

# ADMINISTRATIVE-LEGAL SUPPORT FOR THE PROTECTION OF CITIZENS PERSONAL DATA: CONTEMPORARY THEORETICAL APPROACHES

*Pashynskiy Volodymyr, Tsomenko Alina*

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**Annotation.** The article is devoted to the issues of modern understanding of the concept, essence and content of administrative and legal support for the protection of personal data of citizens. In this aspect, the author emphasizes the growing need to form an appropriate level of protection of an individual from information threats of the modern world and to form administrative and legal support for the protection of personal data of citizens.

The methodological basis of the study. The selected issue is approached using a systematic methodology, which incorporates dialectical, formal-logical, and structural-functional methods, in addition to other standard scientific research techniques. Furthermore, specific legal methods, such as formal-logical, systematic-functional, comparative analysis, methods of legal interpretation, and legal forecasting, are employed. The study is grounded in the theory of cognition, with a particular emphasis on materialist dialectics as its overarching method. General scientific research methods used include formal-logical and systematic approaches.

Results. The author emphasizes that legal protection of personal data by the authorities is based on legislation and regulations governing the rights and obligations of the authorities with respect to personal data processing. It is emphasized that these rules may include requirements for data registration, confidentiality, notification of an individual about the collection and use of his or her personal data, and establishment of liability for violation of data protection rules. The concept of personal data protection by the authorities includes the adoption of appropriate legal measures to ensure the security and confidentiality of these data.

Conclusions. The administrative and legal support for the protection of citizens' personal data takes place within the activities of government authorities as an element of their service function. The concept of administrative and legal support for the protection of citizens' personal data is defined as the regulated administrative and legal activities of entities responsible for ensuring the protection of personal data, primarily the activities of public administration subjects, aimed at administrative and legal regulation, implementation, protection, and safeguarding of public relations in the field of personal data. It guarantees the rights and legitimate interests of all subjects of legal relations, focusing on creating the necessary conditions for compliance with legislation on personal data protection. It is emphasized that administrative support is the activity of public authorities manifested in legal regulation, application, and protection of the rights, freedoms, and interests of citizens.

**Key words:** public administration, personal data of citizens, administrative and legal support for personal data protection, structure of administrative and legal support for personal data protection.

## 1. Introduction.

In the modern world, personal data of individuals have gained significant importance as an independent social value and an object of legal regulation. The protection of personal data by public authorities in administrative law is closely related to the idea of safeguarding the private life of citizens. The management of citizens' personal data by public authorities is based on the use of various databases, registries, and digitalization processes. In fact, the desire and the essential need to ensure a proper level of protection for individuals from information threats have led to the idea of a balanced and well-founded control over the circulation of information about citizens, specifically their personal data. Consequently, this has resulted in the classification of personal data as a special category of information, the development of new contemporary theoretical approaches to this category, and the further evolution of administrative-legal relations in the activities of authorized subjects of public authority.

In national legal science, the search for a model of the legal mechanism for regulating relations in the protection of personal data is ongoing, one that would align with international legal standards. Moreover, this should become a part of implementing the national legal system into the common European legal space.

In this aspect, an important theoretical issue remains to be resolved in defining the concept, structure and content of administrative and legal support as a legal category.

## 2. Analysis of scientific publications.

In our opinion, few scientific works are currently devoted to the problems of ensuring the protection of personal data of citizens by public administration entities. Similarly, the issues of defining the concept and content of administrative and legal support for the protection of citizens' personal data are not addressed by scholars. At the same time, the study of administrative and legal support for the protection of citizens' personal data is impossible without a clear understanding of modern theoretical approaches to the general category of "administrative and legal support".

The concept of "administrative and legal support" is one of the most important categories of administrative law science and attracts the attention of many researchers and is the subject of numerous scientific studies. The analysis of scientific research shows that scientific views on understanding the content of administrative and legal support are characterized by a variety of approaches and interpretations. At the same time, in the context of personal data protection, clarifying the essence of administrative and legal support and its content remains relevant and requires, first of all, the development of a common point of view, which will have a positive impact not only on theoretical developments but also on their effective implementation in practice [1].

It is worth noting that in the period 2007–2022, more than 420 dissertations and other scientific publications in the field of administrative law alone were devoted to various issues of administrative and legal support of public authorities, the exercise of rights and freedoms, and certain administrative and legal regimes. At the same time, only a few scientific works have been devoted to the aspects of administrative and legal support of personal data protection.

Among the studies devoted to the issues of administrative and legal support are the works of O.M. Gumin [1], O.M. Druchek [2], O.O. Terzi [3], G.Y. Lukyanova [4], A.B. Zamryga [5], A.V. Kudin [6], S.P. Hvozdyk [7], G.P. Tsiverenko [8], V.Y. Pashynskiy [9]. The issues of administrative and legal support of personal data were directly considered in the dissertation research of A.M. Martynova [10] and others.

It is evident that the issues of administrative-legal support in general, and specifically, the administrative-legal support for the protection of citizens' personal data, play a significant role in the activities of public administration bodies concerning the realization of public interest and the protection of the rights and freedoms of citizens.

### 3. The aim of the work.

The purpose of the article is to study theoretical approaches to the modern understanding of the concept and content of the structure of administrative and legal support for personal data as a comprehensive integrated legal category.

### 4. Review and discussion.

Existing approaches to the modern theoretical understanding of “administrative and legal support” in administrative law science influence the formation of a modern understanding of this activity in the context of ensuring the protection of citizens’ personal data. Thus, when considering the category of administrative and legal support, L. Chystokletov and O. Khytra emphasize that administrative and legal support of public authorities is the administrative and legal basis for the influence of subjects of state power on public relations in the field of public administration and their activities aimed at forming, using and improving this basis with a view to realizing the goals of administrative law [11].

O.M. Gumin gives the following definition of administrative and legal support as the regulation of social relations by authorised state authorities, their legal consolidation by means of legal norms, protection, implementation and development [1, p. 49].

We believe that the concept of administrative and legal support covers the creation and implementation of legal norms, the establishment of effective procedures and mechanisms, and the enforcement of rights and liability for their violation. Legal support includes, firstly, the aspect of policy-making (development and adoption of legal norms that regulate various spheres of society and establish the rights, duties and responsibilities of participants in legal relations). It should be emphasized that in this regard we agree with O.M. Gumin’s position on understanding administrative and legal support as the regulation of social relations by authorized persons and their legal consolidation through legal norms [1]. Secondly, it involves legal enforcement through compliance with legal norms, ensuring compliance with the law and order, and applying sanctions in case of violations of formulated requirements. In this, we see the realization of O.M. Gumin’s thesis on administrative and legal support as an activity of protection, implementation and development [1]. We emphasize that V. S. Sirko shares a similar perspective [12]. Thirdly, administrative-legal support includes ensuring the stability of the legal system and the rule of law through mechanisms that guarantee the rights, freedoms, and lawful interests of citizens in the activities of government authorities.

Thus, from the general scientific approaches of administrative law, we can propose the following definition of administrative-legal support as the regulation of social relations that constitute the subject of administrative-legal regulation by authorized government authorities and their officials through legislative activity, ensuring compliance with legality and law and applying sanctions in established cases in the process of law implementation and protection activities in order to comply with certain guarantees of rights, with the aim of upholding specified guarantees of rights, freedoms, and lawful interests of citizens.

Accordingly, administrative and legal support involves the creation of a system of legal norms that define the powers and duties of state bodies and officials, the procedure for making administrative decisions, the procedure for appealing such decisions, and the establishment of liability for violations of administrative law. The tasks of administrative and legal support include: ensuring compliance with the requirements of the law, improving the efficiency of the functioning of public authorities (involves the establishment of rules and procedures governing the activities of public authorities), and protecting the rights and freedoms and legitimate interests of citizens. The latter includes ensuring the right to fair judicial protection, the possibility of appealing against decisions of administrative authorities, and protection against unlawful actions or abuses by officials.

In general, administrative and legal support should contribute to the creation of equal conditions for all subjects of administrative relations, ensure transparency, legality and responsibility in the

activities of state bodies, and guarantee the protection of citizens' rights. Today, there are several scientific approaches to understanding the content of the category of legal support as a whole and administrative-legal support in particular.

In this aspect, according to O.M. Gumin, the main elements of administrative and legal support include: 1) the object; 2) the subject; 3) rules of law (administrative law rules); 4) administrative and legal relations and their content; 5) guarantees, measures, tools, forms and methods of administrative and legal support [1], namely, what legal phenomenon, what functions of the state, human rights will be studied in terms of their administrative and legal support.

The article considers modern theoretical approaches to understanding the concept, essence and structure of administrative and legal support of citizens in various spheres of public life and legal phenomena under study.

V.Y. Pashynskiy proposes to define administrative and legal support in the context of defense of the State as a systematic activity of defense providers regulated by administrative and legal norms, primarily the activity of public administration entities, concerning administrative and legal regulation, implementation, protection and defense of public relations in the field of defense, guaranteeing the rights and legitimate interests of all subjects of legal relations, aimed at creating the necessary conditions for the defense of the State in the event of armed aggression [9, p. 254]. At the same time, the activities of administrative and legal support entities aimed at creating the necessary conditions for the implementation of the state policy in the field of defense will include the following components of administrative and legal influence on public relations in the field of defense: activities on regulatory and legal regulation (streamlining) and consolidation of public relations in the field of defense by administrative and legal norms (norm-setting activities); activities on implementation of legal relations in the field of defense by administrative and legal means (law enforcement activities); activities for the protection, defense and restoration of violated rights in the field of defense [9, p. 254].

According to V.I. Marchuk, who studies the issues of administrative and legal support of the established management procedure in Ukraine by internal affairs agencies, administrative and legal support of the established management procedure is understood as the creation and maintenance of conditions for fulfilling the requirements of the established management procedure with the help of administrative and legal means in the legal sphere [13]. As for the structure of administrative and legal support, according to V.I. Marchuk, it includes: 1) rules of law (administrative and legal norm); 2) legal relations (administrative and legal relations); 3) principles of operation of the mechanism for ensuring the management procedure; 4) stages of the management procedure and their provision; 5) guarantees of the management procedure; 6) acts of application of legal norms [13, p. 9].

Some researchers have focused on the concept of administrative and legal support or its structure. Thus, O. M. Druchek, in the context of ensuring the rights, freedoms and interests of the child by the internal affairs bodies of Ukraine, notes that "administrative and legal support is proposed to be understood as the implementation by the state, through a set of special mechanisms, of the ordering of social relations, their legal consolidation, protection, implementation and development" [2, p. 126-127].

H.S. Rymarchuk, studying the problems of intellectual property, defines administrative and legal support in relation to the right as the implementation by the state, through legal norms, regulations and a set of means, of the ordering of social relations, their legal consolidation, protection, implementation and development [14, p. 8].

V. S. Sirko notes that administrative and legal support of volunteer activity is carried out by authorized entities with the help of legal norms through a special mechanism of regulation, consolidation, implementation, defense and protection of public relations in the field of volunteering [12].

There are also several different scientific approaches to the structure of administrative and legal support as a complex, integrated legal category in the science of administrative law.

According to A.Y. Yarovaya, the elements of the structure of administrative and legal support for the prevention and settlement of conflicts of interest in the healthcare sector are: object and subjects, norms and relations, principles and means, forms and methods, etc. [15].

Thus, the structure of administrative and legal support covers the elements of the relevant legal relations in terms of their object and subject characteristics, and includes the content of the relevant legal relations, rules and sources of administrative law as a form of legal relations implementation, as well as legal guarantees, measures, means, principles, forms and methods of administrative and legal support.

This allows us to offer our own vision of the content (structure) of administrative and legal support as a legal system which includes object-subject elements, the content of relevant legal relations, rules and sources of administrative law as a form of legal relations implementation, as well as legal guarantees, measures, means, principles, forms and methods of administrative and legal support.

The disclosure of the general concept of administrative and legal support and characteristics of its content (structure) makes it possible to move on to the description of the concept and content of administrative and legal support for the protection of personal data of citizens (in this case, we are talking about the so-called "narrow" or "substantive" definition of administrative and legal support, which depends on the nature of social relations related to the protection of personal data of citizens).

As we have emphasized above, only a few scientific works of modern authors are devoted to the issues of administrative and legal support of relations in the field of personal data protection. For example, in the study of A.M. Martynova devoted to the issues of administrative and legal support of circulation and protection of biometric personal data, the following definition of administrative and legal support is given as "...implementation by the state with the help of legal norms, regulations and a set of means of streamlining social relations, their legal consolidation, protection, implementation and development" [10, p. 95].

Based on scientific developments in the field of modern theory of understanding the category of administrative and legal support, in our opinion, the concept of administrative and legal support for the protection of personal data of citizens is a systematic activity of subjects of personal data protection, first and foremost, the activity of public administration entities, regulated by administrative and legal norms, first and foremost, the activities of public administration entities related to administrative and legal regulation, implementation, protection and defense of public relations in the field of personal data, guaranteeing the rights and legitimate interests of all subjects of legal relations aimed at creating the necessary conditions for compliance with the legislation on personal data protection

The fundamental purpose of personal data protection based on the general approach to administrative and legal support should be to protect, secure, guarantee, and ensure the implementation of the rights and freedoms of citizens

## 5. Conclusions.

Modern approaches to understanding the concept of the content of administrative and legal support affect the development of legislation and regulation of personal data subjects' activities. Administrative and legal support for the protection of personal data of citizens takes place in the activities of public authorities as an element of their service function. Administrative and legal support for the protection of personal data of citizens is a systematic activity of subjects of personal data protection, primarily the activity of public administration entities, regulated by administrative and legal norms, regarding administrative and legal regulation, implementation, protection and defense of public relations in the field of personal data.

The structure of administrative and legal support encompasses the elements of the relevant legal relations in terms of their object and subject characteristics, and includes the content of the relevant legal relations, the rules and sources of administrative law as a form of implementation of legal relations, as well as legal guarantees, measures, means, principles, forms and methods of administrative and legal support. Our own approach to the theoretical interpretation of the concept of administrative and legal protection of personal data of citizens will allow us to improve both the legislation in force in the field of personal data protection and the law enforcement practice of public authorities.

## References:

1. Humin, O.M. (2014). Administratyvno-pravove zabezpechennia: poniattia ta struktura [Administrative and legal providing: concept and structure]. *Our Law – Nashe parvo*, 4. 46–50 [in Ukrainian].
2. Druchek, O.M. (2013). Poniattia administratyvno-pravovoho zabezpechennia prav, svobod ta interesiv dytyny orhanamy vnutrishnikh sprav Ukrainy [Concept of the administrative and legal providing of rights, freedoms, and interests of a child by Internal Affairs Bodies of Ukraine]. *Forum of the Law – Forum Prava*, 2. 123–128. Retrieved from: [http://nbuv.gov.ua/jpdf/FP\\_index.htm\\_2013\\_2\\_22.pdf](http://nbuv.gov.ua/jpdf/FP_index.htm_2013_2_22.pdf). [in Ukrainian].
3. Terzi, O.O. (2021). Contseptsiia administratyvno-pravovoho zabezpechennia okhorony zdorovia v Ukraini [Conception of the administrative and legal providing of the health care in Ukraine] Extended abstract of Doctor's thesis. Kyiv. Retrieved from: <https://drive.google.com/file/d/1LTnOxC-XClIU5w7jfEe-f4Ykb2bWXhj-/view> [in Ukrainian].
4. Lukianova, H.Yu. (2021). Administratyvno-pravove zabezpechennia koordynatsii subiektiv protydii koruptsii v suchasnykh umovakh derzhavotvorenna: problem teorii i praktyky [Administrative and legal providing of coordination of subjects of counteraction to corruption in current conditions of the state creation: issues of the theory and practice] Extended abstract of Doctor's thesis. Kyiv. Retrieved from: <https://drive.google.com/file/d/1Nd-NZp9ldf9LTTMWgSrWDQPvsgyQ0UCC/view> [in Ukrainian].
5. Zamryha, A.V. (2021). Administratyvno-pravove zabezpechennia hospodarskoi diialnosti v Ukraini [Administrative and legal providing of the economic activities in Ukraine] Extended abstract of Doctor's thesis. Kyiv. Retrieved from: <https://drive.google.com/file/d/176BhR7krRZTX9YxudgU-JYC5RCxbV3zT/view> [in Ukrainian].
6. Kudin, A.V. (2021). Administratyvno-pravove zabezpechennia patentnoi diialnosti v Ukraini [Administrative and legal providing of the patent activities in Ukraine] Extended abstract of Doctor's thesis. Kyiv. Retrieved from: <https://drive.google.com/file/d/16Jl6Tspr8VHge11jbWOyLi8YjHHAief/view> [in Ukrainian].
7. Hvozdyk, S.P. (2021). Administratyvno-pravovyi mechanism zabezpechennia prav patsienta psykhiatrychnoho zakladu v Ukraini [Administrative and legal mechanism of providing rights of a patient of a psychiatric institution in Ukraine] Extended abstract of candidate's thesis. Kyiv. Retrieved from: <https://drive.google.com/file/d/1GOT16Rmuf8wovk7Lk4xGhY1eVaWci2va/view> [in Ukrainian].
8. Tsyverenko, H.P. (2011). Administratyvno-pravove zabezpechennia narodnoho volevyavlennia v Ukraini [Administrative and legal providing of the popular expression of will in Ukraine] Extended abstract of candidate's thesis. Zaporizhzhia [in Ukrainian].
9. Pashynskiy, V.Y. (2020). Administratyvno-pravove zabezpechennia oborony Ukrainy: teoriia i praktyka [Administrative and legal providing of the defense of Ukraine] Extended abstract of Doctor's thesis. Kyiv. Retrieved from: [http://scc.univ.kiev.ua/upload/iblock/ee5/dis\\_Pashynskiy\\_V.Yo..pdf](http://scc.univ.kiev.ua/upload/iblock/ee5/dis_Pashynskiy_V.Yo..pdf) [in Ukrainian].
10. Martynova, A.M. (2023). Administratyvno-pravove zabezpechennia obihu ta zakhystu biometrychnykh personalnykh danykh [Administrative and legal providing of the circulation and protection of biometrical personal data] Extended abstract of Doctor's thesis. Kyiv. Retrieved from: <https://ir.library.knu.ua/server/api/core/bitstreams/53528fda-67cc-4ef2-8ba6-326f67af8ce7/content> [in Ukrainian].
11. Chystokletov, L., Khytra, O. (2020). Poniattia administratyvno-pravovoho zabezpechennia ta yoho mekhanizmu [Concept of the administrative and legal providing and its mechanism]. *Visnyk Natsionalnoho universytetu "Lvivska politehnika" - Bulletin of the National University "Lviv Polytechnic"*, 3 (27). 173–180 [in Ukrainian].



12. Sirko, V.S. (2018). Poniattia administratyvno-pravovoho zabezpechennia volonterskoi diialnosti v Ukraini [The concept of the administrative and legal providing of the volunteer activities in Ukraine]. *Pravovaprosvita – Legal enlightenment*, 8. Retrieved from: <http://www.pravo.nayka.com.ua/?n=8&y=2018> [in Ukrainian].
13. Marchuk, V.I. (2011). Administrstyvno-pravove zabezpechennia vstanovlenoho poriadku upravlinnia v Ukraini orhanamy vnutrishnikh sprav [Administrative and legal providing of the established order of administration in Ukraine by internal affairs bodies] Extended abstract of candidate's thesis. Lviv [in Ukrainian].
14. Rymarchuk, H.S. (2013). Administrstyvno-pravove zabezpechennia prava intelektualnoi vlasnosti [Administrative and legal providing of the intellectual property] Extended abstract of candidate's thesis. Lviv [in Ukrainian].
15. Yarova, A.Ye. (2021). Administrstyvno-pravove zabezpechennia zapobihannia ta vrehuliuвання konfliktu interesiv u sferi okhorony zdorovia: naukovo-terminolohichni poshuk [Administrative and legal providing of the prevention and settlement of conflicts of interest in the field of health care: scientific and conceptual search]. *Naukovyi visnyk Uzhhorodskoho natsionalnoho universytetu – Scientific bulletin of Uzhhorod National University*, 67. Retrieved from: <http://visnyk-pravo.uzhnu.edu.ua/article/view/250313> [in Ukrainian].

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**Volodymyr Pashynskyi,**

*Doctor of Law, Associate Professor, Associate Professor  
of the Department of Administrative Law and Procedure  
Taras Shevchenko National University of Kyiv  
Kyiv, Volodymyrska Street, 60  
E-mail: vpash64@ukr.net  
ORCID ID: 0000-0001-7349-2227*

**Alina Tsomenko,**

*PhD student at the Department of Administrative Law and Procedure,  
Taras Shevchenko National University of Kyiv  
Kyiv, Volodymyrska Street, 60  
E-mail: alina.tsmnk@gmail.com  
ORCID ID: 0000-0002-5615-7838*