THE IMPACT OF CONSTITUTIONAL AND LEGAL REFORMS ON THE DEVELOPMENT OF PUBLIC GOVERNANCE

Abstract. The purpose of the study is to analyze the reform of public administration on the basis of the construction of the concept and content of public governance in the system of constitutional changes, as well as to establish sustainable trends in the development of the nation state while studying the stable functioning of the public administration system in the context of determining the principles of public administration that ensure the implementation of the modern reform process. The prerequisites for carrying out constitutional reform in the country with a clearer delimitation of powers in the system of state authorities, the order of their formation and changes in the territorial organization of power based on the institutional approach to the implementation of the constitutional model of power organization are considered. The key ones are marked problems which related to the constitutional then, for the solution whose constitutional and legal reform is the main solution contradiction between the needs of the development of civil society and the improvement of the state system within the current framework social contract, which stands out exactly the constitution. Conditions for creation are specified stable constitutional legal order, which will give be able to build democratic, flexible and effective management system based on decentralized management, strengthening state authorities and essential increase roles local self-government in solving local and national problems value. An analysis of the measures was carried out contribute to the development of public governance with an emphasis on decentralization which provides opportunity for reinforcement participation citizens in public management, development and implementation public policies and solutions relevant questions territorial development on the basis principles public governance. Based on conducted research on reformation public...
governing on the basis of existing experience when combined methodological approaches scientific analysis constitutional and legal reforms in Ukraine the principles of legislation are defined definition organizational and legal mechanism public management.

**Keywords:** constitutional reform, public governance, state, public power, decentralization, democracy, civil society.

Грузд Марина Володимирівна кандидат економічних наук, доцент, доцент кафедри державного управління, публічного адміністрування та економічної політики, Харківський національний економічний університет імені Семена Кузнеця, пр. Науки 9а, м. Харків, 61166, тел.: (057) 702-18-37, https://orcid.org/0000-0002-1396-121X

ВПЛИВ ПРОВЕДЕННЯ КОНСТИЦІЙНО-ПРАВОВИХ РЕФОРМ НА РОЗВИТОК ПУБЛІЧНОГО ВРЯДУВАННЯ

**Анотація.** Метою дослідження є аналіз реформи публічного управління на засадах побудови концепції та змісту публічного управління в системі конституційних змін, а також встановлення стійких тенденцій розвитку національної держави при дослідженні стабільного функціонування системи публічного врядування в контексті визначення принципів публічного управління, які забезпечують реалізацію сучасного процесу реформування. Розглянуто передумови проведення конституційної реформи в країні при більш чіткому розмежуванні повноважень у системі органів державної влади, порядку їх формування та змін в територіальній організації влади на основі інституційного підходу для реалізації конституційної моделі організації влади. Означено ключові проблеми, які пов’язані з конституційною наступністю, для розв’язання яких конституційно-правова реформа є основним способом узгодження протиріч між потребами розвитку громадянського суспільства та вдосконаленням державного устрою в рамках діючого суспільного договору, яким виступає сама конституція. Означено умови для створення стабільного конституційного правопорядку, який дасть змогу побудувати демократичну, гнучку та ефективну управлінську систему на засадах децентралізованого управління, зміцнення державної влади та суттєво підвищити роль місцевого самоврядування у вирішенні проблем місцевого та загальнодержавного значення. Проведено аналіз заходів, які сприяють розвитку публічного врядування при акценті на децентралізацію, що надає можливість для посилення участі громадян у публічному управлінні, розробці та реалізації публічної політики та вирішенні актуальних питань територіального розвитку на основі принципів публічного врядування. На основі проведеного дослідження реформування публічного врядування на засадах наявного досвіду при поєднанні методологічних підходів наукового аналізу конституційно-правових реформ в Україні визначено засади законодавчого визначення організаційно-правового механізму публічного управління.
Introduction. The current state of the public power system, as well as the existing and potential challenges and threats to the functioning of the public administration system, imply an urgent need to determine the institutional content of public administrative activities within the framework of constitutional and legal reforms. Conditions are being created for the creation of a stable constitutional legal order, which, in turn, will make it possible to build a democratic, flexible and effective management system based on the principles of decentralized management, strengthening state power and significantly increasing the role of local self-government in solving problems of local and national importance.

The concept of continuity of public administration as a process of ensuring the durability of systemic reforms initiated under different socio-political conditions needs special attention, with the understanding that with the increase in the time dimension, reform periods cannot last long enough. Despite the further development of the components of the public-administrative content of decentralization in terms of the formation of institutional foundations for the interaction of the state and civil society, the general problem of the functioning of authorities in the conditions of constitutional and legal reform remains relevant.

The process of constitutional and legal reform in Ukraine is determined by institutional factors, determined by real foundations as an institutional paradigm of social development and the existing conflict between institutions of state administration, while reforms are implemented in constitutional changes, as well as in the adoption of constitutional resolutions on changes to individual provisions of the constitution. However, each of the reforms introduced in Ukraine was based on the development, acceptance and implementation of changes by the authority of regulatory law as a result of the process of influence on management. To understand the importance of the constitutional reform process, it is important to have a rationally constructed strategy for reforming the system of decision-making by state, public and public institutions.

Analysis of recent research and publications. The research of constitutional and legal reforms in public administration allows us to determine the prospects for the development of Ukrainian statehood in the context of European integration and globalization. The following scientists are engaged in the research of institutional aspects of regulation of public management activities at the level of the state and a certain territory abroad: L. Bauduin, M. Duce, H. Ketz, L. Lenter, R. Sacco, and others. Changes in constitutional and legal relations on the basis of democracy, interaction with civil society and the development of the main democratic institutions are considered in their works by O. Bandurka, A. Georgits, A. Zayets, I. Koliushko, V. Leman, L. Nalyvaiko, S. Pogrebnyak, V. Rechynskyi and others. Analyzing and solving specific problems in the field of organization and functioning of state authorities and civil society on the basis of constitutional and legal reforms as a process of modernization and renewal of the entire legal system as a whole is...
carried out by Yu. Barabash, S. Holovaty, V. Kovalchuk, Kh. Prykhodko, V. Rechynskyi and others. But a number of problems of scientific analysis remained unsolved, especially related to the introduction of effective public governance on the basis of constitutional and legal reforms regarding the consolidation of constitutional norms, in particular the activities of power institutions and the distribution of power in the system of public power and decentralization of state power.

**Setting objectives.** The purpose of the research is to analyze the reform of public administration on the basis of the construction of the concept and content of public administration in the system of constitutional changes, as well as to establish sustainable trends in the development of the nation state while studying the stable functioning of the public governance system in the context of determining the principles of public administration that ensure the implementation of the modern reform process.

In accordance with the purpose of the study, the following tasks: propose ways to improve public administration through constitutional reforms; to form the prerequisites for carrying out constitutional and legal reforms and their impact on public governance.

The object of the research is the process of development of the constitutional and legal foundations of public governance in Ukraine.

The subject of the research is the analysis of the regulatory and legal framework, organizational structures and mechanisms of public governance, as well as the practice of their application with the existing features of the development of the constitutional and legal foundations of public governance in Ukraine.

**Presenting main material research.** Researchers note that the constitution as the main law of the country should generally be considered as the result of political agreement and interaction. However, at the same time, the content of the reforms should reflect only the most important, important and objective laws, relations and territorial structure; characterize only established regularities, connections and relationships; include those laws, contexts that are characteristic of public administration activities, i.e., should have a general and not a partial character; reflect the features of modern public administration and its differences from other types of administration.

Constitutional practice in Ukraine during the years of independence confirms that the Constitution allows the integration of functions of all subjects of public administration. This is caused by the objective circumstances of the development of society or is a consequence of a violation of political coherence and has a subjective nature. It is in these cases that the constitutional and legal reform becomes the main way of resolving the contradictions between the needs of the development of civil society and the improvement of its state system and the framework of the real social contract, which the country’s constitution stands for [1, 2, 3, 4, 5].

Currently, constitutional and legal reforms are carried out by making changes to the constitution, including by adopting a new version of the constitution or adopting a new constitution. At the same time, the procedure for amending the constitution or adopting a new constitution in each country has its own specifics,
which are determined by various factors of influence, namely: the historical circumstances of the adoption of the basic law of the country, peculiarities of the form of government, peculiarities of state governance, peculiarities of state governance and public governance [6, 7].

Based on the opinion of many foreign researchers [6-10], the conceptual vision of constitutional reform is a complex management process. According to D. North, informal norms change gradually, when laws can be changed within a short period of time. Such norms create a legitimate basis for the application of laws in the country, and revolutionary changes in the latter often lead to results that are different from the expected changes. States that enact laws consistent with other informal norms and incentives follow a very different trajectory than those that do.

That is, the system of public governance in the country should be developed and implemented based on the measures presented in fig. 1.

<table>
<thead>
<tr>
<th>Measures that contribute to the development of public governance in the country</th>
</tr>
</thead>
<tbody>
<tr>
<td>the combination of state management methods at the regional level and indirectly at the basic territorial level, the spread of local self-government through the rational redistribution of powers and responsibilities between the relevant bodies of executive power and local self-government bodies</td>
</tr>
<tr>
<td>political-legal, financial, material, organizational and information provision of tasks, functions and powers of local self-government</td>
</tr>
<tr>
<td>creation of an independent institute of service in local self-government bodies and establishment of clear relationships between different types of public service</td>
</tr>
<tr>
<td>observance of the separation of the spheres of competence of the executive power and local self-government based on the establishment of legal guarantees of local self-government</td>
</tr>
<tr>
<td>increasing the effectiveness of the mechanism for providing state and municipal services to citizens and improving their quality</td>
</tr>
<tr>
<td>legal and organizational support for the formation of the material and financial foundations of the independence of local budgets based on a clear definition of internal and external sources of the formation of city budgets and extra-budgetary funds of local self-government</td>
</tr>
</tbody>
</table>

**Fig. 1. Measures that contribute to the development of public governance in the country**

Source: compiled by [6, 8 - 10].
The analysis of the process of constitutional reform in Ukraine confirms the main trend that all attempts to change the Constitution of Ukraine were reduced to the delimitation of powers in the system of state authorities, the sequence of their formation and changes in the territorial organization of power, but the institutional approach, according to which it is necessary to develop a constitutional model of organization, was not taken into account authorities.

M. Onishchuk thoroughly dealt with the issues of the institutional dimension of constitutional changes in Ukraine, conducted a more general review of the nature and content of updating the Basic Law and proposed a methodological model of the constitutional process. In his works, the principles of rationalism and the foundations of the constitutional system, the prerequisites for the introduction of real legal mechanisms for the implementation and protection of the constitutional rights and freedoms of man and citizen, the improvement of the institutional system for the direct implementation of national sovereignty (the development of referendums and democracy), the provision of the unity of the executive power and the overcoming of dualism in the implementation of executive functions of the state; elaboration of the foundations of the creation of a constructive judicial system and a highly professional judicial corps, the political responsibility of all state authorities to the people of Ukraine and citizens is spelled out; a clear mechanism of separation of powers between state authorities and local self-government bodies in accordance with the tasks assigned to them by the constitution is defined.

This characteristic is realized through the development of the institution of the presidency, the formation of the upper house of the Ukrainian parliament and the separation of the sources of education of the main branches of government, first of all the judicial branch of government. At the same time, the popularly elected president should act as the main element of the system of checks and balances and grant the right to prematurely terminate the powers of the lower house of the parliament; cancel government acts on issues of national security, defense and foreign policy; veto laws adopted by the parliament; appoint and dismiss judges indefinitely, and submit submissions to the Verkhovna Rada of Ukraine regarding the appointment of the entire composition of the Constitutional Court of Ukraine; to appoint and dismiss officials who perform control, regulatory, independent and special functions and duties of public administration.

The following characteristic provides for the unity of the executive power and its integrity as a prerequisite for responsible political leadership by the forces that won the national elections, ensured by: the unity of the sources of formation of the entire composition of the government; exclusion of local state administrations from the system of executive power and their transformation into bodies that represent the president on the ground and perform control and supervisory functions.

In order to implement the third characteristic, namely, the development of people’s power and the improvement of forms of direct democracy, it is necessary to introduce the institutions of popular legislative initiative and popular veto, to grant all citizens of the country the right to a constitutional complaint and to spread the use of referendums, even for solving problems of local importance.
Note that the decentralization of power is a defining part of the constitutional reforms carried out by the state authorities of European countries. Public administration, which in most countries was built on the principle of efficiency, was transformed into more advanced models of power and governance. It is decentralization that provides an opportunity to strengthen the participation of citizens in public administration, the development and implementation of state policy, and the solution of topical issues of territorial development while introducing new principles of public governance.

Introduction of the concept of constitutional legal succession as a paradigm of the modern constitutional process, in which constitutional ideas, principles and norms are applied not only to achieve a legal result, but also to implement such a result in public administration. This gives rise to the renewal of the concepts of "constitutional power", "constitutional power of the state", public administration of which is based on democratic values, and all subjects involved in the process of constitutional reform are subject to legal norms in their activities [15].

But there is a certain discrepancy between the institutional needs and the institutional foundations of modern democratic state formation. This state of affairs is explained by the difference of legal succession as a defining element of the post-sovereign model of the constitutional process without legal discretion, that is, the limits of legal succession.

Considering the formation of the institutional framework based on the draft, we can talk about problems related to constitutional continuity (Fig. 2).

![Fig.2. Problems related to constitutional succession](source: compiled by [1-5, 10, 11]).

One can agree with the statements of scientists that all changes are due to the purposeful influence of authorized subjects on the relevant social relations, that is, governance is an activity that consists in the control and management of certain social relations [4].

The theory and practice of governance are characterized by: management and its mechanisms, execution of administrative orders in the judicial branch of state power, executive -administrative activity of the state, science of public administration and payment processes [6, 8, 11].
Basics of the legislative definition of the organizational and legal mechanism of public administration (Fig. 3).

<table>
<thead>
<tr>
<th>Principles of legislative definition of the organizational and legal mechanism of public</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>formation legislative principles of public management for clear definition mechanism reforms decentralization , demarcation of spheres of influence bodies state government and local municipality</td>
<td></td>
</tr>
<tr>
<td>definition the main characteristics of the issues regional values that belong directly to the competence state administration regional equal</td>
<td></td>
</tr>
<tr>
<td>characteristic of the territorial boundaries of the local municipality according to the criteria administrative and territorial reforms</td>
<td></td>
</tr>
<tr>
<td>definition content public management in the field local self-government and state circles management measures in process reformation local municipality</td>
<td></td>
</tr>
<tr>
<td>ensuring the ability of territorial authorities and local self-government bodies to independently and responsibly solve all issues of social and economic development and creating effective mechanisms for ensuring their active participation in the formation and implementation of state regional policy</td>
<td></td>
</tr>
<tr>
<td>definition basic principles of public management in the field decentralization bodies state authorities</td>
<td></td>
</tr>
<tr>
<td>delineation of spheres of responsibility administrations local level and bodies local municipality depending from legal nature these bodies and nature of objects their management</td>
<td></td>
</tr>
<tr>
<td>the final determination of the signs of legal personality of the territorial community, forms of direct local democracy and state methods of ensuring the implementation and protection of the right to local self-government</td>
<td></td>
</tr>
<tr>
<td>improvement of financial interaction between budgets</td>
<td></td>
</tr>
<tr>
<td>development of programs with criteria and effective mechanisms of state support for the development of regions</td>
<td></td>
</tr>
<tr>
<td>determination of the scope of powers of state authorities regarding the implementation of state regulation and public governance in the field of regional development management</td>
<td></td>
</tr>
<tr>
<td>definition of the elements of the regional management system, specification of the existing range of public authorities that exert regulatory influence on social relations</td>
<td></td>
</tr>
</tbody>
</table>

**Fig. 3. Principles of legislative definition of the organizational and legal mechanism of public administration**

Source: compiled by [3, 5, 6 – 10, 13, 16].
At the same time, the issue of the balance of power between the authorities should be taken into account in the general complex of issues of decentralization of the administrative system in the country, its administrative-territorial level. Administrative reform should provide for the improvement of the entire management system based on a rational model of rule-making activity from the highest bodies of state power to the executive bodies of local councils. In addition to constitutional changes, it is necessary to prepare and adopt a draft law on the territorial organization of Ukraine. According to this draft law, it is expedient to adopt new draft laws. The content of administrative reform is also political and legal reform, which can not only formulate certain political interests, but also satisfy them and lead to changes not only in the state administration system, but also in the political system as a whole.

Legislatures always officially state that constitutional amendments can only attempt to correct, clarify, reform, or restore part of the existing constitutional text, and so this is a typical case of permanent constitutional amendments. Therefore, the established focus on constitutional changes in Ukraine does not contribute to the formation of the institutional foundations of public administration, but only complicates the process of transformation of public administration as a whole.

Objective reasons for carrying out constitutional reforms proposed by scientists [5, 7, 10, 17, 22] are presented in fig. 4.

Fig. 4. Characteristics of the prerequisites for the constitutional reform in Ukraine
Management at the national level and at the level of such a specific management object as a region is not adapted to rapidly changing social conditions. But the system of local self-government and the organization of the administrative-territorial system of Ukraine have significant shortcomings that prevent the acceleration of the transfer of public administration to a higher quality level. The following shortcomings can be attributed: limitation of the role of state institutions in the management and formation of the mechanism of political management; the presence of a large number of normative legal acts regulating the activities of state bodies, and at the same time numerous blanket norms that form the phenomenon of quasi-administration in the system of public power; replacement of decentralization processes by deconcentration; formation of regional management mechanisms similar to the state governance mechanism.

It is in these conditions that the choice of ways of further development of management institutes at different levels, means of overcoming their inherent shortcomings in order to create an effective management mechanism [7, 13, 18, 22] becomes relevant.

The completion of the constitutional and legal reform, which created the conditions for the functioning of the state on new reformed bases, scientists [19-21] propose to consider the following circumstances; creation of the necessary legal framework; creation of all conditions for the functioning of updated constitutional institutions with the fulfillment of the tasks of constitutional and legal reform, namely, the development of society and the state.

The constitutional and legal reform proposed by modern researchers should be applied to areas of public governance reform. Modern research on reforming public governance based on foreign experience should be based on a combination of methodological approaches of scientific analysis of the transformation process in Ukraine and other countries based on a complex of research approaches.

First, a decisive place should be given to the economic factor of the introduction of foreign experience, since the implementation of the government's activity program is carried out by affirming the principle of non-discrimination in the context of the impact of economic factors on the public. Management reform and on this basis the factors that determine the socio-economic approach to the analysis of the implementation process are highlighted.

Secondly, the adaptation of the legal norms of the EU member states and the direct implementation of the norms of the EU law in the field of public administration should be given a special role, and therefore, there should be an updated legal approach in the implementation process; thirdly, a systematic approach to the formation of a national reform strategy; fourth, the institutional approach in the process of reforming public administration in the context of formalizing subject-object influence; fifth, to make changes in the functions of national management structures and transfer the center of decision-making to regional management institutions based on a new functional approach.
Conclusion. The change in the principles, methods of public governance and the function of the state as a governing system of reforms is a characteristic feature of today. In modern conditions, signs of the rationality of public management activities refer to institutional alternatives that are formalized at each level of public management and implemented at the level of each subject of public management. That is why the criterion of maximizing the influence of public administration should be limited by the principle of satisfaction with public administration, which allows to ensure freedom of choice to the main recipients of public services.

The conducted analysis of the directions of development of the system of public management activity, taking into account constitutional and legal reforms, convinces that administrative institutions ultimately act as a system of functional restrictions, the influence of which is felt by all subjects of management participating in the transformation process. In general, a characteristic feature of public governance is the vertical delegation of powers, under which the state delegates part of its powers to a lower level, thereby depriving it of the power to regulate regional life. At the same time, the efficiency and volume of management actions in the public sector is the main characteristic of the distribution of management resources aimed at the processes that take place in the field of public administration.

References:


Література: