

THE SOCIO-ECONOMIC ROLE OF LOCAL GOVERNMENTS IN THE FIELD OF GUARDIANSHIP AND CONSERVATORSHIP OF ADULTS IN UKRAINE

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Abstract. Based on the content of Article 55 of the Civil Code of Ukraine, the task of guardianship and conservatorship of adult incapacitated persons and persons with limited legal capacity – is to ensure the personal non-property and property rights and interests of such persons, and as practice shows, there are currently a significant number of problems. The relevant problems are, inter alia, of a social and economic nature and affect a large number of subjects, with a special role being assigned to local self-government bodies, whose executive bodies, according to the definition of Ukrainian legislation, are guardianship and conservatorship bodies. This problem has a significant negative impact on the quality of life of adults in need of care and assistance, as well as on the exercise of relevant powers by local authorities. The above testifies to the usefulness of the study of the socio-economic role of local self-government bodies in the field of guardianship and conservatorship of adult incapacitated persons and persons with limited legal capacity. In this regard, an attempt was made to characterize the legislative basis and practical organization of the activities of local self-government bodies during their performance and powers of guardianship and conservatorship of adults, to determine and analyze the relevant duties, which, according to the results of the study, are proposed to be classified into three main groups (ensuring, protecting and defending the rights and legitimate interests of adults in need of guardianship and conservatorship; controlling and supervising the activities of guardianship and conservatorship entities (guardians, conservators and special institutions); controlling and supervising the preservation and management of property of persons under guardianship and conservatorship).

Key words: local self-government body, guardianship and conservatorship body, guardian, conservator, incapacitated person, person whose legal capacity is limited, property rights, non-property rights.

JEL Classification: H11, H30, H61, I38, R50, D72

1. Introduction

Ukraine is home to a significant number of people with mental and intellectual disabilities (for example, the World Health Organization speaks of 8 million Ukrainians with intellectual disabilities by the end of 2020 (Boyko, 2009)), some of whom have the legal status of incapacity or limited capacity (about 50 thousand people).

One of the national means (widely used in many countries of the world) to provide these categories of people with favorable living conditions is the

institution of guardianship and conservatorship. Its functioning is directly related to the activities of local self-government bodies, which are becoming more and more important in the conditions of decentralization in Ukraine in general and in connection with the socio-economic impact on the field of guardianship and conservatorship of adults in particular.

The advisability of the continued existence of the institution of guardianship and conservatorship of incapacitated persons and persons with limited legal capacity in Ukraine, as well as the institutes of

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incapacity and limited legal capacity, has long been under great question and in the perspective of many discussions. However, currently the executive bodies of local self-government continue to exercise powers as guardianship and conservatorship bodies, and therefore the study of their place and role in this area (in particular, the socio-economic role) is relevant.

2. Research methodology

2.1. The level of scientific, theoretical and legislative support and problems, as well as the study of the socio-economic role of local governments in the field of guardianship and conservatorship of adults

Today, the state policy of Ukraine in the field of guardianship and conservatorship of adults and the practice of its implementation are characterized by a large number of problematic issues related to the administration in the mentioned field, the implementation of norms and provisions of the national legislation on relevant issues, in particular, concerning subjects of guardianship and conservatorship for incapacitated persons and persons with limited legal capacity, ensuring personal non-property and property rights and interests of persons in need of guardianship and conservatorship, and other related issues. One of the key subjects in the outlined context are local self-government bodies, whose executive bodies perform the role of guardianship and conservatorship bodies, especially for adults.

Taking into account the gaps, inconsistencies and contradictions in the national legislation on socio-economic issues of the formation and implementation of state policy of the appropriate direction and the urgent need to prevent and eliminate the negative consequences caused by the above-mentioned problems and restore the violated rights and freedoms of subjects and legal relations in the researched area, the issue of the socio-economic role of local self-government bodies in this area needs attention.

It is particularly noteworthy that Ukrainian scientists have paid and continue to pay attention to certain aspects of guardianship and conservatorship, but mostly children under the age of 18. However, relevant issues through the prism of the rights of adults are almost not reflected in various types of scientific works and publications, with the exception of research on civil and civil procedural law. Thus, this issue is both relevant and understudied. Such situation requires more and more attention, as the policy of decentralization in Ukraine continues, local self-government bodies come to the fore in the context of implementation of a large number of directions of state policy, both their own framework and delegated powers.

2.2. Methodological features of the socio-economic role of local self-government bodies in the field of guardianship and conservatorship of adults

The article attempts to reveal the nature and peculiarities of the socio-economic role of local self-government bodies in the field of guardianship and conservatorship of adults: the method of observation (used to follow the processes of implementation of powers by local self-government bodies in the researched area), scientific method (applied within the framework of research and use of the conceptual apparatus on the topic of the article), scientific abstraction (mainly used during the disclosure of the content of the powers of local self-government bodies in the field of guardianship and conservatorship of adults), analytical method (played a key role in the formulation of conclusions and proposals on possible ways of improving the activities of local self-government bodies in the area of guardianship and conservatorship of adults), statistical method (according to the results of its application, it was possible to analyze statistical data on the number of adult incapacitated persons and persons whose legal capacity is limited, etc.).

The given list of used methods is not limited, but the above ones became decisive during the preparation of this article.

3. The role of local authorities in ensuring the implementation of state policy in the field of guardianship and conservatorship of adults: social and economic aspects

3.1. Legal regulation of guardianship and conservatorship of adult incapacitated persons and persons with limited legal capacity

Today in Ukraine the issues of guardianship and conservatorship of adults are regulated by the Civil Code of Ukraine (hereinafter – CC) (Civil Code of Ukraine), the Civil Procedure Code of Ukraine (hereinafter – CPCU) (Civil Procedure Code of Ukraine), the Rules of Guardianship and conservatorship, approved by the Order of the State Committee of Ukraine on Family and Youth Matters, the Ministry of Education of Ukraine, the Ministry of Health of Ukraine, the Ministry of Labor and Social Policy of Ukraine dated May 26, 1999, No. 34/166/131/88 (registered in the Ministry of Justice of Ukraine on June 17, 1999 No. 387/3680) (hereinafter – the Rules) (On Approval of the Rules of Guardianship and Trusteeship) (valid only in the part of the provisions that do not contradict the CCU), as well as other normative legal acts on relevant issues.

The norms and provisions of these legislative acts concern at least 50,000 incapacitated persons and

persons with limited legal capacity, as well as thousands of persons related to them (relatives, guardians, custodians, employees of local self-government bodies and special institutions, etc.). At the same time, it should be taken into account that these statistics are more than five years old (more recent statistical data are not available, as they are not collected and analyzed) and do not take into account those who acquired the appropriate status during the specified period, primarily during the war, when the number of people with mental disorders and those whose status is established is growing daily and significantly.

3.2. Organization of activities of local self-government bodies in the exercise of powers (social, economic and other) in the field of guardianship and conservatorship

Going directly to the subject of this study, let's note that Article 56 of the CCU (Civil Code of Ukraine) district, district state administrations in the cities of Kyiv and Sevastopol, executive bodies of city, district in cities, village, village councils are defined as bodies of guardianship and conservatorship.

Namely, the executive bodies of local self-government at the level of cities, districts in cities, villages and settlements are authorized to exercise the powers of guardianship and conservatorship bodies. At the same time, it should be emphasized that the above-mentioned article does not specify the category of persons exercising such powers. The foregoing, as well as practical experience, leads to the conclusion that such persons include incapacitated adults and persons whose legal capacity is limited. As for the concept of "guardianship and conservatorship body", it is suggested that it be understood as bodies defined by law, authorized to perform the functions of resolving issues of guardianship and conservatorship of minors, as well as adults who, due to their state of health, cannot independently exercise their rights and perform their duties.

Article 34 of the Law of Ukraine "On Local Self-Government in Ukraine" (The Law of Ukraine "On Local Self-Government in Ukraine") refers to the delegated powers of executive bodies of village, town and city councils to resolve issues of guardianship and conservatorship in accordance with the procedure established by law.

According to the definition of Article 1 of the Law of Ukraine, delegated are the powers of executive authorities granted to local self-government bodies by law, as well as the powers of local self-government bodies transferred to the respective local state administrations by the decision of district and regional councils (The Law of Ukraine "On Local Self-Government in Ukraine"). In the field of guardianship

and adult conservatorship, the relevant authority is the executive authority granted to local self-government bodies.

Such delegation provides for accountability and control by the relevant bodies of executive power over the decisions of the executive bodies of local self-government authorities on issues of guardianship and conservatorship, in particular over adults. In turn, the state administrations of Kyiv and Sevastopol and the executive bodies of the higher councils shall manage the guardianship and conservatorship institutions and control their activities. Their respective functions are determined by subsection 1.9 of paragraph 1 of the Rules (On Approval of the Rules of Guardianship and Trusteeship).

It is also important to note that one of the economic components of the role of local self-government bodies in the person of their executive bodies in connection with the issue of guardianship and conservatorship of adult incapacitated persons and persons with limited legal capacity is the exercise of relevant powers by employees of these bodies at the expense of salary funds without additional payments for the sole purpose of managing issues of guardianship and conservatorship of adults.

According to paragraph 1.4 of item 1 of the Rules (On Approval of the Rules of Guardianship and Trusteeship), the direct management of matters related to guardianship and conservatorship is entrusted, within the limits of their competence, to the relevant departments and administrations of the local state administration of districts, districts of the cities of Kyiv and Sevastopol, executive bodies of city or district councils in cities. In settlements and villages, matters of guardianship and conservatorship shall be dealt with directly by the executive authorities of the settlement and village councils.

With regard to the structural unit, which is responsible for the issue of guardianship and conservatorship for adults, the head of a specific body of guardianship and conservatorship must be determined. In practice, issues of guardianship and conservatorship are mainly dealt with by the structural subdivisions of social protection of the population and health care, or the corresponding tasks are even assigned to librarians (although in the case of librarians this situation is more the exception than the rule).

In order to support the work, paragraph 1.6 of Section 1 of the Rules provides for the establishment of guardianship councils with advisory functions at guardianship and conservatorship institutions. They include deputies, representatives of local executive and local self-government bodies and the public (On Approval of the Rules of Guardianship and Trusteeship).

3.3. Identification and analysis of responsibilities of local self-government bodies in the field of guardianship and conservatorship for adults

What are the specific powers of executive organs of local self-government as guardianship and conservatorship bodies in the field of guardianship and conservatorship of adults?

Analysis of the normative legal acts mentioned at the beginning of this article (Civil Code of Ukraine; Civil Procedure Code of Ukraine; On Approval of the Rules of Guardianship and Trusteeship), as well as some others (The Law of Ukraine "On Prevention and Counteraction to Domestic Violence"; On Approval of the Model Regulation on a Psychoneurological Boarding School), makes it possible to distinguish the following powers of the specified bodies:

1) Receiving information about natural persons in need of guardianship or conservatorship.

Natural and legal persons who are obliged to immediately inform the competent guardianship and conservatorship bodies in case of detection of an adult in need of guardianship or conservatorship include, among others, close relatives and other persons, medical and preventive institutions of psychiatric profile, judicial bodies, internal affairs bodies, civil registry bodies, notary offices, other institutions and organizations that have become aware of an adult in need of guardianship and conservatorship.

2) Appeal to the court with a statement on:

- limitation of a person's civil capacity;
- recognition of a person as incapacitated;
- dismissal of a guardian or conservator in case such person fails to perform duties, violates the rights of the ward, as well as in case of placement of the ward in a health care or social protection institution;
- annulment of the court decision on the restriction of the legal capacity of an individual and restoration of the legal capacity of an individual whose legal capacity was restricted;
- reversal of a court decision recognizing an individual as incapacitated and restoration of civil capacity of an individual who has been recognized as incapacitated in case of recovery or significant improvement of his or her mental state.

3) Submission to the court of an application for extension of the term of the decision on recognition of an individual as incapacitated.

4) Submission to the court an application on:

- the possibility of appointing a person as a guardian or custodian of an adult person who is incompetent or whose civil capacity is limited.

First of all, in connection with this authority, it should be noted that at the present legislative level

there is no clear list of documents on the basis of which the guardianship and conservatorship body prepares a petition to the court for the appointment of a person as a guardian or conservator of an adult incapacitated person or a person whose legal capacity is limited. Therefore, the list of such documents may be determined either by specific guardianship and conservatorship bodies or by their superior bodies, taking into account the legal requirements for the person of the guardian and conservator.

It should be noted that until March 22, 2005, when Article 60 of the CCU was amended by the Law of Ukraine No. 2450-VI "On Amendments to the Civil Code of Ukraine" dated March 3, 2005 (The Law of Ukraine "On Amendments to the Civil Code of Ukraine"), the appointment of guardians and conservators over incapacitated persons and persons with limited legal capacity was carried out by guardianship and conservatorship bodies.

In addition, Article 138 of the Marriage and Family Code of Ukraine (expired on January 1, 2004) (Marriage and Family Code of Ukraine) provided for the possibility of appointing a guardian at the request of an adult of legal capacity who, due to his/her health condition, is unable to independently defend his/her rights and fulfill his/her obligations (today the Institute of the Guardian is in operation, the functioning mechanism of which is regulated by Article 78 of the CCU). Therefore, guardianship and conservatorship bodies had the right to make such decisions only until January 1, 2004. Therefore, it is important to note that currently the grounds and procedure for dismissal of guardians are provided for in Article 75 of the CCU. As can be seen from the content of the first part of the above-mentioned article, the guardianship body, if it has appointed a guardian, may by its decision release a person from the powers of the guardian on the basis of his or her application.

In addition, in violation of the norms of national legislation in the field of guardianship and conservatorship of adult incapacitated persons and persons with limited legal capacity, guardianship and conservatorship bodies made decisions on the appointment of guardians and conservators for adults, in particular: 1) as of January 1, 2004 – on issues of appointment of guardians and conservators for adults with legal capacity, in violation of Articles 60 and 63 of the CCU; 2) as of April 6, 2006 – on issues of appointment of guardians and conservators for adults with legal capacity, incapacitated persons and persons whose legal capacity is limited, in violation of Article 60 of the CCU and Article 241 of the CPCU.

In practice, guardians and conservators use appropriate decisions when exercising authority over their wards, in particular, when registering pension

payments, state benefits, resolving property issues, etc. To confirm the scale of the problem, in the period from March 22, 2005 to April 6, 2006, guardianship and conservatorship bodies issued more than 600 decisions on the appointment of guardians and conservators for adults.

At the end of the topic on the appointment of guardians and custodians, it should be noted that according to the Article 59 of the Law of Ukraine "On Local Self-Government in Ukraine" (On Approval of the Rules of Guardianship and Trusteeship), acts of bodies and officials of local self-government are recognized in court as illegal due to their inconsistency with the Constitution or laws of Ukraine:

- replacement of a guardian or conservator if the guardian or conservator is not entitled to conduct a case in court on the grounds established by law.

In connection with the aforementioned right to file a petition with the court, it should be noted that in accordance with the content of the first part of Article 60 of the CCU (Civil Code of Ukraine) and the first part of Article 300 of the CPCU (Civil Procedure Code of Ukraine), the guardian of an adult incapacitated person and the guardian of a person with limited legal capacity are appointed by the court upon the request of the guardianship and conservatorship body. At the same time, Article 122 of the CPCU (Civil Procedure Code of Ukraine) stipulates that a judge shall institute proceedings in a civil case only on the basis of a petition filed and executed in the manner provided by this Code. Pursuant to the first part of Article 13 of the CPCU (Civil Procedure Code of Ukraine), the court shall consider a civil case within the limits of the requirements specified by the person in his/her application. At the same time, the legislation does not establish the obligation of guardianship and conservatorship bodies to apply to the court for the appointment of a guardian for an incapacitated person, and the guardian is limited to a competent person, as well as restrictions on the right of a person to apply to the court for the appointment of his/her guardian.

5) Issuance of a permit:

- to the guardian for the execution of transactions concerning: a) relinquishment of property rights of the guardian; b) provision of written commitments on behalf of the guardian; c) conclusion of contracts requiring notarization and/or state registration, including contracts on division or exchange of a residential building, apartment; d) conclusion of contracts on other valuable property;
- to the guardian for consent to the person's transactions regarding: a) waiver of the person's property rights; b) written commitments on their own behalf; c) conclusion of agreements subject to notarization and/or state registration, including agreements on

the division or exchange of a residential house or apartment; d) conclusion of agreements regarding other valuable property.

It is important to note that a transaction made without the permission of the guardianship and conservatorship authority is invalid. At the request of the interested person, such a transaction may be recognized by the court as valid if it is established that it is in the interests of the individual over whom guardianship or conservatorship has been established (Civil Code of Ukraine).

6) Dismissal:

- at the request of the guardianship and conservatorship body, if the relevant guardianship and conservatorship body has appointed a guardian or conservator;

- at the request of the person over whom guardianship has been established, the guardian from his/her authority, if the corresponding guardianship and conservatorship body has appointed a guardian.

7) Guardianship or conservatorship over an adult until a guardian or conservator is appointed or until such person is placed in a special institution.

8) Requiring reports from guardians and conservators.

In connection with the above-mentioned powers of local self-government bodies in relation to the reporting of guardians and conservators, it is necessary to express solidarity with the position of M. Boyko, who points out that the guardianship bodies are not obliged to check the annual reports in kind. Therefore, only in a few cases these bodies are able to notice the carelessness or intention of the guardians in time and, by removing them from the guardianship duties, prevent the death or damage to property. Meanwhile, identifying the wrongful actions of guardians who have already caused harm to the ward almost never helps to compensate them. The fact is that the guardian usually does not have sufficient funds to compensate for the damages caused. In order to protect the property interests of the ward, the Board of Guardians examines the report from the point of view of the correctness of calculations and factual accuracy, and may correct and supplement the report. At the same time, the legislation provides that claims disputed in the relationship between the guardian and the ward may be submitted to the court for consideration even before the end of the guardianship relationship (Boyko, 2009).

9) Reviewing complaints regarding the actions of guardians and conservators.

10) Supervising the activities of guardians and conservators.

11) Monitoring the activities of guardians and conservators.

With regard to the control over the activities of guardians and conservators, it is necessary to take

into account certain financial aspects of the relevant legal relationship and their importance in the context of the protection of the property rights of adults under guardianship and conservatorship. The purpose of such control is to verify that the activities of guardians and conservators comply with national legislation and to ensure that there are no risks for their wards. According to subsection 4.14 of Paragraph 4 of the Rules (On Approval of the Rules of Guardianship and Trusteeship), the control over the activities of guardians and conservators is carried out by guardianship and conservatorship bodies with the participation of the public through scheduled visits to persons under guardianship. The frequency of visits shall be determined by a separate schedule, but not less than once a year, except for the first visit, which shall be made three months after the establishment of the guardianship and conservatorship. The schedule shall be established by a specific guardianship body. If necessary, the results of the inspections are brought to the meeting of the Board of Guardians in order to take appropriate measures. The form of control over the activity of guardians and conservators is also the collection, analysis and verification of reports of guardians and conservators. The issue of reporting on guardianship and conservatorship is regulated by subsection 4.11 of Paragraph 4 of the Rules (On Approval of the Rules of Guardianship and Trusteeship).

In addition, based on the content of the powers of guardianship and conservatorship bodies, these bodies must also control, in the manner determined by them, the exercise of guardianship and conservatorship over adults by special institutions;

12) Making a decision on placement in a psychoneurological boarding school for persons with disabilities.

13) Exercising powers in the field of preventing and combating domestic violence in relation to incapacitated persons and persons with limited legal capacity, including:

- solving the problem of social services for an injured person who is a disabled person, if no legal representative has been appointed for such a person, or if the legal representative is a criminal or evades the protection of the rights and interests of such a person;
- giving consent to enter personal data of a disabled person who has reported the act of violence or who is a victim in the Unified State Register of Cases of Domestic and Gender-Based Violence, if the legal representative of such a person is a perpetrator or evades the protection of the rights and interests of a disabled person;
- placement of an injured person who is an incapacitated person in a social protection institution if,

in connection with the perpetration of domestic violence, the residence of such a person in a family or with a guardian poses a threat to his/her life and health;

- taking measures to provide compulsory psychiatric care for an incompetent person who is a perpetrator of domestic violence, if such a person's residence in a family or with a guardian poses a threat to the life and health of the family members or guardian;
- to bring before the court, in accordance with the procedure established by law, the issue of release from the powers of a guardian or conservator in the case of domestic violence committed by them against a person who is incapacitated or has limited legal capacity;
- protection of rights and representation of interests of the injured person who is a disabled person in state authorities, local self-government bodies or in court (if necessary);
- violation before bodies of executive power and bodies of local self-government of the issue of holding officials accountable in the manner established by law in case of non-performance or improper performance of duties by them, when identifying and working with injured persons, disabled persons or persons with limited civil capacity;
- implementation of other measures provided for by law in the field of prevention of and fight against domestic violence in relation to disabled persons and persons with limited civil capacity or with their participation.

14) Appointment of a manager of the property of an individual entrepreneur recognized as incapacitated or whose civil capacity is limited, which was used in entrepreneurial activity, and conclusion of an agreement with the manager on the management of this property.

15) Control over the activities of a property manager of an individual entrepreneur who has been recognized as incapacitated or whose civil capacity is limited, in accordance with the rules for controlling the activities of a guardian and conservator.

16) Establishment of guardianship over the property of a person over whom guardianship or conservatorship has been established, which property is not located at the place of residence of such person.

Legislation does not specify the conditions for establishing guardianship over property. As a rule, the norms of Article 74 of the CCU are applied in the case of guardianship or conservatorship of an incapacitated person or a person whose legal capacity is limited by a guardianship and conservatorship body or a special institution, if no guardian has been appointed for the person. The establishment of guardianship over property is formalized by a decision (order) of the guardianship and conservatorship body.

17) Execution of appropriate documents concerning the person of the ward and the property over which the guardianship is established.

18) To appeal to the court against the actions of the executor of the will if they do not comply with the law and violate the interests of the incapacitated heirs.

19) Keeping records of persons in need of guardianship and conservatorship.

In connection with this body, it should be noted that the procedure for keeping such records is not currently regulated by law. In this regard, the keeping of records of persons in need of guardianship and conservatorship may be determined either by specific guardianship and conservatorship bodies or by the regional and Kyiv City State Administration and executive bodies of the Supreme Council. At the same time, in accordance with the content of sub-paragraph 3.5 of Paragraph 3 of the Rules, a special file issued for the ward at the time of the establishment of guardianship is kept in the guardianship and conservatorship bodies at the ward's place of residence (On Approval of the Rules of Guardianship and Trusteeship). Therefore, if the ward changes his place of residence, his personal file must be transferred to the guardianship and conservatorship body at the new place of residence and, accordingly, such a person must be taken into account by this body in relation to persons in need of guardianship and conservatorship. Upon the death of an adult incapacitated person or a person with limited legal capacity, such person shall be removed from the Register of Persons in Need of Guardianship and Conservatorship.

20) Direct guardianship and conservatorship proceedings.

21) Maintaining a register of personal files of wards, an alphabetical book and a file cabinet.

22) Taking measures to protect the personal and property rights of persons under guardianship and conservatorship.

23) Participating in court proceedings related to the protection of the rights of persons under guardianship and conservatorship.

24) Protection and preservation of housing and property of wards.

25) Restrictions, if necessary to protect the interests of the ward, on the right of the guardian or conservator to dispose of the deposit made by anyone in the name of the ward.

26) Require the guardian or conservator to compensate for property damage caused to the person whose guardianship or conservatorship has been terminated as a result of the guardian's or conservator's dishonest or negligent performance of duties.

27) Carrying out other activities to ensure the rights and interests of adults in need of guardianship and conservatorship.

The generalization and analysis of the above-mentioned powers of local self-government bodies in relation to the performance by their executive bodies of the role of guardianship and conservatorship bodies provides grounds for the conclusion of the three key tasks of these bodies, performed by them in the direction of ensuring, protecting and safeguarding the personal non-property and property rights and interests of adult incapacitated persons and persons with limited legal capacity. In particular, it is about:

- ensuring, protecting and defending the rights and legitimate interests of adults who need guardianship or conservatorship but do not have the legal status of an incapacitated person or a person whose legal capacity is limited, as well as adults who have been granted such status in a court of law;

- control and supervision of the activities of subjects of guardianship and conservatorship (guardians and conservators, special institutions) other than guardianship and conservatorship bodies for the purpose of their proper performance of guardianship and conservatorship duties over adults;

- control and supervision of the maintenance and management of the property of persons under guardianship and conservatorship.

The above information provides grounds for concluding that local self-government bodies play a key socio-economic role in the field of guardianship and conservatorship of adult incapacitated and partially incapacitated persons, especially considering that the relevant powers must by their nature be exercised by the state, but with the aim of increasing their efficiency and effectiveness are delegated to local self-government bodies that are "closer" to the community and individuals.

As a matter of fact, if one or another local self-government body does not perform or performs improperly its functions in the field of guardianship and conservatorship of adults, it can have extremely negative consequences for such persons, related, for example, to those real risks of loss, damage or bringing into unsuitability of the property of an adult who is under guardianship or conservatorship, if the guardianship and conservatorship body does not take measures to protect the rights and legitimate interests of such person.

In order to prevent such negative consequences, the institution of responsibility of local self-government bodies, depending on the nature of violations committed by them, operates as a guardianship and conservatorship body.

4. Conclusions

Summarizing, it should be noted that the existing legislative regulation of the organization and activity

of local self-government bodies as guardianship bodies does not fully resolve the issue of determining the legal status of such bodies in general and their socio-economic role in the researched area in particular.

Bodies of guardianship and conservatorship are not personalized and are not defined in the structure of local state authorities and local self-government

bodies, which is a significant obstacle on the way to achieving the goal of guardianship and conservatorship of adult incapacitated persons and persons with limited legal capacity, ensuring personal non-property and property rights and interests of adults who, due to their health condition, are unable to independently exercise their rights and fulfill their duties.

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