

## ADMINISTRATIVE AND LEGAL MECHANISM FOR PREVENTION OF CORRUPTION IN THE FIELD OF HEALTH CARE IN UKRAINE

Volkova Yu. A.

The reform of the system of implementation of state functions, introduced with the development and adoption of the Concept of Administrative Reform in 1998 in accordance with the Decree of the President of Ukraine of July 22, 1998, № 810/98<sup>1</sup> determined the vector of development of the system of executive authorities in the direction of transformation from a command-administrative management system to a form public service model of the organisational and legal mechanism for ensuring the rights and freedoms of a person and a citizen in general, and in particular the right of a person to health.

Thus, the idea of building a system of public administration bodies is introduced, which should be conditionally “successors” of the system that was widespread in the early 1990s. The terminological vocabulary for the use of the categorical series, based on the concepts of “public administration”, “public administration”, is the basis for the introduction of the concept of “good governance”. Public administration is understood: as a certain set of state and municipal authorities, whose activities are aimed at ensuring the implementation of the functions of the state<sup>2</sup>; as a system of power subjects, whose powers are divided into subsystems of bodies that perform managerial or control and supervisory functions and tasks<sup>3</sup>; as a system of legislative, executive and judicial state and regional authorities interacting in the implementation of the functions, goals and objectives of state policy<sup>4</sup>.

---

<sup>1</sup> Про заходи щодо впровадження Концепції адміністративної реформи в Україні : Указ Президента України від 22 липня 1998 року № 810/98. URL: <https://zakon.rada.gov.ua/laws/show/810/98#Text>.

<sup>2</sup> Сірко В.С. Поняття адміністративно-правового забезпечення волонтерської діяльності в Україні. *Правова просвіта*. 2018. № 8. URL: [http://www.pravo.nauka.com.ua/pdf/8\\_2018/102.pdf](http://www.pravo.nauka.com.ua/pdf/8_2018/102.pdf).

<sup>3</sup> Реформа публічної адміністрації / І. Коліушко, С. Сорока, В. Тимошук, В. Тертичка. Реанімаційний Пакет Реформ. 2018. URL: [https://rpr.org.ua/wp-content/uploads/2018/10/7\\_REFORMA-PUBLIChNOJiADMINISTRATsIji.pdf](https://rpr.org.ua/wp-content/uploads/2018/10/7_REFORMA-PUBLIChNOJiADMINISTRATsIji.pdf).

<sup>4</sup> Карабін Т.О. Розподіл повноважень публічної адміністрації : монографія. Ужгород : Гражда, 2016. 296 с.

Corruption. An official website of the European Union. 2020. URL: [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-andhuman-trafficking/corruption\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-andhuman-trafficking/corruption_en).

According to the provisions of the Law of Ukraine “On Central Executive Bodies”, it is determined that the intended purpose of such entities is the implementation of state policy in general or within a separate area. However, the performance of the functions of the state, the implementation of strategic tasks and goals of state and regional policy is currently assigned not only to public authorities, but also to other powerful subjects of power. So, in today’s conditions, the transformation of public authorities is moving to the concept of public administration, the structure of which allows the implementation of the tasks and goals of state and regional policy not only on the central executive authorities and their territorial departments, but also on a number of other subjects<sup>5</sup>.

Public administration bodies are a certain set of state and non-state public authorities, where the place is occupied by executive authorities and executive bodies of local self-government<sup>6</sup>. Public administration bodies constitute a certain structured system of subjects of power, which include state executive authorities, local governments, enterprises, institutions, organisations, and other bodies that must exercise administrative and managerial powers, the interaction of which should be directed towards ensuring the functions of the state<sup>7</sup>. Other scientific works are substantiated on the key nature of executive authorities in the system of subjects of public administration<sup>8</sup>. Despite the existing relatively uncontested approach to understanding public administration within the framework of the European legal doctrine, there is no unity in determining the content of this category. European researchers interpret public administration bodies as: a certain structured system of entities performing administrative functions; as a certain set of bodies that carry out administrative activities to meet the public

---

<sup>5</sup> Джафарова О.В. Дослідження органів публічної адміністрації в системі суб’єктів дозвільної діяльності в Україні. *Форум права*. 2018. № 1. С. 42–49.

Приходько А.А. Визначення поняття «публічна адміністрація» у сфері запобігання та протидії корупції в Україні. *Правова позиція*. 2019. № 4 (25). С. 69–75.

<sup>6</sup> Малиновський В.Я. Стан і перспективи адміністративної реформи в Україні. *Наукові праці Чорноморського державного університету імені Петра Могили. Серія «Політологія»*. 2013. Т. 212. Вип. 200. С. 18–22.

<sup>7</sup> Кравцова Т.М., Солонар А.В. Поняття та принципи діяльності публічної адміністрації. *Форум права*. 2010. № 4. С. 522–525.

Кузьмишин В.М. Адміністрування апеляційних судів в Україні : дис. ... канд. юрид. наук : 12.00.07; Науково-дослідний інститут публічного права. Київ, 2018. 222 с.

<sup>8</sup> Чернов С.І. Текст лекцій з дисципліни «Публічне адміністрування» (для студентів всіх форм навчання за спеціальністю 7.03060101, 8.03060101 Менеджмент організацій і адміністрування (за видами економічної діяльності)) / Харківський національний університет міського господарства ім. О.М. Бекетова. Харків : ХНУМГ, 2014. 97 с.

interests of society; as a certain sphere of public legal relations, within which the public administration operates<sup>9</sup>.

According to international law, in particular, in accordance with Recommendations № R (84) 15 of the Committee of Ministers of the Council of Europe, provided to member states in accordance with the application of public liability for damages, adopted on September 11, 1984, at the 375th meeting of deputy ministers, under public power (public authority) is defined as: a certain powerful public-administrative entity, regardless of its status, or b) any private person in the exercise of the prerogatives of official power.

Since the lack of a normatively fixed understanding of the category “public administration”, “public administration body”, “subject of public administration” creates obstacles to its scientific and practical understanding. Furthermore, in addition to the above-mentioned, the Concept of Administrative Reform of Ukraine in 1998, the development of the system of public administration (public management) within the national system of public legal relations is carried out without a well-defined strategic plan. In general, the main difference between the concept of public administration and the concept of state administration prevalent in Soviet times is that the former is constructed based on the model of public service, wherein government entities must act according to the principles of administrative service<sup>10</sup>.

So, the primary strategic objective of introducing administrative reform is to promote the idea of public service, aiming to serve the interests of society and the public interests<sup>11</sup>.

The implementation of administrative reform in Ukraine takes place in accordance with certain stages, but not normatively undefined, in contrast to the strategic concepts that are adopted, for example, in the countries of the European Union. For example, the implementation of the Sustainable Development Goals<sup>12</sup> and the Concept of Sustainable

---

<sup>9</sup> Мельник Р.С., Бевзенко В.М. Загальне адміністративне право : навчальний посібник. Київ : Ваіте, 2014. 376 с.

<sup>10</sup> Данилишин Б. Цели и принципы реформирования публичной администрации. *ЛІГАБізнесІнформ*. URL: <http://news.liga.net/news/N0828824.html>.

<sup>11</sup> Буханевич А. Публічна адміністрація як інститут оптимізації публічного контролю в громадянському суспільстві. *Вісник Національної академії державного управління при Президентіві України*. 2010. Вип. 2. С. 46–56.

<sup>12</sup> Transforming our world: the 2030 Agenda for Sustainable Development. Resolution adopted by the General Assembly on 25 September 2015. URL: [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf)

Development<sup>13</sup> is based on the development of strategic plans for their implementation, including a special implementation plan<sup>14</sup>. One of the stages in the implementation of the Concept of Administrative Reform in 1998 was the adoption of a new edition of the relevant laws of Ukraine in the field of preventing corruption. In particular, the Laws of Ukraine dated December 10, 2015, № 889-VIII “On the Civil Service”, “On the Prevention of Corruption”, “On the Prosecutor’s Office” with the relevant related by-laws and others. A number of strategic concepts for reforming public administration in Ukraine and introducing the idea of public administration were developed (in particular, we are talking about the Strategy for Reforming the Public Administration of Ukraine for 2016–2021; The Strategy for Reforming the Public Finance Management System for 2017–2020 years, the Concept of introducing positions of reform specialists in ministries and other central executive bodies, the Concept of optimising the system of central executive bodies.

Based on the above considerations, it is possible to conclude that under the subjects of public administration it is necessary to understand a certain structured system of subjects interacting and functioning to ensure the implementation of the tasks and goals of the development of the state.

Thus, considering a broad understanding of the content of the category “public administration bodies”, the following structural subsystems generally belong to the administrative and legal mechanism for preventing corruption.

The first subsystem is a set of holders of political power, which includes the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine (in the structure of the Secretariat of which there is the Department for Security, Defence, the Activities of the Justice Bodies, and the Prevention of Corruption), the National Council for Anti-Corruption Policy under President of Ukraine. The tasks of the functioning of the subjects of political will is to establish the conceptual framework for the prevention of corruption, the definition of strategic objectives for overcoming corruption manifestations and risks.

---

<sup>13</sup> A European Green Deal. Striving to be the first climate-neutral continent. URL: <https://www.switchtogreen.eu/the-eu-green-deal-promoting-a-green-notable-circular-economy/>.

Tamma Paola. Europe’s Green Deal plan unveiled. The goal of making the EU climate neutral by mid-century is likely to set off a political battle. URL: <https://www.politico.eu/article/the-commissions-green-deal-plan-unveiled/>

<sup>14</sup> Annex to the Communication from the Commission to the European Parliament, the European Council, the Council, the European economic and social committee and the Committee of the regions. The European Green Deal. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN>.

The second link in the system of subjects of public authorities, which are obliged to take measures to prevent corruption in the healthcare sector, are specialised anti-corruption bodies. The system of specialised anti-corruption bodies in the healthcare sector includes: the National Agency for the Prevention of Corruption as a body authorised to implement the anti-corruption policy of the state, the National Anti-Corruption Bureau of Ukraine as a body authorised to prevent and investigate corruption offenses within the jurisdiction, in particular, by persons under investigation NABU are criminal offenses under Art.191, 206-2, 209-211, 354, 364, 366-1, 366-2, 366-3, 368, 368-2, 368-5, 369, 369-2, 410 of the Criminal Code of Ukraine), the State Bureau of Investigation as a state law enforcement body, which is entrusted with the task of preventing, detecting, suppressing, disclosing and investigating criminal offenses within its competence, which is under investigation corruption offenses committed by the President of Ukraine whose authority has been terminated; Prime Minister of Ukraine, member of the Cabinet of Ministers of Ukraine, First Deputy and Deputy Minister; member of the National Council of Ukraine on Television and Radio Broadcasting; Chairman of the State Committee for Television and Radio Broadcasting of Ukraine; a member of the National Commission for State Regulation in the Field of Financial Services Markets, the National Commission for Securities and the Stock Market, the Antimonopoly Committee of Ukraine; Chairman of the State Property Fund of Ukraine, his first and deputy; member of the Central Election Commission; People's Deputy of Ukraine; Commissioner of the Verkhovna Rada of Ukraine for Human Rights; the Prosecutor General of Ukraine, his first deputy and deputy; and other civil servants of category "A", including NABU and SAPO officials, except for cases when the pre-trial investigation of these criminal offenses is referred to the jurisdiction of detectives of the NABU internal control unit; Agency for Tracing and Management of Assets, the central task of which is the regulation and maintenance of the Register of Seized Assets.

The third link in the system of administrative and legal support for the prevention of corruption in the healthcare sector consists of bodies of intersectoral competence, the Ministry of Energy and Environmental Protection of Ukraine, the Ministry of Justice of Ukraine, the Ministry of Finance of Ukraine, the Ministry of Social Policy of Ukraine, the Ministry of Education and Science of Ukraine, the Ministry of Culture, Youth and Sports of Ukraine, Ministry of Economic Development, Trade and Agriculture of Ukraine, Ministry and Committee for Digital Transformation of Ukraine, State Property Fund of Ukraine, State Audit Service of Ukraine. Within the limits of the competence, scope of rights and obligations of the authorities of this link in the administrative and legal support of the

mechanism for preventing corruption in the healthcare sector, determined by the current legislation of Ukraine, measures are being taken to comprehensively support state and regional policies to overcome the manifestations of real and potential conflicts of interest, unlawful subjective requirements from the side officials to consumers of medical services, including by conducting outreach activities, creating electronic information services, staffing the training of medical personnel, etc.

The fourth link of the administrative-legal mechanism for ensuring the prevention of corruption in the field of health care consists of direct executors (implementers) of measures for the implementation of state and regional policies. Business entities authorised to provide medical services and medical assistance are included in this link of the administrative-legal mechanism for ensuring prevention in the field of health care.

An important component of the link of the administrative and legal mechanism for ensuring the prevention of corruption in the healthcare sector are public organisations and associations, in particular, it is necessary to single out such subjects of public control at the national and international levels as the Anti-Corruption Initiative of the European Union in Ukraine, Transparency International Ukraine, International Renaissance Foundation; Public Human Rights Organisation “Human Rights”, Anti-Corruption Centre, “Anti-Corruption Reform” Group of the Resuscitation Package of Reforms; Public organisation “Ukrainian Association of Public Health”; Union of Public Organisations “All-Ukrainian Association for the Protection of Patients’ Rights Health of the Nation” and others.

Several measures have been taken to ensure the prevention of corruption in the healthcare sector. In particular, in the organisational and structural system of departments and management sectors of the Ministry of Health of Ukraine, a sector for assessing and eliminating corruption risks was created. At the regulatory level, ensuring the prevention of corruption in the healthcare sector is linked to the development and adoption of a number of by-laws: Order of the Ministry of Health of Ukraine dated May 31, 2017 № 591 “On Conducting an Assessment of Corruption Risks”; Order of the Ministry of Health of Ukraine dated September 14, 2017 № 1086, which approved the “Anti-Corruption Program of the Ministry of Health of Ukraine for 2017”; Order of the Ministry of Health of Ukraine dated August 01, 2017 № 889, which introduced the Regulations on the commission for assessing corruption risks and monitoring the implementation of the anti-corruption program of the Ministry of Health of Ukraine and fixed the structural composition of the commission for assessing corruption risks and monitoring the implementation of the anti-corruption program of the Ministry of Health of Ukraine.

The fundamental legal act that started the reform of the healthcare system and the adoption of measures to prevent corruption was the adoption on October 19, 2017, of the Law of Ukraine “On State Financial Guarantees of Medical Services for the Population”. One of the ways to prevent corruption in the healthcare sector was the creation of the Public Control Council, whose powers include: hearing information about the activities of the Ministry of Health of Ukraine; consideration of generalised reports of the Ministry of Health of Ukraine; election of a candidate to the committee for the selection of candidates for the relevant position of the Commission for the highest corps of the civil service during the competition for holding civil service positions of category “A” and other powers.

The introduction of measures to prevent corruption in the healthcare sector was further associated with the creation in April 2018 of the only national customer of medical services – the National Health Service of Ukraine (hereinafter – NSZU).

The creation of the NSZU pursues the need to fulfil the tasks of ensuring: – implementation of the state policy to guarantee medical care for the population at the expense of the state budget; implementation of tasks on ordering the provision of medical services and medicines under the program of medical guarantees; improvement of the guidelines and provisions of the state policy on the accumulation of public financial resources for the fulfilment of the states duty to provide medical services to the population. Achieving the efficiency of fulfilling the tasks assigned to the NSZU is associated with the empowerment of the specified power subject with special competence: in the field of rule-making (to generalise the practice of applying legislation on health issues and its further improvement; to develop draft medical guarantee programs and draft specifications and conditions for the implementation of public procurement of medical services and medicines); in the field of law enforcement (on the implementation of prognostic studies of the needs of the population of Ukraine for obtaining medical services and medicines for the formation of strategic plans for guarantees for the creation of a mechanism for medical financial guarantees; forms of ownership, structure and functioning of hospital districts, on the conclusion, amendment and termination of contracts for medical care of the population and reimbursement contracts, on the accumulation and maintenance of registers and databases, which are formed as part of the implementation of medical guarantee programs; for the functioning of the electronic health care system, for paying for the provision of medical services to patients at the expense of public funds, for information interaction with the Public Control Council regarding the proposed composition of the medical guarantee program, tariffs and adjustment factors, the amount of reimbursement of medicines, receives and

ensures that the position of the Public Control Council is communicated to this account for the attention of the Ministry of Health of Ukraine; to ensure the realisation of the rights of patients to freedom of choice of a doctor, a list of medical services, etc.); in the field of law enforcement (to ensure control over ensuring the targeted and effective use of public funds under the program of medical guarantees; to ensure control over the activities of medical service providers under contracts for medical care of the population under the program of medical guarantees; to prepare reporting financial documentation on the use of funds from state and local budgets in the manner prescribed by law); in the field of law enforcement (to ensure an established relationship with those authorised to conduct tort proceedings on cases of violation of the requirements of the current legislation in the field of healthcare in general, and in particular on compliance with legislation on corruption related to the provision of medical services and public procurement of medicines, to ensure the administrative procedure for appealing the activities of government entities in the provision of medical services and the implementation of public procurement of medicines); in the field of public administration with information and scientific support of medical activities (to ensure access to public information, the manager of which is the NSZU; to summarise information and develop strategic directions for the development of medical care for the population in order to achieve universal coverage of the population of Ukraine with necessary medical services and medicines under the program of medical guarantees, for the implementation of knowledge administration on the issues of state financial guarantees for the provision of medical services and medical care, for the promotion of optimisation of the implementation of relevant popular and praxeologically significant scientific research in the field of implementation of state financial guarantees of medical care for the population, for the collection and processing of analytical information contained in the electronic system health care, as well as their further compilation and disclosure in compliance with the requirements of the legislation on commercial and official secrets).

The construction of a system of administrative and legal mechanism in the field of preventing corruption in the provision of medical services and the implementation of medical activities is associated with the introduction of automatization and digitalisation of the functioning of healthcare institutions of state, communal and private forms of ownership. Functionally, the goal of digitalisation of the activities of medical institutions is the transformation of institutions owned by communal property, financed from local budgets, into communal non-profit healthcare enterprises that allow overcoming corruption risks in the form of hidden payments from patients, misuse of investments.



Introduction to the administrative and legal mechanism to prevent corruption in the provision of medical services and the implementation of medical activities is effectively associated with the creation of conditions for reimbursement of the cost of medicines by electronic prescription (reimbursement). Thus, as of February 18, 2022, based on the results of reimbursement (as part of the implementation of the Affordable Medicines program), a total of 444 medicines are subject to reimbursement under electronic prescriptions.

To ensure transparency and openness in the implementation of state policy in the field of healthcare, starting from April 1, 2020, the vast majority of the state budget of Ukraine was centralised and generalised into the Medical Guarantees Program, where separate articles provide for financing the provision of medical services and payment for medicines, which is carried out through NSZU fund.

In medical institutions interacting on the basis of concluded agreements with the NSZU, a transition has been made from line-item financing of estimates of medical institutions to payment for the result of medical activities as a whole (i.e., the need is emphasised not only to provide medical services in accordance with medical protocols, but also to achieve quality medical activities, that is, taking into account the coefficient of patients who have successfully recovered).

Thus, the payment procedure for the provision of medical services is being implemented according to the principle “money follows the patient”, which is used not only in the field of healthcare, but also in the field of education and science. So, over the past years, several numerous measures have been introduced to digitalise the activities of medical institutions, which is a guarantee of the effectiveness of activities to prevent corruption and optimise the implementation of the function of public control.

Ensuring the prevention of corruption should be carried out not only at the level of national public institutions, but also at the local level, that is, at the level of individual healthcare institutions.

In order to ensure the effectiveness of preventing corruption at the local level, in accordance with the provisions of Art. 131 of the Law of Ukraine “On the Prevention of Corruption” provides for the formation of specially authorised units (or authorised persons) functioning to detect corruption and other acts related to corruption.

At the local level, strategic programs for their development are adopted in healthcare institutions. For example, an approximate strategic plan for the development of primary emergency care centres is posted on the official Internet resource of the regional public health centre<sup>15</sup>.

---

<sup>15</sup> Приклад складання стратегічного плану. URL: [https://kheg.com.ua/wp-content/themes/heg/pdf/dorognaya\\_karta\\_cpmsl4.pdf?fbclid=IwAR3HguKWEwU14-21gyOarK7kdMMbk-Zz-frzQ8SKwnlh34wQRcFrJpSJYE0](https://kheg.com.ua/wp-content/themes/heg/pdf/dorognaya_karta_cpmsl4.pdf?fbclid=IwAR3HguKWEwU14-21gyOarK7kdMMbk-Zz-frzQ8SKwnlh34wQRcFrJpSJYE0).

However, such strategies for the development of medical institutions, regardless of the form of ownership, do not contain separate paragraphs on the prevention of corruption in the healthcare sector.

In particular, according to the content of the Development Strategy of the CNP “Centre for Primary Health Care of the Shakhivsky Village Council” for 2021-2023, the system of measures to prevent corruption is covered indirectly through the definition of areas for ensuring the quality of the provision of medical services and medical care. Of course, the establishment of the position that the strategic priorities of the development of the health care institution are: improving the quality of medical care, which, in particular, is associated with: the implementation of the system of standardisation of medical care; improving the quality of preventive work, educational work with the population on the formation of a healthy lifestyle; improvement of work with personnel (for example, by creating a system of personnel education, trainings, exchange of experience; through work with departments of family medicine of higher educational institutions to improve the qualifications of specialists; development and implementation of a system of motivation and evaluation of personnel work; solving issues of social and economic support for the activities of medical workers, including the acquisition of office housing for family doctors and young specialists. A separate area for ensuring the effectiveness of the provision of medical services and medical care is to establish such an indicator as the level of customer satisfaction by creating a customer service system, monitoring customer satisfaction with the institution’s services, introducing a system of informing patients about important stages in the treatment and prevention of diseases. Organisational and legal measures to improve the institution’s activities in the field of health care include: ensuring optimisation of the organisational structure of the institution, the creation of a mobile medical team, an active information campaign for signing declarations, the financial capacity and independence of the institution on the income received for its services; and fundraising grants, which can be used to fund capital expenditures, renovate facilities, upgrade equipment, or purchase medical supplies<sup>16</sup>.

Within the healthcare institutions, their administrative structure does not provide for a special official authorised to carry out the functions of preventing corruption, as is done in accordance with the structure of higher education institutions. According to the order of the National Agency for the Prevention of Corruption dated March 17, 2020, № 102/20 “On approval

---

<sup>16</sup> Стратегія розвитку КНП «Центр первинної медико-санітарної допомоги Шахівської сільської ради» на 2021–2023 роки. URL: <https://shahivska-gromada.gov.ua/strategiya-rozvitku-knp-centr-pervinnoi-medikosanitarnoi-dopomogi-shahivskoi-silskoi-radi-na-2021-2023-roki-16-02-09-10-02-2022/>.

of the Model Regulation on the authorised unit (authorised person) for the prevention and detection of corruption”, the authorised unit (authorised person) is formed as a functionally independent structural a subdivision (authorised person), whose independence is guaranteed by the head of a legal entity of private or public law.

The activities of an authorised person (authorised body) require appropriate material and technical equipment and support, which must be guaranteed by the administration of a medical institution or higher education in the field of healthcare.

The decision to form a specially authorised entity for the prevention of corruption in accordance with the decision of the NACP dated 05.27.2021 № 277/21 is made by the head of an institution – private or public property. Therefore, this provision indicates a dispositive approach to understanding the expediency and obligation of functioning within the institution. The decision of the head of the institution on the inexpediency of functioning within the legal entity, and in particular, for the provision of medical services and medical activities, of a specially authorised entity for the prevention of corruption is acceptable.

At the same time, such a decision leads to the establishment of certain regulatory restrictions on the resources for the implementation of public control functions. In order to implement the opportunities for the implementation of the functions of public control, it is necessary in the decision of the NACP dated 05.27.2021 № 277/21 to provide for a provision that the head of an enterprise, institution and organisation must create opportunities for filing a complaint or statement about the fact of a corruption offense or an offense related to it, including by placing such access through the institution’s official information resources.

Explanations of the need for the functioning of authorised persons of enterprises, institutions, or organisations in the field of corruption prevention are reflected in the decision of the NACP dated July 13, 2017, № 317, which are of an informational and explanatory nature and do not contain normative prescriptions of imperative action. In accordance with the decision of the NACP dated July 13, 2017, № 317, it is stipulated that the authorised body of an enterprise, institution, organisation on corruption issues functions with the assistance of the head of the legal entity.

The principles of functioning of authorised units in the field of corruption prevention include openness; transparency; promotion of public participation in activities to prevent and detect corruption.

The practice of creating commissioners for the prevention of corruption in medical institutions and other institutions, acting to ensure ownership of the implementation and protection of the individual’s right to health, is present in Ukraine. However, considering the dispositive nature of

the influence, it is single or declarative. For example, in the State Institution “Public Health Centre of the Ministry of Health of Ukraine” an authorised person for the prevention and detection of corruption was created in accordance with the order of June 20, 2018, № 34-agd. According to the requirements of the order of the head of the State Institution “Public Health Centre of the Ministry of Health of Ukraine”, conditions must be created for receiving and resolving complaints on the merits from persons intending to report in good faith possible facts of corruption or corruption-related offenses, as well as other violations of the Law of Ukraine “On Prevention of corruption”. Additionally, any of the officials or officials of the subject of power have the right to report on the likelihood of corruption risks in the State Institution “Public Health Centre of the Ministry of Health of Ukraine”. At the same time, their state must guarantee the protection of their rights and interests, personal security. The mechanism for reporting a corruption offense or other offense provided for by the Law of Ukraine “On the Prevention of Corruption” provides for information exchange of information through electronic mail, as determined in accordance with the requirements of a local regulatory act.

To the negative characteristics of the functioning of the administrative and legal mechanism for preventing corruption in the healthcare sector during times of martial law, there is a lack of strategic programs to ensure the effectiveness of the provision of medical services and medical activities in emergency situations and emergency administrative and legal regimes. The Russian-Ukrainian war, with its negative consequences, resulted in the destruction of more than 130 medical infrastructure facilities and damaged more than 640 healthcare facility facilities, where from 2% to 90% of structures were destroyed. The amount of damage caused to the healthcare system is almost UAH 35 billion<sup>17</sup>. In addition, despite the consolidation of the human right to security of life and health, the development and adoption of the guiding and conceptual foundations of international humanitarian law, the Russian-Ukrainian war revealed a low level of its legal effectiveness in the light of protecting the interests of civilians, children, and prisoners of war to receive medical care and treatment. In Ukraine, under martial law, a separate Decree of the Cabinet of Ministers of Ukraine dated April 5, 2022, № 413 was adopted, establishing the regime for the treatment of prisoners of war in general, and in particular, in terms of observing the implementation of their right to health care. Despite the Government of Ukraine and the system of authorised bodies to ensure the effectiveness of a person’s right to safe

---

<sup>17</sup> Проект Плану відновлення України. *Охорона здоров’я* : матеріали робочої групи. URL: <https://www.kmu.gov.ua/storage/app/sites/1/recoveryrada/ua/health-care.pdf>

health, it is trying to create conditions for the provision of medical care to prisoners of war. However, at the same time, the rights of prisoners of war, citizens of Ukraine, who are on the territory of the aggressor country, to protect life and their health are constantly violated, not properly observed, which is confirmed by the results of the observed representatives of the world community<sup>18</sup>.

Under martial law, the use of public funds to ensure the implementation of the medical guarantee program is not able to fund priority service packages adequately fully from the state and local budgets. Medical services that require priority funding from the State and local budgets, which are relevant in a state of martial law, include the treatment of injuries, burns, rehabilitation, mental and moral health services, and prosthetics<sup>19</sup>. In addition, the problems of the healthcare system in the conditions of martial law in Ukraine include the complex processes of internal migration of the population (in particular, more than 7 million Ukrainians received the social status of internally displaced persons), as well as the insufficient level of staffing for the functioning of medical institutions.

Therefore, the administrative and legal mechanism for preventing corruption in the healthcare sector should include:

1) political authorities (the President of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine (in the structure of the Secretariat of which the Department for Security, Defence, and the Activities of the Justice Bodies operates) and prevention corruption), the National Council for Anti-Corruption Policy under the President of Ukraine);

2) specialised anti-corruption bodies (National Corruption Prevention Agency, National Anti-Corruption Bureau of Ukraine, State Bureau of Investigation, National Commission on Securities and Stock Market; Antimonopoly Committee of Ukraine; Agency for Tracing and Management of Assets; National Health Service of Ukraine (NSZU);

3) bodies of intersectoral competence (Ministry of Energy and Environmental Protection of Ukraine, Ministry of Justice of Ukraine, Ministry of Finance of Ukraine, Ministry of Social Policy of Ukraine, Ministry of Education and Ukraine, Ministry of Culture, Youth and Sports of Ukraine, Ministry of Economic Development, Trade and Agriculture of Ukraine, Ministry and Committee for Digital Transformation of Ukraine,

---

<sup>18</sup> Росія порушує всі норми Женевських конвенцій. Правозахисна група «Січ». 21.09.2022. URL: <https://sich-pravo.org/rosiia-porushuie-vsi-normy-zhenevskikh-konventsij-u-povodzhenni-z-vijskovopolonenyu/>.

<sup>19</sup> Проект Плану відновлення України. *Охорона здоров'я* : Матеріали робочої групи. URL.: <https://www.kmu.gov.ua/storage/app/sites/1/recoveryrada/ua/health-care.pdf>.

State Property Fund of Ukraine, State Audit Service of Ukraine, Commissioner of the Verkhovna Rada of Ukraine for Human Rights, Office of the Prosecutor General of Ukraine; businesses authorised to provide medical services and medical care);

4) public organisations and associations.

## REFERENCES

1. A European Green Deal. Striving to be the first climate-neutral continent. URL.: <https://www.switchtogreen.eu/the-eu-green-deal-promoting-a-green-notable-circular-economy/>.

2. Annex to the Communication from the Commission to the European Parliament, the European Council, the Council, the European economic and social committee and the Committee of the regions. The European Green Deal. URL. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM%3A2019%3A640%3AFIN>.

3. Corruption. An official website of the European Union. 2020. URL: [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption_en).

4. Tamma Paola. Europe's Green Deal plan unveiled. The goal of making the EU climate neutral by mid-century is likely to set off a political battle. URL: <https://www.politico.eu/article/the-commissions-green-deal-plan-unveiled/>.

5. Transforming our world: the 2030 Agenda for Sustainable Development. Resolution adopted by the General Assembly on 25 September 2015. URL: [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf).

6. Буханевич А. Публічна адміністрація як інститут оптимізації публічного контролю в громадянському суспільстві. *Вісник Національної академії державного управління при Президентові України*. 2010. Вип. 2. С. 46–56.

7. Данилишин Б. Цели и принципы реформирования публичной администрации. *ЛІГАБізнесІнформ*. URL: <http://news.liga.net/news/N0828824.html>.

8. Джафарова О.В. Дослідження органів публічної адміністрації системі суб'єктів дозвільної діяльності в Україні. *Форум права*. 2018. № 1. С. 42–49.

9. Карабін Т.О. Розподіл повноважень публічної адміністрації : монографія. Ужгород : Гражда, 2016. 296 с.

10. Реформа публічної адміністрації. Реанімаційний Паке́т Реформ / І. Коліушко, С. Сорока, В. Тимошук, В. Тертичка. 2018. URL:

[https://rpr.org.ua/wp-content/uploads/2018/10/7\\_REFORMA-PUBLIChNOJi ADMINISTRATsIJI.pdf](https://rpr.org.ua/wp-content/uploads/2018/10/7_REFORMA-PUBLIChNOJi ADMINISTRATsIJI.pdf).

11. Кравцова Т.М., Солонар А.В. Поняття та принципи діяльності публічної адміністрації. *Форум права*. 2010. № 4. С. 522–525.

12. Кузьмишин В.М. Адміністрування апеляційних судів в Україні : дис. ... канд. юрид. наук : 12.00.07 / Науково-дослідний інститут публічного права. Київ, 2018. 222 с.

13. Малиновський В.Я. Стан і перспективи адміністративної реформи в Україні. *Наукові праці Чорноморського державного університету імені Петра Могили. Серія «Політологія»*. 2013. Т. 212. Вип. 200. С. 18–22.

14. Мельник Р.С., Бевзенко В.М. Загальне адміністративне право : навчальний посібник. Київ : Ваїте, 2014. 376 с.

15. Приклад складання стратегічного плану. URL.: [https://kheg.com.ua/wp-content/themes/heg/pdf/dorognaya\\_karta\\_cpmsl4.pdf?fbclid=IwAR3HguKWEwU14-21gyOarK7kdMMbk-Zz-frzQ8SKwn1h34wQRcFrJpSJYE0](https://kheg.com.ua/wp-content/themes/heg/pdf/dorognaya_karta_cpmsl4.pdf?fbclid=IwAR3HguKWEwU14-21gyOarK7kdMMbk-Zz-frzQ8SKwn1h34wQRcFrJpSJYE0).

16. Приходько А.А. Визначення поняття «публічна адміністрація» у сфері запобігання та протидії корупції в Україні. *Правова позиція*. 2019. № 4 (25). С. 69–75.

17. Про заходи щодо впровадження Концепції адміністративної реформи в Україні : Указ Президента України від 22 липня 1998 року № 810/98. URL: <https://zakon.rada.gov.ua/laws/show/810/98#Text>.

18. Проект Плану відновлення України. *Охорона здоров'я* : матеріали робочої групи. URL: <https://www.kmu.gov.ua/storage/app/sites/1/recoveryrada/ua/health-care.pdf>.

19. Проект Плану відновлення України. *Охорона здоров'я* : матеріали робочої групи. URL: <https://www.kmu.gov.ua/storage/app/sites/1/recoveryrada/ua/health-care.pdf>.

20. Росія порушує всі норми Женевських конвенцій. Правозахисна група «Січ». 21.09.2022. URL: <https://sich-pravo.org/rosiia-porushuie-vsi-normy-zhenevskykh-konventsij-u-povodzhenni-z-vijskovopolonenymy/>.

21. Сірко В.С. Поняття адміністративно-правового забезпечення волонтерської діяльності в Україні. *Правова просвіта*. 2018. № 8. URL: [http://www.pravo.nayka.com.ua/pdf/8\\_2018/102.pdf](http://www.pravo.nayka.com.ua/pdf/8_2018/102.pdf).

22. Стратегія розвитку КНП «Центр первинної медико-санітарної допомоги Шахівської сільської ради» на 2021–2023 роки. URL: <https://shahivska-gromada.gov.ua/strategiya-rozvitku-knp-centr-pervinnoi-medikosanitarnoi-dopomogi-shahivskoi-silskoi-radi-na-2021-2023-roki-16-02-09-10-02-2022/>.

23. Чернов С.І. Текст лекцій з дисципліни «Публічне адміністрування» (для студентів всіх форм навчання за спеціальністю 7.03060101, 8.03060101 Менеджмент організацій і адміністрування

(за видами економічної діяльності)) ; Харківський національний університет міського господарства ім. О.М. Бекетова. Харків : ХНУМГ, 2014. 97 с.

**Information about the author:**

**Volkova Yuliia Anatoliivna,**

Doctor of Law, Professor,

Professor at the Department of Administrative Law and Process

Taras Shevchenko National University of Kyiv;

Honorary Associate at University of Liverpool

ORCID: 0000-0002-2799-3933