but also to strengthen regional stability and civic cohesion. The introduction of effective mechanisms of public control, such as reporting to the community and the creation of platforms for public monitoring, is an important step towards achieving this goal. Secondly, the Zakarpattia Oblast Council demonstrates some progress in implementing transparency practices even in the face of limited resources and increased public tension. However, the analysis also revealed a number of challenges, including insufficient flexibility of management processes, limited access to information for citizens in a security environment, and risks of corruption. Thirdly, the key areas for improving transparency and integrity in the work of local self-government bodies are:

- active implementation of digital technologies to ensure openness, in particular by expanding access to online platforms for reporting and public control;
- development of accountability practices through the introduction of standardised reporting procedures;
- deepening cooperation with civil society to identify and eliminate corruption risks.

The importance of adapting the legislative framework to the conditions of martial law should be noted separately. This will enable local governments, such as the Zakarpattia Regional Council, to respond more effectively to new challenges while maintaining transparency and integrity in their operations.
In conclusion, the experience of the Zakarpattia Oblast Council can serve as a valuable case study for other regions of Ukraine. Adaptation of the recommendations proposed in this article will help to increase public trust in the authorities, strengthen managerial efficiency, and ensure stability in times of war.

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Contact information

prof. Yaroslav Lazur, DrSc.
Faculty of Law, Uzhhorod National University

doc. Iryna Suchan, CSc.
Department of Administrative, Financial and Information Law, Faculty of Law, Uzhhorod National University

mgr. Ivan Gabani, PhD
ivan.habani@uzhnu.edu.ua
Department of International Law, Faculty of Law, Uzhhorod National University.

TRANSPARENCY AND PARTICIPATION IN COMMUNITIES OF TRANSCARPATHIA

Ihor Pyroha

Abstract: This article examines the importance of transparency and participation in community management within the Transcarpathian region, particularly in light of contemporary challenges and reforms to local self-government in Ukraine. The author analyses the state of openness among local authorities, particularly in matters of financial management, the use of budget funds, and the organisation of public consultations with citizens. Special attention is paid to how citizen participation in decision-making processes can contribute to effective management and strengthen trust between local authorities and community residents. The article also discusses the experiences of various territorial communities in Transcarpathia in implementing the principles of transparency and participatory management, as well as the impact of these practices on the development of local infrastructure projects and the resolution of social problems. In addition, the author examines the role of modern technologies and tools, including e-petition platforms and open data, in improving communication between authorities and citizens. Based on the analysis of conducted research and practical examples, the report offers recommendations for improving transparency and participation policies in Transcarpathian communities, particularly in the context of new challenges that local authorities faced during the war and in the context of reforms in Ukraine.

Keywords: transparency, participation, Transcarpathia communities, local self-government, e-government.

Introduction

In modern democratic societies, the transparency of local self-government bodies is one of the key prerequisites for ensuring effective governance, accountability of authorities, and citizens' trust in state institutions. The openness of municipal administration enables community residents to actively participate in decision-making, exercise public control over resource use, and contribute to the more effective development of their territories.

Given the decentralisation reforms that are actively being implemented in Ukraine, communities have received significantly more administrative and financial powers, which, accordingly, requires an increase in the level of openness and responsibility of residents. At the same time, Transcarpathia, as a border region, has its own peculiarities of local governance, which affect the level of transparency of local authorities.

Transcarpathia, as one of the most ethnically, socially, and geographically diverse regions of Ukraine, has its own unique characteristics in the establishment of local self-government. Varying levels of financial capacity characterise territorial communities in the region, access to information technologies, and degrees of citizen participation in decision-making processes. The border status of the region creates additional challenges and opportunities, shaping the specific nature of interaction between local authorities and international partners, as well as between-border communities.

The purpose of this article is to analyse the state of transparency in communities of Transcarpathia, identify key problems that hinder the openness of municipal governance, as well as study effective mechanisms for ensuring the transparency of local government, international experience and best practices that can be implemented to improve the openness of local government in Transcarpathia.

Transparency in the context of local government involves creating conditions for public access to information, ensuring the accountability of government structures, and expanding opportunities for citizen participation in making management decisions.

Key principles of transparency in municipal governance:

- Openness of information – local authorities are obliged to publish all important information about their activities, including financial reports, council decisions, tender documentation, and development plans.
- Accessibility of citizens to the decision-making process: Residents should be able to influence decisions through public hearings, electronic consultations, and participation in advisory bodies.
- Accountability of local authorities: elected representatives must report to the community, and citizens must be able to exercise control over the activities of officials.
- Prevention of corruption – creation of mechanisms for transparent allocation of budget funds, combating conflicts of interest, independent audit, and participation of public activists in monitoring public procurement.

The Ukrainian legislation provides for several norms that aim to ensure the transparency of local self-government. The main legislative acts regulating the transparency of government bodies are as follows:

- The Constitution of Ukraine, which defines the right of citizens to participate in local self-government (Articles 5, 38, 140–146).[1]
- The Law of Ukraine "On Local Self-Government in Ukraine," which establishes the principles of the activities of local authorities, including openness and accountability.[2]
- The Law of Ukraine "On Access to Public Information," which guarantees the right of citizens to receive information about the activities of government bodies.[3]
- The Law of Ukraine "On Prevention of Corruption," which obliges officials of local self-government bodies to declare their income and expenses, as well as to ensure the transparency of public procurement.[4]

Ukraine and the European Union (EU) have a long history of cooperation, which has developed through various political, economic, and social processes. Since gaining independence in 1991, Ukraine has gradually established relations with the EU, which has become an important economic and political partner. Ukraine has demonstrated certain practical actions that bring it closer to the European Union. The European Commission presented a Report within the framework of the European Union Enlargement Package 2024, which contains a detailed assessment of the progress made by Ukraine on its path to membership in the European Union.[5] Particular emphasis is placed on the implementation of reforms in areas such as the fight against corruption, the functioning of the judicial system, and fundamental rights and freedom of speech.

The European Commission noted that Ukraine has made progress in preventing and combating corruption, in particular by strengthening the anti-corruption institutional framework, strengthening the independence and institutional capacity of the Specialized Anti-Corruption Prosecutor's Office (SAP), National Anti-Corruption Bureau of Ukraine (NABU) and National Agency for the Prevention of Corruption NAPC, and accumulating experience in pre-trial investigation, trial adjudication of high-level corruption cases. The electronic declaration system, suspended after the introduction of martial law, was restored

[1] Constitution of Ukraine 254k/96-BP dated June 26, 1996. URL: https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text

[2] On local self-government in Ukraine: Law of Ukraine 280/97-BP dated May 21, 1997. https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80#Text

[3] On access to public information: Law of Ukraine 2939-VI dated January 13, 2011. URL: https://zakon.rada.gov.ua/laws/show/2939-17#Text

[4] On prevention of corruption. Law of Ukraine 1700-VII dated October 14, 2014. https://zakon.rada.gov.ua/laws/show/1700-18#Text

[5] European Commission. Commission Staff Working Document Ukraine 2024 Report Accompanying the Document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions. Brussels. 30.10.2024 SWD (2024) 699 final.

and opened to the public. Despite some potential shortcomings related to the NAPC's powers to verify data, concerns remain.

Positive was the assessment of progress in the introduction of lobbying institutions in Ukraine. The European Commission emphasised that the NAPC has achieved good results and demonstrated its independence from political and vested interests. The NAPC will make every effort to apply a systemic and comprehensive approach in the fight against corruption, ensuring strategic decision-making and the implementation of systemic, rather than point and chaotic, changes in the field of preventing and combating corruption.[5]

One of the key recommendations of the European Commission is to ensure the implementation of the measures outlined in the State Anti-Corruption Program for 2023-2025, conduct an assessment of the program's effectiveness, and develop and approve the next strategy and program of anti-corruption measures in a timely manner.[6]

Other priority recommendations include:

- increase the number of judges of the High Anti-Corruption Court (HACC) and administrative staff;
- continue measures to further improve the results of investigations into high-level corruption cases, including the arrest and confiscation of criminal assets, focusing on cases involving high-level officials and high-profile cases of systemic corruption in the most important sectors and institutions;
- continue to strengthen the capacity of the NABU to conduct forensic examinations and independently extract information;
- complete the implementation and full use of the e-Case system for anti-corruption bodies and the Supreme Anti-Corruption Court urgently;
- ensure that the Supreme Anti-Corruption Court has permanent premises.

In addition, the European Commission stresses the need to align the regulatory framework on whistleblower protection with the provisions of Directive 2019/1937 of the European Parliament and of the Council of 23 October 2019.[7]

Several key recommendations are related to the improvement and development of corruption prosecution. The European Commission notes that the NABU and the Supreme Anti-Corruption Court have maintained their operational effectiveness and remain important institutional pillars of the anti-corruption structure. However, there is still a need to gradually expand the powers of the head of the SAP (for example, to grant the authority to initiate pre-trial investigations and coordinate investigative actions of the NABU/SAP against people's deputies independently of the Prosecutor General).

Amendments to procedural legislation to prevent procedural abuse during the trial of criminal proceedings also remain among the priorities.

Efforts should also be directed towards bringing Ukrainian legislation closer to the requirements of the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the recommendations of the OECD Council.

The assessment of progress indicates that Ukraine has successfully maintained the momentum of reforms and continued to move steadily towards European integration. The 2024 Report indicates that the European Commission anticipates that Ukraine will shift away from a "reactive" approach to addressing individual challenges. The EU recommendations emphasise the need for a comprehensive approach to reforms in various areas, which will ensure sustainable development and the country's systematic alignment with European standards.

Ukraine maintains good bilateral relations with other candidate countries for EU enlargement and neighbouring EU member states. Several new programmes for the development of international territorial cooperation have been adopted in collaboration with the European Union, including the participation of

[6] On approval the State Anti-Corruption Program for 2023–2025. Resolution of the Cabinet of Ministers of Ukraine of March 4, 2023. No. 220 URL: https://zakon.rada.gov.ua/laws/show/220-2023-%D0%BF#Text

[7] Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law URL: http://data.europa.eu/eli/dir/2019/1937/oj

local governments in projects and programmes of international territorial cooperation within the framework of European Union accession.

Transcarpathia is a special region of Ukraine. The region borders four countries of the European Union. We are also developing our cooperation with European colleagues and appreciate the support of communities in EU member states. After all, local governments ensure democratic governance, transparency, and openness of decision-making processes. Public participation in local government is a crucial element in the democratic development of communities. It provides transparency and accountability of the authorities, as well as promotes decision-making that meets the real needs of residents.

As of January 1, 2024, all Ukrainian communities will have the right to participate in the Interreg Europe 2021-2027 Program.[8] Cross-border Interreg programmes, implemented within the framework of the European Union's Cohesion Policy, are important tools for promoting balanced and integrated territorial development. There are four programmes specifically aimed at the border regions of Transcarpathia: Interreg NEXT Poland-Ukraine 2021-2027 (Interreg NEXT Poland-Ukraine), Hungary–Slovakia–Romania–Ukraine (Interreg NEXT Hungary-Slovakia-Romania-Ukraine), Romania–Ukraine (Interreg NEXT Romania-Ukraine),[9] and Interreg Danube Region.[10]

Transcarpathia, as a multinational region with complex socio-economic conditions, has specific features in the implementation of public participation mechanisms. Different communities employ various forms of interaction with the population, ranging from traditional mechanisms (such as public hearings and local initiatives) to modern digital platforms.

Communities in Transcarpathia employ various forms of public participation in local self-government, including citizens' appeals, public initiatives, public hearings and discussions, citizens' meetings at the place of residence, and the creation of petitions. Forms of participation include involving citizens in the community management process, allowing citizens to participate in the management of a city, village, settlement; involvement of residents in the distribution of funds from the budget of the territorial community; initiating, discussing and participating in the development of projects to improve infrastructure; monitoring the activities of local authorities and identifying their illegal actions and reporting on cases of corruption and fraud. Electronic declaration and financial control have been restored. The NAPC Agency has developed several effective anti-corruption tools, the implementation of which will minimise corruption risks and enhance the level of integrity in local self-government bodies. In particular, the Agency has begun to perform a strategic analysis of the risks of corruption in the customs sector and is collecting information to provide recommendations for their elimination. Therefore, the NAPC is interested in cooperating on this issue with the authorities of Transcarpathia, public activists, and businesses.

There are problems at customs, violations when crossing the border, public procurement, and illegal logging – these are the most vulnerable areas to corruption in various regions, particularly in the Transcarpathian region. The leadership of the Uzhhorod city and regional councils, as well as the regional military administration, gave special attention to the implementation of the State Anti-Corruption Programme for 2023-2025 at the local level.6 Maximum inclusiveness and involvement of civil society, openness of the authorities will allow not only to involve residents of territorial communities in solving important problems for society, but also to ensure transparency of decision-making at the local level and establish a dialogue authorities and communities. This significantly minimises the risks of corruption. Therefore, informing community residents about the activities of the local council, as well as the publicity of its executive bodies, officials, deputies, municipal enterprises, institutions, and organisations, should be carried out constantly. The Mayor of Uzhhorod, Bohdan Andriyiv, together with the National Agency for the Prevention of Corruption, signed the Declaration on Integrity and Prevention of Corruption in Local

[8] Interreg Europe Manual Ukrainian. https://docs.google.com/document/d/1duhmkUZ75-JbskUVkt9QzAf_puloFoXESLUDmAPZICo/edit?tab=t.0

[9] Interreg NEXT Romania-Ukraine. URL: https://ro-ua.net/en/home-2021-2027

[10] Interreg Danube Region. https://interreg-danube.eu/

Governments. The inclusion of regions in the signing of the document is an important indicator of the movement of local authorities towards maximum transparency and the implementation of integrity standards through the involvement of communities.[11]

However, the degree of openness and transparency of local government activities has not increased significantly. New services for public participation do not ensure public participation in the formation of the local budget and budget expenditures.

The Transcarpathian Regional Military Administration is developing a regional programme to ensure public participation in the formation and implementation of state policy for 2025–2027. The programme aims to enhance the activities of state authorities and local governments, ensuring transparency and openness in their operations, and involving citizens in the management of state affairs. It considers public opinion on priority areas, focusing on developing the state's defence capabilities and integrating Ukraine into European and Euro-Atlantic structures. The primary objective of the Programme is to enhance the collaboration between executive authorities and public institutions, thereby promoting the establishment of the Transcarpathian region's authority in Ukraine and beyond.

The Transcarpathian Regional State Administration has a working group "Transparency and Accountability". It takes all necessary measures to prevent the misuse of budget funds. The working group has developed methodological recommendations for local governments that contain useful information and explanations on organising procurement and minimising the risks of harming economic security when purchasing goods, works, and services by the customer.[12]

The reform of local self-government is a key component of Ukraine's decentralisation policy, aimed at ensuring effective governance at the local level, improving the quality of public services, and strengthening the role of communities in decision-making. This reform aims to create a more effective, accountable and transparent local governance system that meets the requirements of the time and the needs of citizens.

Despite the ongoing war in Ukraine, local government reforms and legislative work continue to improve the mechanisms of local democracy, as well as to improve the openness and transparency of the activities of local government bodies. The Law "On Ensuring Transparency of Local Government," adopted by the Verkhovna Rada of Ukraine on February 22, 2024,[13] has already entered into force, and its provisions are currently being actively implemented by local councils at the level of villages, settlements, and cities. Most of the communities in Transcarpathia demonstrate a willingness to be open and transparent in their work. Local government bodies have begun to provide more information about their activities. Every month, heads of local councils submit reports on expenses and the budget. They use video broadcasts of plenary sessions, preliminary posting and discussion draft decisions, and coverage of their activities on the official website of the local council, in local and all-Ukrainian media, social networks and messengers in order to involve the public in decision-making. All information held by local government bodies and officials must be open, except in cases provided for by law.

On January 6, 2025, the President of Ukraine signed Law No. 3703 on democracy at the local government level (draft law No. 7283), which aims to involve as many residents as possible in community decision-making and promote the development of local democracy.[14] The law provides communities with real levers of influence on their local authorities concerning local initiatives, public hearings, general meetings, petitions and consultations, participation in the formation and distribution of the local budget, mandatory

[11] Declaration on building integrity in local government bodies. URL: https://nazk.gov.ua/uk/mytnytsya-peretyn-kordonu-ta-lisove-gospodarstvo-golova-nazk-rozpoviv-pro-nayposhyrenishi-koruptsiyni-ryzyky-na-zakarpatti/

[12] The Transparency and Accountability Working Group at the OVA continues to work / Official website of the Transcarpathian Regional Military Administration. URL: https://carpathia.gov.ua/news/robocha-hrupa-prozorist-ta-pidzvitnist-pry-ova-prodovzhuie-pratsiuvaty

[13] Amendments the Law of Ukraine on Local Self-Government in Ukraine to Ensure Transparency of Local Self-Government No. 3590-IX of 02/22/2024. URL: https://zakon.rada.gov.ua/laws/show/3590-20#Text

[14] Amendments Laws of Ukraine on Regarding Democracy at the Local Self-Government Level. Law of Ukraine 3703-IX of 05/09/2024. URL: https://zakon.rada.gov.ua/laws/show/3703-IX#Text

reporting of local deputies and heads to voters. The law provides residents with tools for action and establishes a new level of trust in people, their responsibility, and their desire to create the future.
Ukrainian legislation does not regulate the work of local councils in conditions of military operations, so each local council develops its own practices. Local councils operate independently and make decisions that are necessary for their respective territorial communities. The legality of the actions and decisions of local self-government bodies should be subject to state supervision by local state administrations.
The Transcarpathian region, which has received a significant number of internally displaced persons (IDPs) and has become a key logistical and humanitarian hub, has faced new challenges to ensure transparency. The war has changed the priorities of local communities, caused certain restrictions on access to information, and requires the adaptation of accountability mechanisms to new realities.
During the war, many communities have faced the need to balance openness and security. On the one hand, citizens have the right to access information on the use of budget funds, the assistance to IDPs, and the work of municipal enterprises. On the other hand, certain data may not be published for security reasons.
Due to martial law, local governments often restrict the publication of certain data (for example, on defence procurement, humanitarian aid logistics). This reduces security risks, but at the same time, it can be used for concealment and abuse. For example, in some communities of Transcarpathia, access to public procurement through the Prozorro system has been suspended, which complicates public control over finances.
Individual local authorities can make important decisions without public discussion, arguing that this is necessary for military reasons. For example, the distribution of land resources or budget funds can take place without proper control.
After the full-scale invasion, Transcarpathian communities adopted many enterprises from the affected territories. There was an opportunity to develop the economy, support IDPs, effectively use existing communications and unused infrastructure from former factory territories, and create additional jobs. Transcarpathia became one of the centres for receiving IDPs and distributing humanitarian aid. However, not all communities provide adequate reporting on the resources received and distributed. Among the main problems, the following should be highlighted:

- Lack of unified reporting standards for humanitarian supplies.
- Opacity of the work of charitable foundations and local initiatives.
- Insufficient public control over the distribution of aid.

Today, when Ukraine is fighting for its independence and the right to be Ukrainian in a war with the Russian aggressor, the issue of people's trust in the authorities is gaining particular relevance. In conditions of a budgetary and other resource shortage in local self-government bodies, only the rational and skilful use of these resources will enable local councils, despite all the hardships, to fulfil their primary functions in communities and support the Armed Forces of Ukraine in protecting our people. Publicity and transparency in the actions of local councils and their officials can create a factor of unification of all efforts to resolve urgent issues.
Ukraine is a sovereign and independent state that has chosen the European path of development, not the Eurasian one. Therefore, it is especially important not to deviate from this path. Our country and the European Union are united by common values and aspirations. We are currently fighting for our right to self-determination and believe that Ukraine will take its rightful place among other developed European countries.

Conclusion

Despite Russia's full-scale aggression, Ukraine has taken practical steps that bring it closer to the European Union, implementing reforms in areas such as combating corruption, judicial system reform, fundamental rights, and freedom of speech. Ukraine's progress in introducing the lobbying institution was positively assessed. The implemented reform of local self-government has expanded the levers of influence of

citizens on local authorities: local initiatives, public hearings, general meetings, petitions, and consultations, participation in the formation and distribution of the local budget, and mandatory reporting of local deputies and mayors to voters. The changes introduced have provided residents with new tools for action, established a new level of trust in people, their responsibility, desire, and ability to change their lives for the better. The peculiarity of Transcarpathia as a multinational region with complex socio-economic conditions for the implementation of public participation mechanisms was noted. New opportunities and new problems were identified, associated with the presence of a border with four European Union countries. On the one hand, this contributes to the development of cooperation between Ukrainian communities and their neighbouring European counterparts. On the other hand, corruption problems arise in customs. Transcarpathia participates in four cooperation programmes with neighbouring European countries.

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Contact Details

Prof. Doctor of Law Ihor Pyroha,
ihor.pyroha@uzhnu.edu.ua
Prof. Department of Constitutional Law and Comparative Law
Law Faculty of Uzhhorod National University
26, Kapitulna street, Uzhhorod,
88000
Ukraine

GOOD GOVERNMENT, TRANSPARENCY, AND MULTILEVEL PUBLIC POWER IN UKRAINE AND MARTIAL LAW CONDITIONS

Mykhailo Savchyn

Abstract: The transparency of public administration is vital for democratic accountability and responsibility. The system of democratic accountability of the public administration in Ukraine is incomplete due to many factors. Ensuring the disciplinary responsibility of public servants, preventing corruption, and improving the effectiveness of the administrative control system are necessary. They affect the principles of transparency of public administration and the implementation of good governance under the constitutional principles of the rule of law, respect for human rights, and democratic legitimacy of public authorities. Ukraine should fully implement regional self-government and self-sufficiency as part of European integration. This is a prerequisite for ensuring Ukraine's competitiveness in the national economy and defence capability.

Keywords: accountability, constitutional democracy, economic freedoms, good government, public administration, rule of law, transparency.

Introduction

Transparency of public authorities is critical to ensuring stakeholder participation in developing and adopting evidence-based government decisions and democratic accountability of public authorities. This is an integral part of the rule of law, which determines the balance of power and respect for human rights in public administration. Both the Constitution and the current legislation of Ukraine set out the principles and basic standards of transparency and accountability of public authorities. The development of these provisions is influenced by fundamentally opposite factors in their content – European integration and martial law conditions in Ukraine.

This contradiction is overcome by the need to strengthen the institutional capacity of the public authorities in Ukraine, which must meet the core values of the EU - human rights, democracy, and the rule of law—in times of war, protecting human rights shifts to ensuring the state as a space of security for its citizens and redistributing limited resources to increase the state's defence capability and repel the aggressor represented by the Russian Federation. Democracy in such circumstances is interpreted peculiarly, as the public authorities in Ukraine gained legitimacy as a result of free democratic elections in 2019 and 2020, which, according to the doctrine of *gubernaculum* and *jurisdictio*, are endowed with the prerogatives of power to ensure national resistance and to achieve peace on fair terms for the territorial integrity of Ukraine as a sovereign state whose goal is EU membership. To this end, the institutions of power are held accountable through parliamentary oversight procedures and the accountability of self-governing executive bodies to local councils.

This is further complicated because, at least at the national level, it is impossible to hold elections that meet the basic principles of universal, free, and equal electoral rights, which means that the electoral process lacks democratic legitimacy. Since a significant part of the population in Ukraine has become forcibly displaced and now lives mainly in EU countries, there is a problem of ensuring their voting rights. The example of the elections in Moldova shows how important the role of the diaspora is in preventing society from slipping into the darkness of Kremlin propaganda narratives that have nothing to do with the values of constitutional democracy. As for local elections, in the rear regions under the effective control of the Ukrainian government, theoretically, they can be held, but the issue here is the selective application of the fundamental principles of electoral law and the available resources, which are more needed to strengthen national defence and security.This presentation will reveal the essence of the transformation

of accountable good governance in wartime Ukraine. In this regard, it will analyse (1) the peculiarities of good governance through the doctrine of multi-level public authorities, (2) democratic accountability and responsibility of public authorities, and (3) ensuring the self-sufficiency of the national economy under the cluster principle. These issues will be addressed by combining an interdisciplinary and synthetic approach. Integrating the achievements of jurisprudence, economic theory, and security studies will allow us to define the parameters of a multi-level organization of public authorities and good governance. The synthetic approach will allow reconciling the textual and contextual aspects of the justification of legal acts based on the principles of respect for human rights, the rule of law and democracy.

The peculiarities of good governance through the doctrine of multi-level public authorities

Within the framework of European integration, openness of public authorities is a standard in the functioning of the government based on access to information, free discussion of the foreseeable consequences of government decisions, and participation of stakeholders in government decision-making. Under martial law, access to information becomes restricted, and the degree of involvement in decision-making is narrowed to a specific circle of people to protect Ukraine's national security and defence capabilities. Suspension of the possibility of holding elections of public authorities during wartime, given the fundamental principles of electoral law and the limited resources are required to ensure Ukraine's defence capability. This encourages strengthening the deliberative principles of public authorities and the involvement of competent persons in the decision-making process, considering the principles of constitutional democracy.

Access to information in Ukraine is guaranteed through the constitutional guarantees of access to information (Article 34(2)), participation in the management of public affairs (Article 38), and under the legal construct of access to information on environmental protection (Article 50)[1]. This creates a legal basis for good governance and access to publicly relevant information essential for developing communities and regions. At the level of current legislation, this is manifested in access to information and protection of personal data. In particular, the Law on Access to Public Information[2] defines various forms of access to public information (Article 5), introducing certain restrictions (Article 6). By the way, such restrictions are based on Article 34(2) of the Constitution. In this regard, the public administration should consider the relevant practices of the Constitutional Court of Ukraine, the European Court of Human Rights, and the higher courts of Ukraine. Currently, the CCU's practice in this regard is poor. It has so far limited itself to the observation that:

"<...>*interference with [a person's constitutional right to private and family life by collecting, storing, using and disseminating confidential information about a person without his or her consent] will be considered lawful if there is a basis in national law, and provided that such law complies with the rule of law*."[3]

Such legal regulation and the state of jurisprudence (stable case law of ordinary courts and the Constitutional Court) are oriented towards establishing a regular and sustainable practice of good governance. It should encourage openness in the authorities' activities, allowing discussion of the foreseeable consequences of draft legal acts under consideration by the authorities. In this regard, a necessary provision is contained in Article 6(8) of the Law on Access to Public Information, which establishes the principle of guaranteed access to a document that, although it contains information with restricted access, provides information for review that is not limited.

However, at the national level, there are significant problems in this regard: institutional defects in the Constitution itself and inappropriate political practice. The Constitution differentiates the government's investiture procedure between the actual formation of the government and the approval of the

[1] Constitution of Ukraine, current version on 1 January 2020 <https://zakon.rada.gov.ua/laws/show/en/254%D0%BA/96-%D0%B2%D1%80#Text>

[2] Law of Ukraine On Access to Public Information no № 2939-VI, current version on 8 October 2023 <https://zakon.rada.gov.ua/laws/show/2939-17#Text>

[3] Decision of Constitutional Court of Ukraine no 7-p/2018, para 2.2(6)

Government Action Programme by the Parliament. In practice, there have been several cases of approval of the Government Action Programme, which is associated with a kind of immunity for the Cabinet of Ministers - it cannot be dissolved within a year after the approval of its Programme (87(2) of the Constitution). An example of such a program is Canada's 2022-24 National Action Plan on Open Government. The lack of practice in adopting such programs has detrimental consequences for the transparency and regularity of the legislative work of the parliament and the adoption of regulatory acts by the government and public administration. Along with a rather detailed and rigid procedure for forming the government and the absence of such means of parliamentary control as interpellation and vote of confidence in the government, the picture is one of limited procedural opportunities for stakeholders to participate in developing and adopting laws.

Taking into account Ukraine's semi-presidentialism, a competitive conflict model emerges in the situation of 'coexistence' of the president and the government, when they represent different political forces, and concentration of power prerogatives in the presidential office, when the head of state relies on the parliamentary majority and forms the cabinet. This period is characterised by legislative spamming by both the parliamentary majority and the opposition, as in practice, neither the government nor the parliament is bound by the Government Action Programme, which usually contains a significant amount of legislative planning.

The principle of democratic accountability and responsibility of public authorities

Instead, there is a kind of taboo at the regional level of public power in Ukraine, as the existence of regional self-government is hardly recognised. This is also accompanied by a widespread belief that ministries and independent agencies should have territorial offices at the regional level. However, local and regional self-government could perform the relevant functions on the ground and in the regions. At the same time, the potential of constitutional tools of democratic accountability and control of local self-government is not used to ensure the unity of the legal system of Ukraine.

In this regard, three constitutional draft laws on self-government were even prepared, which attempted to define the principle of subsidiarity in a rather controversial way. Until now, the Constitution has a rather controversial principle of combining centralisation and decentralisation in exercising state power (Article 132), which has mainly authoritarian centrist connotations, which is only confirmed by practice. At the same time, the mechanism of democratic accountability and responsibility of public administration at the regional and local levels is laid down in Article 119(2) of the Constitution, according to which local state administrations ensure legality and legal order. The problem is related to the final abolition of prosecutorial scrutiny, which included the prosecutorial scrutiny of the legality of acts of public administration and local councils by the 2016 constitutional amendments. This can be rectified today, and Article 119(2) of the Constitution clearly indicates that this does not require constitutional amendments but rather comprehensive changes to administrative supervision and control over local self-government by local state administrations. To ensure the sovereignty and territorial integrity of Ukraine, it is possible to suspend acts of local self-government authorities by the court upon petition in case the local state administration challenges them, and the relevant laws should be amended accordingly.

Transparency of public authorities is essential for the economic development of a society. Simple access to information and the ability to review draft government decisions are not enough. They should be aimed at protecting economic freedoms, strengthening the principles of local self-government and self-sufficiency, and fairly redistributing public finances between levels of public authority while maintaining the rule of law, especially the justice system.

The full-scale invasion of Russia halted the reform process, which resulted in the decentralization of public power, which was in line with current trends in the development of local self-government in exercising public power. Bringing services closer to community residents and their more active involvement in decision-making, based on available resources and capabilities, determined the trends in developing public authorities as network-centric. In this regard, Mildred Warner wrote that:

"Local government in the twenty-first century faces challenges regarding service delivery, finance, the workforce, and citizen engagement. While privatization was a significant innovation in the last decades of the twentieth century, lack of cost savings and the loss of public values in market provision are prompting reversals in privatization, increases in regulation, and new approaches to government enterprise. The twenty-first century must focus on rebuilding the capacity of local governments to finance critical infrastructure, attract and retain a skilled labor force, and engage citizen in designing innovative solutions to address public problem"[4].

The role of decentralisation of power and the capacity of communities and regions to address matters of public importance has been fully demonstrated during the fight against the coronavirus pandemic. Suppose that in response to local government, digital mobile tools will be increasingly widely used. In that case, the evidence suggests this will occur at a different speed. In addition to the structural characteristics of local government, socio-economic conditions, and the level of digitalization, the nature of the political system, democratic or authoritarian, will also affect the role citizens can play in the local government policy-making process toward the post-pandemic recovery[5]. However, under martial law, there is a concentration of power prerogatives in the executive branch to repel the aggressor and ensure the country's defence capability. Even when applying measures under the state of emergency in the context of the coronavirus pandemic, it turned out that financial constraints were present; local governments everywhere proved to be essential partners in the multilevel response toward the impacts of the pandemic, despite the very limited financial capacity, local government was indispensable in the organization of the response to the needs of people with low incomes[6]. For example, during the pandemic in Slovakia, local staff affiliated with local self-government often had to fulfill different tasks than usual. Under the pressure of pandemic circumstances, local self-government initiated an intervention in local public health. They increased sanitation, disinfection, and cleaning activities and introduced new hygienic standards and technologies in public facilities and spaces[7]. As for the specifics of Ukraine, it should be noted that the full-scale invasion of Russia interrupted the process of decentralisation reform, which involves the expansion of local government rights and rationalisation of the unity of the legal order on the grounds of subsidiarity and coherence (balanced development of regions and communities (in Ukrainian, `terytorial`ni hromady', `територіальні громади')). These problems are closely related to ensuring the institutional capacity of the state.

Ensuring the unity of the legal order in Ukraine has untapped potential under Article 119(2) of the Constitution, which provides for the enforcement of legality and legal order by local state administrations. No constitutional amendments are required for this purpose. To achieve these goals, the laws on local state administrations and local self-government, as well as for the wartime period for local military administrations, should define the appropriate organisation of public authorities and procedures for administrative control.

On the threshold of Russia's full-scale invasion of Ukraine, public authorities were partially decentralised. As a result, the process of public finance distribution was decentralised, and communities were consolidated based on their self-sufficiency in providing residents with a range of administrative services. At the same time, at the regional and sub-regional levels (respectively, the oblast and rayon levels), oblast and rayon councils act as representative bodies of local self-government. Still, there are no executive bodies of local self-government at this level - local administrations act instead. Before the Russian invasion, Ukraine had not decided on the modus operandi of regional self-government on a full scale.

Similarly, the recognition of communities, which represent the basic level of local self-government, as legal entities is a matter of much debate. This kind of phobia is associated with a potential infringement

[4] WARNER M. E.: The future of local government: Twenty-first century challenges (2010) 70 *Public Administration Review* 145

[5] Carlos Nunes SILVA: Local Government and the Covid-19 Pandemic: An Introduction. In: Carlos Nunes Silva (ed.) *Local Government and the Covid-19 Pandemic. A Global Perspective* (Springer 2022) p. 3

[6] Ibid 9

[7] Ján BUČEK: Local SelfoGovernment and Governance During Covid-19 Pandemic in Slovakia. In: Carlos Nunes Silva (ed.) *Local Government and the Covid-19 Pandemic. A Global Perspective* (Springer 2022) 490

on state sovereignty. Today, however, it is recognised that considerations of state sovereignty cannot override human rights. After all, local self-government is a local public authority of territorial communities that ensures the realisation of the rights and freedoms of community residents, based on the available resources, the scope of tasks and powers of the relevant public authorities. Failure to resolve these issues does not contribute to economic progress, as in wartime, the bulk of resources is allocated to military needs. As a rule, the issue of financing the military cannot be the subject of a broad public discussion, as it may threaten the country's national security and defence capability. Therefore, the principles of delegative democracy, which involve experts in the decision-making process and ensuring competition in the economy, come to the fore, as the economy's structure in the military-industrial complex is monopolistic or with several dominant commercial entities. Then we should talk about a rather delicate organisation of the system of accountability and control through (1) parliamentary control and (2) administrative control by the Antimonopoly Committee of Ukraine and some other independent regulators. This is necessary to prevent corruption and to ensure fair distribution of public funds for the execution of quality and timely military procurement.

Ensuring the self-sufficiency of the national economy under the cluster principle

After the collapse of the Soviet Union, the national economy of the reborn Ukraine shrank dramatically. The depression of the 1990s included hyperinflation and a drop in economic output to less than half the GDP of the previous Ukrainian SSR[8]. During 2000-2008, Ukraine experienced positive GDP growth, which was halted by the global economic recession from 2008 to 2011. However, during 2013, Russia waged an economic war with Ukraine, which was accompanied by an embargo on several food products (milk, chocolate, etc.) and metallurgical products (rolled steel, cast iron, pipes). The Revolution of Dignity (November 21, 2013 - February 20, 2014) resulted in the resignation of Viktor Yanukovych from the presidency. During the transitional period, when it was necessary to restore the normal functioning of government institutions, Russia illegally annexed Crimea. It created proxy governments in the Donetsk and Luhansk regions through proxy militias. This also led to a decline in the national economy[9]. As a result of Russia's full-scale invasion of Ukraine on February 22, 2022, the economy fell by 28.8% in 2022, and it recovered by 5.3% in 2023. Based on the results of 2024, GDP growth amounted to only 2.9% year-on-year, lower than expected. The economic recovery is gradually slowing down. Each quarter of 2024 showed lower growth compared to 2021 than in 2023, and in the fourth quarter, GDP declined by 0.1% compared to the fourth quarter of 2023[10].

This has led to a decline in GDP and a narrowing base for ensuring Ukraine's defense capability and uniform development of its territories. It should also be considered that the Russian Federation occupies 20% of Ukraine's territory. Since the beginning of the full-scale invasion, all of Ukraine's own state budget revenues have been used to finance defense, accounting for approximately half of the state budget. In particular, all civilian expenditures of the state budget are financed by foreign financial assistance – in 2024, the need for such external financing is $38 billion[11].

Given such limited opportunities, in the face of declining GDP and fiscal problems in the context of war, it is possible to rely on the cluster principle of its reformatting to restructure the national economy. As Usarek and Smerichevska write, cluster systems are the embodiment of a unique combination of scientific, industrial, and commercial structures, based on the use of the advantages of cooperative interaction, contributing to the formation and effective use of real competitive advantages of individual enterprises,

[8] SUTELA, Pekka: The Underachiever. Ukraine`s Economy Since 1991. The Carnegie Papers, 2012. P. 4. <https://carnegie-production-assets.s3.amazonaws.com/static/files/files__ukraine_economy.pdf>

[9] ROBERTS, Michael: Ukraine: The Economic Consequence of the War. The Brooklyn Notes, March 2022 <https://brooklynrail.org/2022/03/field-notes/Ukraine-The-Economic-Consequences-of-the-War/>

[10] SAMOILIUK, Maksym: Ukraine Economy War Tracker. Centre for Economic Strategy, 1 April, 2025 <https://ces.org.ua/en/tracker-economy-during-the-war/>

[11] Ibid.

industries, and national economies in the conditions of increasing global competitive confrontation[12]. Since Ukraine needs to strengthen its defense capabilities, the cluster principle should be based on developing the national military-industrial complex (MIC) and its intensive integration with military enterprises of constitutional democracies, including NATO members.

The MIC can become a cluster for developing the national economy in wartime. This complex can develop along at least two vectors: 1) in traditional areas, which requires deepening economic integration with constitutional democracies; 2) in innovative areas related to robotisation and digitalisation of production, with a potential revision of warfare tactics and strategy. Therefore, the emphasis is shifting to the openness of public authorities through transparent public procurement procedures and redistribution of public finances to strengthen Ukraine's defence capability. This could also create potential for developing related sectors of Ukraine's economy and enhancing its self-sufficiency and future renewal potential after the war.

Ensuring a competitive environment and the quality of administrative services within the good governance framework creates space for preventing potential corruption. Despite the existence of an anti-corruption infrastructure represented by the National Agency for the Prevention of Corruption, the National Anti-Corruption Bureau, the Special Anti-Corruption Prosecutor's Office, and the High Anti-Corruption Court, the focus should still be on minimising corruption by reducing transaction costs associated with excessive state intervention in economic processes and expanding the potential of a competitive market economy.In such circumstances, it is essential to protect property rights by guaranteeing contract compliance, the inviolability of property during its state registration, or registration of real estate transactions. In particular, the CCU considered a case related to constitutional guarantees of property rights in case of satisfaction of a complaint against decisions, actions or inaction in the field of state registration of rights or confirmation of the fact that the state registrar's access identifiers to the State Register of Rights were used by other persons by the Ministry of Justice of Ukraine when its territorial bodies decide to "cancel the decision of the state registrar". Recognizing "the protection of property rights by the state as one of the constitutional values", the CCU ruled[13] that the removal of an entry from the state register of real estate ownership is excessive and contrary to the principles of legal certainty, which results in the owner "losing the ability to dispose of real estate freely and at his/her discretion by alienating it" (para. 4.3(5), 4.5(4)). Further, in general terms, but concerning the ECHR case law, the CCU emphasizes (para. 4.7(3)) the role of good governance, in particular in guaranteeing property rights:

"the state must implement in its activities the constitutional principle of its responsibility to the individual and the principle of `good governance', which is essentially related to it, which consists in the obligation of the state to implement in its activities the fundamental principles of building, organizing and exercising state power for the establishment of true democracy, respect for human rights and the rule of law as European values."

The concentration of resources in wartime is fully justified, as defeat could collapse the main stakeholders' interests in the national market. In such circumstances, priorities should be set to protect certain areas of economic interests that at least ensure Ukraine's economic self-sufficiency against the aggressor's efforts and reduce dependence on foreign financial aid. Since the start of the full-scale invasion, external budgetary support for Ukraine has totalled over $100 billion. And 90% of this support came from the EU, the US, the IMF, Japan, and Canada. In 2025, Ukraine's external financing needs are estimated at $38.4 billion. In 2023, this need was $42.5 billion[14]. The unprecedented amount of international aid allowed the main expenditure items of the State Budget of Ukraine to be allocated to defence needs, and the aid itself made it possible to support social spending and remuneration for public sector employees and civil

[12] USAREK Wlodzimierz, SMERICHEVSKA Svitlana:`Strategic Role of the Economics` Clustering: The European Experience'. In: Svitlana SMERICHEVSKA (ed.) Cluster Policy of Innovative Development of the National Economy: Integration and Infrastructure Aspects. Poznań: Wydawnictwo naukowe WSPIA, 2020. P.15

[13] Decision of Constitutional Court of Ukraine no 9-p(II)/2022

[14] Tetiana PALIYCHUK, Oleksandra MYRONENKO: Overview of the 2025 budget. Analytical note. 2024 *Centre for Economic Strategy*, p. 4 <https://ces.org.ua/wp-content/uploads/2024/12/budget-2025.pdf>

servants. In turn, this helped avoid significant human rights restrictions, such as rationing and other restrictions on civilians' access to food. Under these circumstances, the Ukrainian government should enhance the standards of good governance and e-governance to strengthen the competitiveness of the national economy and increase Ukraine's defence capability. The institutional basis is the proactive, effective, and actual capacity of independent regulators and agencies such as the Anti-Monopoly Committee and the Defence Procurement Agency.

Conclusion

Good governance in Ukraine is being established due to the contradictory decentralization processes and the need to concentrate resources during war. In such circumstances, it is critical to have independent agencies and regulators to ensure the national economy's competitiveness and Ukraine's defence capability. To this extent, the Constitution of Ukraine has sufficient potential to ensure the legality of local self-government units, decentralisation of power, and the proper functioning of independent regulators. These measures should be adequately reflected in current legislation and administrative practice by defining procedures for judicial review of legal acts of public authorities based on the provisions of the Constitution and laws of Ukraine.Despite the incompleteness of the constitutional structure of democratic accountability and responsibility of the Ukrainian authorities, as evidenced by the restoration of statehood since 1991, the European vector of its development is deepening. At this stage of development, which can be conditionally called the period of military constitutional democracy, an important role is played by the deliberative principles of its organization, when, in the absence of elections, the authorities gradually involve experts in certain areas of public administration in the decision-making process.The Constitution of Ukraine contains sufficient legal potential for further implementation of Ukraine's European integration and strengthening democratic accountability and responsibility of regional and local public authorities. Dynamic interpretation of the constitution allows for proper specification and detailing of the laws' provisions on which the executive and local governments can exercise their functions. At the same time, under martial law, the role of parliamentary control should be strengthened, and the continuity of the Constitutional Court of Ukraine should be ensured.Good governance and its standards, including due process, are the cornerstone for guaranteeing economic freedoms, property rights, and preventing corruption. Ensuring fair competition, openness of public procurement procedures, and public procurement are part of this mechanism. Given the difficult development of the national economy and the war factor, the national economy of Ukraine can be transformed based on a cluster approach, for which the rule of law, fair competition, and fair justice are essential.

Contact details

Prof. Savchyn Mykhailo, Dr. Sc.
michaelsavchyn7@gmail.com
Uzhhorod National University,
Ukraine,

TRANSPARENCY OF THE PUBLIC SECTOR AND OPEN GOVERNANCE AT THE NATIONAL AND REGIONAL LEVEL

Proceedings of the Conference on Effective Governance and Good Practice Transfer
Ján Ivančík (ed.)

Published by: Faculty of law, Comenius University in Bratislava
Cover design and graphic editing: Mgr. Dominik Hollý
2025

First edition
Number of pages: 115

ISBN 978-80-7160-766-3

PRÁVNICKÁ FAKULTA
Univerzita Komenského
v Bratislave

ISBN: 978-80-7160-766-3