

justice; c) a clear definition of the functional responsibilities and powers of all structural units of the prosecutor's office; d) eliminating duplication and parallelism in the work of certain structural units of the prosecutor's office; e) scientific provision of the activities of the prosecutor's office; f) determining the optimal and reasonable staffing of the personnel of the prosecutor's office and the level of their material and financial provision; g) gradual implementation of differentiated norms of staffing and burden depending on the nature of the assigned tasks for the employees of the prosecutor's office; h) implementation of the mechanism for ensuring the realization of the norms of social protection for employees of the prosecutor's office; i) the elaboration and consolidation of the guarantees of professional activity of the prosecutor's office; j) raising the level of trust to the prosecutor's office, reducing the level of corruption within its structural divisions.

**Keywords:** *prosecutor's office, prosecutor's office of Ukraine, administrative and legal provision, prosecutor.*

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**Mykola Budzynski<sup>©</sup>, PhD**



**Serhii Lelet, PhD**



**Maryna Kobets, PhD**

*(State Research Institute of the Ministry of Internal Affairs of Ukraine)*

### **CIVIL CONTROL AS AN IMPACTFUL FORM OF ENSURING THE EFFICIENCY OF PUBLIC ADMINISTRATION ACTIVITIES**

**Будзинський М., Лелет С., Кобець М. Громадський контроль як дієва форма забезпечення ефективності діяльності публічних адміністрацій.** Досліджено правову категорію «громадський контроль» в аспекті забезпечення ефективної діяльності публічних адміністрацій. Розглянуто інституційну базу громадського контролю та її основні компоненти: суб'єкт, об'єкт, предмет та процедуру його здійснення. Визначено взаємозв'язок між громадським контролем і розвитком правової держави та громадянського суспільства, що підтримує владно-громадські відносини у стані стабільності й рівноваги. Обґрунтовано, що громадський контроль, як дієва форма забезпечення ефективної діяльності публічних адміністрацій, дає змогу виявити недоліки в діяльності органів публічної влади, перевірити результати виконання ними завдань і функцій, визначених нормативно-правовими актами щодо належного забезпечення прав і свобод.

**Ключові слова:** *публічне адміністрування, європейські стандарти, належне адміністрування, державна служба, громадський контроль.*

**Formulation of the problem.** The creation of civil society in Ukraine envisages the formation of an institutional framework for interaction between public authorities and civil society, creates opportunities for the interdependent development of public authorities and civil society institutions. Society requires transparency in the activities of the authorities, clarity and social balance in decision-making. It is possible to fulfill such a request of the civil society only through the creation of effective control in the system of public administration. Fulfilling

© Budzynski M., 2019

ORCID iD: <https://orcid.org/0000-0003-3345-8408>

© Lelet S., 2019

ORCID iD: <https://orcid.org/0000-0001-6099-4121>

© Kobets M., 2019

<https://orcid.org/0000-0001-6725-8469>

[dndi@mvs.gov.ua](mailto:dndi@mvs.gov.ua)

such a request from civil society is possible only through the creation of effective control in the public administration system. The issues of formation of the system of public control, transparency of political decision-making, the need for independent civil expertise and accountability of the public authorities are the most pressing in Ukraine, so the need for a thorough scientific rethinking of this issue is urgent.

**Analysis of publications where the solution of this problem has been started.** Issues of development and functioning of the state and public control at different times were studied by well-known domestic and foreign scientists: V. B. Averianov, O. F. Andriiko, Yu. H. Barabash, O. V. Batanov, Yu. P. Bytiak V. M. Harashchuk, V. P. Kolisnyk, T. O. Kolomoiets, S. A. Kosinov, A. R. Krusian, P.M. Liubchenko, O.V. Martseliak, P. D. Matviienko, T. V. Nalyvaiko, O. H. Ostapenko, O. V. Petryshyn, V. O. Serohin, S. H. Serohina, O. I. Sushynskiy, V. Ya. Tatsii, Yu. M. Todyka, V. L. Fedorenko, V. M. Shapoval, Yu. S. Shemshuchenko and other. The works of these scientists formed the methodological and scientific-theoretical basis for the analysis of state and public control.

**The purpose of the article** is to study "public control" as an effective form of interaction between public authorities and civil society aimed at ensuring effective activity of public administrations.

**Presenting main material.** At the current stage of public development, priority is given to the formation of an effective complementary system of state, municipal, public, corporate (business) control over public administration and its implementation on the principles of the rule of law, legality, respect for and observance of human rights and freedoms, the presumption of good faith of the subject under control, equality of citizens before the law, objectivity, publicity, transparency, efficiency, effectiveness, independence, inadmissibility of committing illegal actions during the control.

The desire of our country for European integration obliges the public administrations to meet the European requirements for such bodies, in other words, good governance. The term "good governance" (good governance) as defined in Article 3 of the Association Agreement between the European Union and Ukraine up to the main principles of strengthening European integration, including: creation of a system of institutions through which power is exercised in the country and public services are provided; implementation of economic, political and administrative power ("authority") for the purpose of managing («manage») the country's life at all levels; compliance with the rules, processes and behaviors affecting the application of power at the European level. European standards of good governance have also been defined, which include openness, public participation, responsibility, consistency; as well as appropriate legislation, legality, transparency of decision-making, access to information, participation in the public sphere, belonging to the organization, personnel, financial and budgetary management, efficiency, responsibility, supervision and control [1, p. 3].

The issues of formation of the system of public control, transparency of political decision-making, the need for independent civil expertise and accountability of the public authorities are the most actual in Ukraine, so the need for a thorough scientific rethinking of this problem is urgent.

The concept of civil society was formed as an awareness of the transition of society to a civilized state, the establishment of close social ties between members of society, which ensured its strength and sustainability. The theory of civil society is based on the idea of autonomy and individual freedom of citizens, non-interference of the state in the life of civil society. The relations and mutual influence of civil society and the state, two subsystems of the unified social system, are determining in ensuring the democratic development of the country.

As it is known, "democracy" in translation from Greek (demos - people, kratia - power) - "people's power", coming out on the organization and functioning of state power on the basis of recognition of people as its source and supporter. With that in mind, the main features of democracy are the recognition of the right of all citizens to participate in the formation of public authorities, to control their activities, to influence the adoption of decisions common to all on the basis of equal suffrage and to exercise this right in the process of elections, referendums and the like [2, p. 180].

Through personal rights and freedoms, the link between civil society and the state is most pronounced. On the one hand, the enshrinement of individual rights and freedoms in the Constitution is the political and legal basis for distinguishing between civil society and the State, while on the other hand, rights and freedoms are the main link uniting civil society and the State. Thanks to the existence of political rights, citizens' rights and freedoms subordinate the State to their influence and exercise control over it.

Therefore, the influence of civil society on the political system, public policy and law, and the legal status of individuals is an essential dimension of democracy. Civil society acts as a kind of guarantor of democratization and hinders the strengthening of authoritarian tendencies. It is one of the most important and powerful levers in the system of checks and balances to prevent the absolutization of political power. Society has a lot of resources to accomplish this mission. First of all, it is active participation in election campaigns and referendums, involvement of citizens in public and political processes. Civil society is a source of legitimacy for the political force in power. The influence of civil society organizations contributes to increasing the effectiveness of public policy in the socio-political sphere.

Civil society is a society with developed economic, cultural, legal and political relations between individuals themselves, where the State is not an intermediary. It develops under the rule of law and is itself a basis for it. The balance between civil society and the state is an important factor for stable democratic development, and its violation leads to hypertrophy of power structures, alienation and political powerlessness of the people.

With these matters cleared away, civil control is of particular importance as an effective instrument of influence in all spheres of society. The first priority in establishing its legal basis is to establish the concept of "control".

Control is a function which consists in revealing deviations of actual parameters of management activity, established norms and standards. In the administrative law of Ukraine, control is considered in a broad sense as one of the ways to ensure legality in public administration, the process of monitoring compliance with regulations by various entities - public authorities, citizens and legal entities [3, p. 3]. In most foreign countries, however, administrative law primarily regulates control over the administration itself. After all, due to the huge number of powers vested in public administration bodies, there are growing opportunities for abuse of these powers.

Control over public administration is a specific type of activity, carried out by public authorities and other entities authorized by law to verify the compliance and implementation of the administration's tasks and the legality of its decisions [4, p.130]. Control in a democratic society motivates the administrative authorities to act only within the limits established by legal norms and contributes to the restoration of justice in the case of offences committed by them, thus ensuring the effective functioning of public administration.

Control is considered as a set of actions to monitor the functioning of the respective object of control in order to: a) obtaining objective and reliable information on the state of affairs on it; b) application of measures of prevention of offenses (with the right of direct intervention in the operational activity of the object of control); c) rendering assistance to the controlled object in restoration of legality or discipline; d) establishment of reasons and conditions causing violations of legal norms requirements; e) taking measures for bringing perpetrators to justice. The types of control are divided: 1) by subjects that carry it out (control by public authorities, public formations, citizens); 2) by controlled objects (control over public authorities, officials); 3) by level of control (departmental, interagency, supranational (non-departmental control)) 4) by subject area to be controlled (education, health care, use of natural resources, local finances, etc.); 5) by time of its implementation (preliminary, current, final); 6) by the level of specialization (general and special); 7) by forms (control of normative, executive-administrative and jurisdictional activities) [5, p. 128].

In the Encyclopedia of Public Administration states that public control is one of the types of social control over the activities of public authorities and local self-government, carried out by citizens themselves and their associations, is an important form of democracy and a way to attract the population to the management of society and the state [6].

In the reference edition is indicated that public control is a mechanism of self-regulation in social systems (groups, collectives, organizations, society as a whole), which carries it out with the help of normative (moral, legal, administrative, etc.) regulation of people's behavior [2, p. 124].

Modern American Scientists N. Abercomby, N. Hill and S. Terner points out that public control directly influences commutative processes that express certain ways of interaction between different social actors. Therefore, social control is achieved by a combination of factors that predispose people to subordination, coercion and attachment to social values [2, p. 303].

In turn, scientists have proposed a generalized definition: control is the accounting, observation of something, verification of the activities of any other organization or person in charge, reporting, analysis of their performance and the implementation of strategic plans, taking measures to adjust such plans to achieve the desired results.

The compiler of the dictionary of terms and concepts of public administration G. Wright

gave the following definition: "Control is any check of compliance of a certain object with the established restriction and a means of influence of the organization on the achievement of necessary results" [2, p. 80].

The legal encyclopedia defines public control as "... one of the types of social control exercised by citizens' associations and citizens themselves. It is an important form of democracy implementation and a way of involving the population in the management of society and the state. The object of public control is the activity of state bodies, enterprises, institutions and organizations, as well as the behavior of individual citizens. The main method of public control is the verification of compliance with the requirements of current legislation and decisions made at the controlled facilities. It can be carried out either independently or jointly with the state control authorities. Based on the results of the inspections, on the basis of the protocols and acts of the public organization, the relevant state bodies are informed in the identified violations, make proposals on bringing the offenders to justice, etc. » [5].

The general principles of control are defined in the Constitution and the laws of Ukraine, but they also emphasize the special principles of organization and implementation of control: comprehensiveness, regularity, planning, objectivity, completeness, competence and professionalism.

It is noteworthy to mention, that the object of public control is always the activity of the bodies and officials of the subjects of power that operate within the limits of their competence defined by the Constitution and laws. In the process of legality control, legal relations of different levels arise, both internal and external. It is the external legal relations regulated by the laws "On Information", "On Access to Public Information", "On Local Self-Government in Ukraine" and others that constitute the content of such legal relations.

A subject of public control is a person or a group of persons who have the right to exercise such control, including citizens' associations, public councils / boards (public associations under public administration bodies), individual citizens.

Analysis of the practice of public control allows us to distinguish the following forms of public control: 1) participation of subjects of public control in the work of advisory and consultative bodies of public control objects; 2) submission of individual or collective appeals of citizens (Article 40 of the Constitution of Ukraine, the Law "On citizens' appeals", Law "On Democratic Civil Control over Military Organization and Law Enforcement Agencies of the State"); 3) submission of requests, in particular, for public information (Articles 5, 19-22 of the Law on Access to Public Information); 4) hearing reports on the results of the work; 5) public hearings, consultations with the public; 6) public discussions; 7) studying public opinion (in particular, surveys, questionnaires, content analysis of information materials, focus groups, etc.), creation of telephone "hotlines", monitoring of comments, feedback, interviews, and other materials in print and electronic media to determine the position of various social groups and stakeholders, processing and generalization of proposals and comments on the issue expressed in citizens' appeals, requires the study of public opinion (Resolution of the Cabinet of Ministers of Ukraine "On Ensuring Public Participation in the Development and Implementation of State Policy"); 8) Public monitoring; 9) Public expertise, including public anti-corruption expertise (Art. 15, Part 7, of the Corruption Prevention and Combating Principles Act); Part 7 Article 55 of the Law "On Prevention of Corruption; the Cabinet of Ministers of Ukraine Resolution "Issues of antidiscrimination expertise and public antidiscrimination expertise of draft regulatory acts"; 10) public audits; 11) public investigations; 12) filing lawsuits in court on suspension or cancellation of decisions of subjects of power (Articles 171, 171-1 of the Code of Administrative Court of Ukraine); 13) direct participation in the management of State affairs (Articles 5, 38 of the Constitution of Ukraine), which provides for: a) access to meetings of collegial bodies of power (Article 3 of the Law "On Access to Public Information") and b) holding public hearings (Part 1 of Article 13 of the Law of Ukraine "On Local Self-Government in Ukraine").

It is necessary to mention that forms of public control can be implemented only if there are certain conditions, in particular: 1) access of subjects of public control of information about the activity of the object of public control; 2) creation and functioning of public organizations to control the activity of subjects of power (the Law of Ukraine "On Public Associations"). Thus, the duty of information managers to publish the adopted regulatory legal acts, projects of decisions to be discussed and plans of holding and agenda of their public meetings (Article 15 of the Law of Ukraine "On Access to Public Information") is provided, the Government is obliged to regularly inform the public about its activities, to involve citizens in the process of making decisions of great public importance (part 4 of Article 3 of the Law of Ukraine "On the

Cabinet of Ministers of Ukraine"), the obligation to submit for public discussion the orders and orders of the heads of structural subdivisions of local state administrations, projects of normative and legal acts of local state administrations by their promulgation (Article 41 of the Law of Ukraine "On Local State Administrations"), the obligation of the heads and other officials of state authorities and local self-governance bodies to hold regular personal reception of citizens in the established days and hours, at a time convenient for citizens, at the place of their work and residence (Article 22 of the Law of Ukraine "On Citizens' Applications") [2].

Considering the control over the activity of public administrations it is necessary to understand that control over legality and control over expediency of making administrative decisions and committing acts are effective.

In each country, the concept of control over public administration (or public administration) has its own characteristics. But the general thing is that the controlling activity is aimed at observation, revealing and analysis of information on management processes; revealing inconsistencies, violations, deviations from social, first of all legal norms, goals and values; and putting forward requirements and proposals for elimination of deficiencies or correction of norms and goals.

It is meaningful to carry out one of the effective forms of extrajudicial control over the activity of public administrations in the world of public control only at observance of the following requirements: access of control subjects to the information about the activity of the control object and creation and functioning of public organizations on control over the activity of subjects of powers objects.

While the peculiarity of such controls is that they do not have the direct ability to apply coercive measures that can be implemented later by competent actors as a result of such controls, their results may serve as a prerequisite for the implementation of other types of control activities.

Due to the dualistic nature of the control entity, in which one side provides information and the other is obliged to react, this type of control, unlike the activities of state control authorities, is most often carried out in an indirect form. That is, the subject of control over state bodies influences the state of affairs in one or another controlled sphere (object).

But the forms of such control directly depend on the scope of powers of its subjects stipulated by the legislation.

Extrajudicial oversight is directly linked to the human right to information. This right is guaranteed, inter alia, by the Universal Declaration of Human Rights (Article 19) [8], the International Covenant on Civil and Political Rights (Article 19, paragraph 3) [9], and the Council of Europe Recommendation "On Access to Official Documents" (Section 3) [10]. International legal acts concerning the implementation of the rights of citizens to information and the work of the media in covering the activities of public authorities also include the Convention for the Protection of Human Rights and Fundamental Freedoms (1950) [11]; the Okinawa Charter on Global Information Society (2000) [12]; the Strasbourg Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (1981) [13]; and the Convention on Cybercrime (2001) [14]; Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (1998) [15]; Recommendations of the Committee of Ministers of the Council of Europe on Access to Information held by Public Authorities (1981) [16]; Council of Europe Recommendation No. R (2002) 2 on Access to Official Documents; Regulation (1049/2001) on Public Access to Documents of the European Parliament, Council of Europe and other international legal instruments [17].

Aside from international norms and principles, there is a sufficiently developed national legislation on access to information. First of all, these are the Constitution of Ukraine (Article 34) and the Law of Ukraine "On Information". [18], which details this right in Art. 9, 10, 45 in particular noting that the right to information is ensured by the obligation of public authorities, as well as local and regional governments to inform about their activities and decision-making, forms and sources of information, the right to receive information about such forms and sources may not be restricted, except in cases provided by law [5, p.129]. The public's right to information is realized through access to information, which is realized through the right to seek and receive it; the exchange of information is ensured through the right to transmit and disseminate it; and the production of information, which is realized through regulations on the freedom of creation, development and implementation of information systems, etc., as well as the obligation of authorized bodies and officials to provide information (articles 29, 32, 40, 50, 57 and others of the Constitution of Ukraine).

The bill "On regulatory legal acts" contains provisions that determine the procedure for bringing the draft for public discussion (Art. 39). In particular, issues related to the rights, free-

doms and legitimate interests of citizens, issues of social and economic development of the state have an important public (national, regional, local) significance, are brought by the subject of normative initiative or norm-creation to the public discussion by placing them on the official websites of state bodies and local self-government bodies or publishing them in the print media or otherwise bringing them to the attention of the public (part 1 of Article 39).

The recommendation toolkit prepared by the Conference of International Non-Governmental Organizations of the Council of Europe and aimed at decision makers and civil society organizations, including non-governmental organizations - the Code of Best Practices for Public Participation in the Decision-making Process - could also be useful [19].

The sustainable development strategy "Ukraine 2020" [20] provides for the reform of public administration by building its transparent system. Achieving this goal is impossible without involving the public in the control of adoption by public administrations. For this purpose, paragraph 5 of the Strategy provides for the introduction of a social contract, in which, on the one hand, the authorities assume the responsibility for ensuring its transparency and openness, and business should support and develop civil society, while, on the other hand, the responsibility of civil society, including through the control of the authorities, is provided for. On the way to the implementation of such a contract, the forms of public participation in the norm-setting activities available in the domestic legislation should be eliminated, a unified mechanism of public participation in norm-setting should be introduced, including as a result of the adoption of laws "On public control", "On regulatory legal acts", administrative procedural code, as well as the liability of subjects of power authorities should be fully regulated.

And although the establishment of an active dialogue between the authorities and public organizations in Ukraine is still at the initial stage, the directions of social partnership development are outlined, and the support of public sector initiatives by the authorities is already realized by the authorities as extremely necessary for stable functioning.

**Conclusions.** Summarizing the above, it is necessary to identify the factors hindering the effective interaction of public authorities with the public: 1) the practice of restricting access to the leadership of public authorities; lack of clearly defined practices and procedures for relations with the public; 2) lack of understanding by individual responsible officials of the authorities of the main goals and principles of public organizations and associations; 3) due to incompetent and incompetent information; 4) the lack of cooperation of the authorities in the expansion of their information visits; 5) the lack of information or the announcing of new items.

The main problem of interaction between the authorities and civil society is that the authorities and civil society, authorities and public organizations have different visions of the problem, public participation in the formation and implementation of policy. If the authorities strive to provide public support for decisions that are prepared by officials according to the logic of survival of the authorities themselves, then the public strives to establish control over the power and develop a policy that aims to ensure the interests of citizens, the population.

For an effective control over the activities of public administration, a detailed procedure for the regulation of its health, as well as the establishment of a control unit, is necessary, the control procedure is based on the definition of the control procedure and its areas of activity, the control procedure, methods and forms of control, and the way in which the results of control are taken into account. The analysis of the current state of ensuring public control over the activities of public administrations allows us to determine that in order for it to become an effective form of ensuring the effective activity of public administrations it is necessary: 1) to form and legislate common conceptual bases of organization of public (social) control; 2) to improve the system of internal control of public administrations; 3) to determine the list of state bodies and officials entitled to carry out control and supervision functions and ensure their interaction with interested public organizations (joint control); 4) to delimit the powers of subjects of control activity; 5) to regulate the procedures of supervision and control; 6) to introduce uniform principles and methods of control at different levels; 7) to develop communications between the objects and subjects of control.

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#### SUMMARY

The legal category "civil control" in the aspect of ensuring the effective activity of public administrations is studied. The institutional framework of public control and its main components were considered: subject, object, subject and procedure for its implementation. The relationship between civil control and the development of the rule of law and civil society is determined, it supports social relations in a state of stability and balance. It is proved that public control, as an impactful form of ensuring the effective functioning of public administrations, allows us to identify shortcomings in the activities of public authorities, to verify the results of the fulfillment of their tasks and functions, defined by regulatory and legal acts regarding independent ensuring of rights and freedoms.

**Keywords:** public administration, European standards, good governance, public service, public control.