

---

## **Current Status and Prospects of Implementation of European Public Administration Principles in Ukraine**

---

Artem G. Solomakha <sup>1</sup>

**Abstract:**

*This article is devoted to investigation of the matter of perspectives on implementing European principles of public administration functioning in Ukraine.*

*The relevance of research of this subject is related with the fact that the principles of public administration activity is the foundation, on which activity of all subjects of public administration in Ukraine are built.*

*The article contains performed analysis of European Union rules of Law, as well provisions of current law of Ukraine on this matter.*

**Keywords:** *Public administration, good governance, the principle of adaptation, European Union law, The legislation of Ukraine.*

**JEL code:** *H11; K23.*

---

<sup>1</sup>*Department of Administrative Law, Faculty of Law, Taras Shevchenko National University of Kyiv, Ukraine, [Solart0707@gmail.com](mailto:Solart0707@gmail.com)*

## **1. Introduction**

European choice of Ukraine provides for a rethinking of passed during the years of independence, the path of state construction, the definition of new goals and tasks that Ukraine must achieve to become a European country. Undoubtedly, in order to function effectively in the European community, Ukraine must have a modern public administration, a coherent functioning of both the system of state and local authorities. That is why there is need for establishment and development of public administration in Ukraine, as such system, which will fully implement the tasks assigned to state and local authorities.

The implementation of a public administration of European level in Ukraine implies the implementation of European principles and standards of public administration. Consequently, the purpose of this article is to define those principles that are the basis for the functioning of the public administration in Europe and to rationale the prospects of their implementation in the activities of the public administration in Ukraine.

## **2. Theoretical, Empirical, and Methodological Grounds of the Research**

### ***Theme 1: Scientific approaches to the principles of public administration in Ukraine***

From the position of jurisprudence, principles in law are the initial ideas underlying the existence of state-legal phenomena. They are obligatory for all and permeate not only the legal system and the system of rights of public relations subjects, but also the legal reality of the country as a whole (Ioffe, 1968). Thus, principles of law are the basic structure around which norms, institutions, branches and the entire system of law are formed, including the activity of the national public administration, because it can not be carried out in non-legal forms. Thus, Ukrainian researchers identify the following principles of public administration activities:

- 1) the principle of the supremacy of law, as a priority of human and civil rights and liberties, humanism and justice in the activities of public administration;
- 2) the principle of legality as an activity of the public administration in accordance with the powers and in the manner prescribed by law;
- 3) the principle of openness as the disclosure and availability to public information about the activities and decisions of public administration and providing public information at the request of citizens;
- 4) the principle of proportionality, as the requirement to limit the decisions of public administration by the goal to be achieved, the conditions for achieving it, and the responsibility of the public administration to take into account the consequences of its decisions, actions and inactions;

- 5) the principle of efficiency, as the duty of public administration to ensure achieving the necessary results in solving its tasks with optimal use of public resources;
- 6) the principle of submission to control, as mandatory internal and external control over the activities of public administration, including judicial;
- 7) the principle of responsibility, as the duty of the public administration to bear legal responsibility for decisions, actions and inactions (Koliushko and Tymoshchuk, 2006; Tymoshchuk and Shkolyka, 2007).

The above mentioned view point embody the approaches of Ukrainian authors to this problematic, which, however, does not exclude the analysis of European experience in the functioning of public administration, and in particular, the principles on which the activities of public administration in the European Union (hereinafter EU) are based.

### ***Theme 2: European experience in regard to principles of public administration***

European countries have considerable experience in the functioning of public administration, because in the EU countries it has been implemented and effectively operates for a long time. That is why, the use of positive European experience, the adoption of European standards for the functioning of public administration is an important precondition for building an effective and rational system of public administration in Ukraine. This kind of public administration will be highly functional, economical and fulfilling the tasks for which it was created.

As rightly noted in the Recommendation № R (2000) 6 of the Committee of Ministers of the Council of Europe “On the status of public officials in Europe”, adopted by the Committee of Ministers at the 699th meeting of deputy ministers on the 24th of February 2000: “... *public administration play vital role in a democratic society. Creating and establishment of democratic institutions requires a public administration that operates under the rule of law, is neutral, loyal to democratic institutions and respects the interests of citizens it served*” (Koliushko and Tymoshchuk, 2006).

Essentially, the European principles of functioning of public administration are those fundamental principles and standards, without the adoption and implementation of which Ukraine will never modernize its system of executive power and local government.

Comprehensively, the principles on which public administrations are built in European countries can be found in the document SIGMA “The Principles of Public Administration: A Framework for ENP Countries” (SIGMA, 2014). The main principles set out in this document include the following: appropriate legislation; participation; openness; transparency of decision-making; proper organization;

appropriate personnel; adequate financial and budget management; efficiency; conformity; responsibility; supervision.

It is obvious that a significant number of these principles are fundamentally new for Ukrainian practice and, when implemented at the legislative level, they should be comprehended by scientists and practitioners. In particular, we are talking about such principles as: participation, conformity, etc.

### **3. Results and discussion**

#### ***Prospects of implementation of European principles of public administration in Ukraine***

Analyzing the prospects of implementation of the European principles of public administration as principles of public administration in Ukraine, it is necessary to consider the following points.

- Firstly, the need to update the principles of functioning of public administration in Ukraine follows from the commitments undertaken by Ukraine as a precondition for its entry into the EU. Thus, by signing the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states, on the other hand (Legislation of Ukraine, 2014a), according to Art. 3 of this Agreement, Ukraine undertook to ensure good governance as an important component of cooperation with the EU.

In the Resolution of the Cabinet of Ministers of Ukraine “On some issues of reforming the public administration of Ukraine”, which approved the Strategy of reforming the public administration during 2016-2020, stated that the reforming the public administration of Ukraine should be based on the principles set out in the document SIGMA “The Principles of Public Administration: A Framework for ENP Countries” (Legislation of Ukraine, 2016).

- Secondly, there is no law of Ukraine “On public administration in Ukraine”. Thus, the question arises as to where the principles of public administration in Ukraine should be noted? Following the logic of the Strategy of reforming the public administration for 2016-2020, they obviously should be noted in the laws of Ukraine, regulating the activities of the executive branch of governmental authorities. Undoubtedly, in this context we are talking about the Law of Ukraine “On the Cabinet of Ministers of Ukraine” (Legislation of Ukraine, 2014b), the Law of Ukraine “On the central executive bodies” (Legislation of Ukraine, 2011) and others. We are convinced that the implementation of a public administration in Ukraine is impossible without the regulation of its activities at the level of a separate Law of Ukraine “On public administration in Ukraine”, where it is necessary to regulate separately the principles of its activities, determine their content and implementation mechanisms.

- Thirdly, the principles of public administration form a certain system. In our opinion, the principles of public administration should be divided by their significance and the functional role in the activities of public administration into: fundamental, general and special.

1. ***Fundamental (priority) principles of public administration*** are those ideas that are a specific ideological core around which the activities of public administration are built. In our opinion, these principles should be given the main attention in the process of functioning of public administration. The fundamental principles of public administration are: the principle of democracy; the supremacy of law and the priority of human and citizen rights in relations with governmental authorities, as well as the principle of active cooperation of the public administration with civil society institutions. In fact, these principles have no alternative and they must necessarily be present in the activities of any public administration subject.

Despite the priority importance of these principles in the activities of public administration, a significant part of them is not enshrined in the legislation of Ukraine, and those that are normatively enshrined do not have implementation mechanisms and are in fact declarative provisions that have no practical significance. So, for example, if the supremacy of law is used in the Constitution of Ukraine (Legislation of Ukraine, 1996), in Art. 3 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” (Legislation of Ukraine, 2014b) and in Art. 2 of the Law of Ukraine “On the central executive bodies” (Legislation of Ukraine 2011), then such fundamental principles of the activity of public administration as a democracy, at the normative level, as the principle of activity of subjects of public administration in Ukraine are not mentioned.

In addition, at the level of national legislation, there is often no specific norm-principle or norm-definition that could clear up the semantic content of a particular principle. That is why, to determine the content of the principle, it is necessary to apply both the norms of the national legislation of Ukraine and the norms of international law. So, for example, the content of the principle of democracy can be defined only on the basis of the general provisions of the Constitution of Ukraine, where it is determined that Ukraine is an independent, democratic, social, legal state (Legislation of Ukraine, 1996).

However, this definition does not give us information about the semantic content of this principle. A certain understanding of this principle of activity of public administration can be found in the United Nations Millennium Declaration, approved by the General Assembly resolution on September 8, 2000 (Legislation of Ukraine, 2000), in which the principle of democracy is seen as ensuring all human rights and fundamental freedoms recognized by international regulatory legal acts. However, in the domestic legal literature the principle of democracy is considered from the position that law and legislation should adequately reflect the people's will and form it through direct or representative forms of democracy (Kolodiy and Kopeychikov, 2000). So

sometimes quite difficult to clearly define the specific content of the principle of activity of public administration.

2. **General principles of the activity of subjects of public administration**, by their nature and significance, characteristic for the functioning of any subject of the national public administration. The general principles include: the principle of legality; the principle of efficiency; the principle of proportionality; the principle of equality (non-discrimination), the principle of responsibility, the principle of openness of activities and others.

3. **The special principles** concern the functioning of individual subjects of national public administration. In fact, these are the principles that are inherent in individual subjects of national public administration. For example, the principle of overcoming excessive bureaucratization in the activities of the internal affairs bodies is characteristic exclusively for the activities of the internal affairs bodies of Ukraine.

We are convinced that the fundamental and general principles of the activity of subjects of public administration should be consolidated at the level of the Law of Ukraine "On public administration", where should be determined not only their list, but also their content, and appropriate mechanisms of the implementation. As for the special principles, they can be fixed in those normative and legal acts regulating the activities of certain subjects of public administration.

#### **4. Conclusions**

1. Ukraine's entrance to the EU provides for the reform of many spheres of public and state life. In order to function effectively in the European community, Ukraine must have a modern public administration, a coherent functioning of both the system of state and local authorities. All this can be achieved by the implementation of public administration in Ukraine. However, to date, the public administration in Ukraine does not function as a single system, and in fact, consists of unrelated subjects, as a consequence, blocking the formation of system-wide principles of its functioning.

2. As a whole, the European principles of the activity of public administration form a certain system. The core of this system of principles is the following principles: the principle of democracy, the supremacy of law and the priority of human and citizen rights in relations with governmental authorities. These principles can be supplemented with the principle of active cooperation of the public administration with the institutions of civil society. Around these principles the activities of public administration in the EU member states are being built and should be built in Ukraine.

3. The principles of public administration are different by their significance and the functional role. All system of the principles of public administration should be divided by their significance and the functional role in the activities of public

administration into: fundamental, general and special. The fundamental and general principles of the activity of subjects of public administration should be consolidated at the level of the Law of Ukraine “On public administration”, where should be determined not only their list, but also their content, and appropriate mechanisms of the implementation. As for the special principles, they can be fixed in those normative and legal acts regulating the activities of certain subjects of public administration.

### References:

- Ioffe, O.S. 1968. Structural subdivisions of the system of law. Moscow, VNIISZ.
- Koliushko, I., Tymoshchuk, V. 2006. Efficient public administration (guide for ministers). Kyiv, Zapovit.
- Kolodiy, A., Kopeychikov, V. 2000. General theory of state and law. Kyiv: Yurinkom Inter.
- Legislation of Ukraine. 1996. The Constitution of Ukraine. Available at: <http://zakon3.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80>.
- Legislation of Ukraine. 2000. United Nations General Assembly resolution. Available at: [http://zakon2.rada.gov.ua/laws/show/995\\_621](http://zakon2.rada.gov.ua/laws/show/995_621).
- Legislation of Ukraine. 2011. The Law of Ukraine no. 3166-VI. “On the central executive bodies”. Available at: <http://zakon3.rada.gov.ua/laws/show/3166-17>.
- Legislation of Ukraine. 2014a. The Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their member states on the other hand. Available at: [http://zakon3.rada.gov.ua/laws/show/984\\_011](http://zakon3.rada.gov.ua/laws/show/984_011).
- Legislation of Ukraine. 2014b. The Law of Ukraine no. 794-VII “On the Cabinet of Ministers of Ukraine”. Available at: <http://zakon2.rada.gov.ua/laws/show/794-18>.
- Legislation of Ukraine. 2016. The Resolution of the Cabinet of Ministers of Ukraine no. 474-p. “On some issues of reforming the public administration of Ukraine”. Available at: <http://zakon2.rada.gov.ua/laws/show/474-2016-%D1%80>.
- Tymoshchuk, V., Shkolyka, A. 2007. Public service. Foreign experience and proposals for Ukraine. Kyiv, Konus-YU.
- SIGMA Programme. 2014. The Principles of Public Administration: A Framework for ENP Countries. Available at: <http://www.sigmaweb.org/publications/Principles-ENP-%20Overview-Eng.pdf>.