

TRANSPARENCY AS A PRINCIPLE OF ACTIVITY OF PUBLIC AUTHORITIES

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Annotation. One of the characteristics of public authority in a democratic state is the transparency of its organisation and exercise. Transparency concerning public authorities and local self-government bodies implies accountability to the people, involvement of civil society institutions in the exercise of public authority and local self-government; efficiency of the State's functions, focus of public authorities on implementation of the interests of the majority of the people, minimisation of corruption in the State and local apparatus. Information technologies are a method of optimising public administration, replacing traditional institutions and mechanisms with new ones. Ukraine is implementing a programme of decentralisation and public administration reform. This process is part of a set of measures aimed at ensuring territorial integrity and sovereignty, accession to the European Union, and the development of civil society, where the implementation of the principle of transparency is one of the means to achieve these goals. This requires the creation of a system of legal regulation of transparency in public administration that meets European standards and is aimed at increasing the efficiency of public administration, improving relations between the centre and communities, enhancing the socio-economic efficiency of local self-government, improving the quality of life, and fighting corruption. In this aspect, the implementation of the principle of transparency of public authorities should be reflected in legal regulation and include ensuring transparency and accountability of the authorities; creation of a legitimate and effective legal system that reflects the real needs of economic entities and allows resolving possible conflicts of interest; creation and use of an effective law enforcement mechanism that will serve open access to information; transition to a system of government not associated with a specific person performing public functions.

Key words: civil society, openness, accountability, transparency, information technology, public administration.

1. Introduction.

The activities of all authorities ensure effective public administration, but public administration bodies, their openness, transparency, and efficiency play a special, leading role in resolving tasks set before the state. New opportunities for effective interaction between the government and society are opening up due to the introduction and use of information technologies and systems. It is directly envisaged in the National Economic Strategy for the period up to 2023, the National Strategy for Promoting the Development of Civil Society in Ukraine for 2021-2026, and the Strategy for Reforming Public Administration of Ukraine for 2022-2025. Information and communication technologies are a huge resource that can significantly reduce the distance between the government and society, establish feedback, and make policy as accessible as possible.

2. Analysis of scientific publications.

Researchers from various fields of knowledge have contributed to the development of transparency as a principle of public administration in the context of information technology. Namely, V. Averianov, O. Baranov, G. Akerlof, M. Kovaliv, M. Spence, J. Stiglitz, M. Sydor, R. Skrynkovskyy, Ya. Pavlovych-Seneta, O. Parkhomenko-Kutsevil, S. Prokopenko, S. Shandruk, I. Shopina, O. Yarema and other scholars.

3. The aim of the work.

The purpose of the study is to analyse and summarise the doctrinal approaches to understanding the legal nature of transparency as a principle of public authorities' activities in the context of information technology.

4. Review and discussion.

Openness and transparency as structural levels of transparency of public administration contribute not only to ensuring the legitimization of power, but also to constructive interaction between public authorities and civil society. The effectiveness of this interaction is determined by such basic principles of transparency as transparency of public administration, public participation in the formation and implementation of public policy, which are important attributes of the strategic stability of the state. The analysis of scientific works makes it possible to find out that the ambiguity of the legal nature of transparency as a principle of public administration cannot help but complicate the resolution of issues related to the nature of public administration. Different points of view on this issue in the context of information technology development determine the relevance of the study.

Ensuring information transparency of the authorities is not a one-sided process. The population has the right, and most importantly, the desire to receive reliable and complete information about the activities of the authorities. Citizen control and the active position of public institutions to public authorities correlate with the desire of public authorities to inform citizens about their activities. Transparency is the systematic coverage of government activities, explanation of the goals, content and mechanism of public policy implementation, while openness is the public administration bodies' creation of conditions for unimpeded access of citizens to information about their activities and to the decision-making process at all stages of their preparation.

The nature of transparency of information is mainly in its quantity, while openness of information is in its quality. In the first case, it is about increasing or decreasing the amount of information. In the second case, it is about its reliability, truthfulness, regularity, efficiency and reliability for further use. According to O. Parkhomenko-Kutsevil, transparency is closely related to accountability or responsibility in the sense of receptivity of public authorities to requests for information about a process or readiness to offer justification for actions already taken or planned [1, p. 129].

The absence of a regulatory definition of transparency has led to the emergence of several approaches to understanding the principle of transparency, separating it from the constitutional principle of publicity. The institutional approach helps to reveal the problem as a multidimensional social and legal phenomenon, to identify functionally and systemically important elements within it and to study their mutual influence. At the same time, the concept of an institution was considered as an organisation rather than a norm, since the former includes elements of practice in addition to norms. In our opinion, transparency of public administration bodies should be regarded as a multifaceted characteristic of the effective functioning of public administration. The transparency of public administration bodies is their qualitative characteristic based on three main elements – openness, transparency and accessibility, which are interconnected and determine the integrative content of the concept under study.

Nobel Prize winners J. Akerlof, M. Spence, and J. Stiglitz established the relationship between the stability of political and public administration systems and the quality and availability of information circulating in them [2, p. 27]. The transparency of public administration is a condition for the stability of state development. It is determined by its institutional capacity to ensure the high quality of the public administration system functioning and depends on the flows of information that operate within it and come from outside. Information openness is treated as the openness of information about the activities of public authorities, but it is only a part of the larger phenomenon of transparency.

The solution to the whole range of issues related to public administration transparency should be based on a balance of the information interests of the state and civil society. In the context of decentralisation, public administration reforms are particularly relevant to create information preconditions and conditions for effective interaction and development of government, business and civil society. The legal regime of transparency implies not only openness and accessibility of socially important information (static aspect), but also participation of citizens, civil society institutions and business structures in the management and control of public administration by the society (dynamic aspect). That is, the information openness of the authorities, which includes the availability of information about the activities of the authorities, is absorbed by the concept of transparency.

The legal regime for transparency in public administration should be based on the statutory recognition and implementation of the relevant general principle of public law. Until recently, the right to information was focused only on the search for and use of information. However, the absence of information reflecting the state of affairs in the legal sphere of society makes it impossible to adequately regulate it – in this case, without feedback, we would have feudal law today. Indeed, the concept of the information society implies the formation of a new economic and cultural paradigm of society, and does not simply state the conclusion that society is informative.

The EU researchers focused on the theoretical and methodological aspects of the study, where transparency is defined as a principle of law including five interrelated perspectives. Thus, transparency is a distinctive feature and an important tool formed in a democratic and legal state; the basis of responsible, legitimate and effective public administration; the main method of countering shadow phenomena and processes in society; a technology for shaping public consciousness; and the basis for interaction between citizens and public authorities.

National studies are mainly the result of the generalisation of law-making practice due to the adaptation of legislation to EU requirements. For example, in the monographs "Transformation: Social & Digital & Legal. Saving Civilisation: The Economy of Results", "Information Technologies in Public Administration of Ukraine: Legal Analysis, Application and Development", the emphasis is shifted from the exercise of the citizen's right to receive information to the activity of the authorities in disclosing information about their activities [3; 4]. This affects the overall increase in the responsibilities of public authorities as public service providers and holders of socially important information.

Openness, transparency and accessibility (as elements of transparency) of public administration are important indicators of the effectiveness of their functioning. The only way to achieve the above is to obtain information that allows assessing the level of performance in a particular way. Transparency, as a tool of democracy, is a way to ensure equal rights to information, participation in the social and political life of society, public control over government and administration, and the development of civil society. Law should regulate the conditions, principles and rules for using transparency as a tool of democracy.

When assessing the transparency of public administration bodies, the principle of social relativity should be applied, according to which different social groups, unequally included in information flows, have differently formed interests in information, are unequally interested in transparency and assess its level differently. Information and communication technologies contain an unlimited management resource and can act as a method of optimising the public administration system, transforming the management process by changing traditional institutions and mechanisms into new, advanced and efficient technologies.

The experience of implementing information and communication technologies shows a very controversial nature of this impact. Under certain conditions, new technologies increase the functionality of the state apparatus, and sometimes, on the contrary, they can give the appearance of introducing innovations, while automating secondary and less important procedures, creating the illusion of effective interaction and mutual understanding between public authorities and citizens. Understanding and scientific research of the factors of such a negative situation is very relevant, due to the emergence of new information risks that are not reflected in the Information Security Strategy of Ukraine [5].

This is one of the drawbacks of reforming the socio-political system. There is an insufficiently clear definition of the legal boundaries within which the use of information and communication technologies contributes to socio-economic progress, and beyond the established limits contributes to the development of various imitation processes that discredit the idea of social progress in the mass consciousness.

At the same time, Ya. Pavlovych-Seneta, S. Prokopenko, and S. Shandruk point out that the concept and technologies of electronic administrative service delivery are one of the most advanced and main tools for increasing transparency. The implementation of this innovative resource has been going on for about a decade, and certain positive effects have been achieved, but not all the tasks have been solved [6, 7, 8].

The level of accessibility and partial openness of information on the activities of the authorities has increased, but the transparency of the activities of public authorities, despite technical innovations, has not increased. In this regard, the Strategy for the Development of the Electronic Communications Sector of Ukraine until 2030 envisages the development of technical, technological and other aspects of informatisation, which will affect the use of information technologies to improve the transparency of public authorities [9].

At the same time, a significant part of the legal acts regulating openness is devoted mainly to the issues of access to information on the activities of public administration bodies, or information openness, which is only one of the elements of openness of the public administration system. The legal definitions used in various legal acts regulating information openness in some cases contradict each other, offering different approaches to organising the activities of the central executive body in the area of openness.

The adoption of unsystematic legal norms and requirements for certain mechanisms of organising interaction between public administration bodies and citizens and civil society institutions leads to fragmentation of regulation in this area and does not allow for the full use of civil society instruments to improve the quality of public administration. In addition to the above, there is no statutory system for assessing the performance of public administration bodies in terms of increasing the level of openness.

The Strategy for Public Administration Reform in Ukraine for 2022-2025 (adopted in 2021 [9]) claims to formulate a large-scale task of achieving transparency, which is regarded as openness. The openness of public administration bodies means consistent and strict adherence to the principles of a) transparency and openness of the public authorities – timely provision of information on the activities of public authorities, access to which is not specifically restricted by law, which is open, publicly available and reliable, in a format convenient for searching, processing and use, including in the form of open data and the use of cloud technologies; b) understanding of the purpose, objectives, plans and results of the activities of public authorities in a form that ensures public perception of information about the activities of these authorities; c) involvement of civil society institutions in the development and implementation of management decisions to take into account the opinions and priorities, and create a system of constant information and dialogue; d) control and accountability of public authorities to the public – public authorities' disclosure of information about their activities, taking into account the requests and priorities of civil society, ensuring that civil society institutions can monitor the activities of public authorities.

The Strategy for Public Administration Reform of Ukraine for 2022-2025 recognises the importance of openness (transparency) as ensuring not only the information openness of public administration, but also its accountability and decision-making with the participation of civil society. Transparency should be ensured in organisational and functional terms, based on the promotion of priority development of information and communication technologies; clear delineation of powers and coordinated interaction of state bodies; and guarantee of full resource support for national programmes and projects of information society development.

The transparency strategy, as it is currently presented in the regulatory documents of state structures and the analytical assessments of leading experts, cannot be reduced to copying the models and

principles of development that marked national scientific life until 2021. The fundamental emphasis in the ideological justification of the modernisation policy has shifted towards reformist principles and formulations. European trends in the development of information and communication technologies have begun to determine the attitude of society and the state to the information aspects of social and political life and to the definition of criteria for the progress of democracy. The position of the state began to determine the extent and direction of informatisation of the social sphere. The interests of society have become one of the main criteria in the state's regulation of information flow channels.

Today, there is a need to develop a transparency strategy based on the European experience. It would establish not philosophical principles for the main actors of the social process, but a systematic analysis of miscalculations and risks for development, so that the vector of the transparency process does not take a trajectory incomprehensible to European science, as is typical for our northern neighbours.

The stabilisation of the socio-economic system is accompanied by a tendency to strengthen the control of civil society institutions over the sphere of information and communication relations between public administration and society in all other spheres of public life. On the one hand, this has become a dissonance with the modernisation model, but on the other hand, it has created a certain potential for a mobilisation model of reform in Ukraine. Within this model of reforms, the priorities in the ratio of economic and political tasks of Ukrainian society are shifted in favour of national unity, territorial integrity, protection of sovereignty and association with the EU. This model is criticised by the opposition within the country for granting freedom of information and communication relations in society as a priority goal of transparency.

Constitutional law principles are the core of national law and determine its content and structure. According to O. Stohova, constitutional principles as fundamental principles of law are a system of the most general and stable imperative requirements enshrined in law, which are a concentrated expression of the most important essential features and values inherent in this system of law and determine its nature and directions of further development [11, p. 29].

Transparency is a principle in the constitutional and administrative law of the European Union member states. Transparency should be regarded as a constitutional principle of the organisation and functioning of the public authority system and a separate body. Its essence lies in the fact that public administration bodies in various forms inform citizens about their activities to the fullest extent possible and periodically resort to consultations with citizens and civil society institutions in the process of developing and adopting government decisions.

Considering the European experience of implementing the principle of transparency in the activities of executive authorities, transparency compensates for the lack of democratic legitimation and increases it in public administration. Transparency is not only a functional principle of ensuring transparency of the executive branch, but also an ethical dominant of ethical administration.

The implementation of this principle contributes to the awakening of public consciousness, the formation of public opinion, and the enhancement of the role of civil society institutions. Transparency is linked to Government Relations, which involves actions to build relationships between citizens and public authorities and includes the collection and processing of information resources on the activities of public authorities. The Government Relations system comprises two main subsystems: public policy aimed at collecting and processing information on public opinion and interests, and taking into account the data obtained in the development and adoption of management decisions; and public influence on the management decision-making process on socially important issues. The system of relations with public administration acts as an information tool, a form of civic mobilisation aimed at solving socially significant problems; a subject of public education.

5. Conclusions.

Ukraine is implementing a large-scale programme of decentralisation and reform of the multi-level public administration system, including the civil service, as one of the important components of

modern governance. This process is an integral part of a set of measures aimed at ensuring territorial integrity and sovereignty, Ukraine's accession to the EU, and the development of civil society, where the implementation of the transparency principle is one of the most effective means of solving these problems. This requires the creation of a system of normative and legal regulation of public administration transparency that meets European standards and is aimed at increasing the efficiency of public administration bodies, improving relations between the centre and local communities, enhancing the socio-economic efficiency of the local government entity structure, improving the quality of life of the population, and fighting corruption. In this aspect, the implementation of the principle of transparency of public administration bodies, regardless of their level, should be reflected in the legal and normative framework and cover the following:

- ensuring transparency and accountability of the authorities in the context of the term 'responsive government' proposed by Ronald Inglehart and Christian Welzel [12, p. 126];
- creation of a legitimate and effective legal system that reflects the real needs of economic entities and allows for to resolution of possible conflicts of interest with the lowest transaction costs;
- creation and use of an effective law enforcement mechanism that will give clear signals to economic entities about what is 'appropriate', in compliance with which the restricted access procedure can be transformed into an open access procedure, similar to the EU member states;
- transition to a depersonalised system of public administration not tied to a specific individual performing public functions.

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