FEATURES OF ENSURING THE LEGALITY OF THE PROVISION OF PUBLIC SERVICES IN MODERN CONDITIONS

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The article focuses on revealing the content and classification of guarantees that ensure compliance with the law when providing public services in Ukraine. Within the system of legal guarantees of legality, two key components can be distinguished: the regulatory framework and the activities of entities that implement these norms. Legal provisions determine the scope of obligations of participants in public legal relations, and their proper implementation serves as a tool for ensuring the rights and interests of other persons. The law in this context serves as the basis for law enforcement activities, and the activity itself is a way to implement its requirements in practice.

Special guarantees include legal means and internal mechanisms that ensure actual compliance with the law in the public legal sphere. Such guarantees include: sufficiency and effectiveness of regulatory regulation; appropriate level of control and supervision over the implementation of legal requirements; competent and effective activities of public authorities; improvement of legal practice; effective mechanism of legal responsibility.

Given the content and functions of specialized guarantees, it is advisable to divide them into the following groups: a) general legal guarantees, covering the state of development of the legal system, the coherence and completeness of legislative acts, the appropriate level of legal techniques and procedures, as well as the formation of legal culture in society; b) organizational and legal guarantees related to the activities of legislative, executive and judicial bodies, the President of Ukraine as the guarantor of the Constitution, as well as specialized bodies responsible for the implementation and protection of legal norms; c) procedural guarantees, including effective state coercion, compliance with the principle of presumption of innocence, equality of subjects before the law, inalienability of their rights and obligations, as well as the inevitability of legal responsibility defined by law.

The main types of guarantees that ensure legality in the field of public service provision include: the possibility of judicial appeal of decisions, actions or inaction of public administration entities in the field of public services by applying to an administrative court; control over the activities of bodies and officials responsible for the provision of these services;) submission of appeals by citizens and stateless persons in accordance with the provisions of the Law of Ukraine "On Appeals of Citizens"; holding public sector officials legally liable in cases of unjustified refusal to provide a service.

Keywords: appeals of individuals, control, service, public service, appeal, liability of public officials, public administration entity.

In the modern world, the degree of protection of individual rights and freedoms is an important indicator of the level of civilization achieved by society and the state. For the real exercise of each person's subjective rights in Ukraine, it is important to determine those effective mechanisms that will ensure the possibility of citizens exercising their rights in modern conditions of political and economic transformations. It is the presence of effective legal guarantees that can ensure the practical implementation of the rights assigned to each

person, including those related to obtaining public services in Ukraine.

The study of the issue of legal guarantees in the scientific literature has received considerable attention by such theoreticians as L. D. Voevodin, M. V. Vitruk, N. O. Bobrova, V. O. Patyulin, V. V. Mamonov, O. V. Mitskevich, P. E. Nedbaylo, I. S. Samoshchenko, P. M. Rabinovych, V. F. Pohorilko and others.

Guarantees of legality are a set of interrelated objective conditions and subjective factors and special means that ensure the regime of legality. Structurally, guarantees of legality are classified into general and special [5, p.92].

Legal guarantees are an independent type in the system of guarantees. The word guarantee (French «guarantie» - to provide) means «a pledge», «a condition that ensures something» [20, p. 111; 13]. Under the guarantees of rights and freedoms in the legal literature is understood; a) a set of subjective and objective factors [18], b) a system of socio-economic, political, moral, legal and organizational prerequisites, conditions, means and methods [16]. The term «factors» cannot be used to denote guarantees, since it more often means the nature of phenomena, factors. The second definition does not actually reveal the content of the concept of guarantees, but only lists their types. However, there is no doubt about the correctness of the definition of guarantees as "conditions, means and methods" [4], which ensure the implementation and comprehensive protection of rights [4].

In fact, certain "means and methods" become legal guarantees only through their legal form, through their consolidation in the norms of law. The term "legal guarantees" itself indicates their regulatory and legal basis. Instead, ensuring guarantees consists primarily in the exercise of rights and fulfillment of obligations stipulated in current legal norms. It is well known that a norm by itself cannot cause certain legal results, the latter are achieved through legal activity. Activity should be understood as the exercise of subjective rights and the fulfillment of legal obligations imposed by the norm of law on the relevant subjects of labor relations [3].

In view of this, we consider it appropriate to distinguish two elements in the structure of legal guarantees of legality – legal norms and the activities of subjects. Thus, the norm of law establishes specific obligations for the subject of legal relations, the fulfillment of which (i.e. the activity of this subject) will ensure the realization of the rights of another subject. The law, in turn, acts as a legal basis for legal activity, and legal activity is a means of implementing the law.

In legal literature (A. B. Mytskevich, N. I. Matuzov, etc.) there is an ongoing discussion about the special purpose of legal guarantees. At one time, the role of legal guarantees was reduced exclusively to the protection and defense of citizens' rights from any violations by persons obliged to ensure the unhindered exercise of rights and freedoms [10, p. 29; 9, pp. 130-131]. In later works (N. A. Bobrova, I. Y. Magnovsky) the concept of legal guarantees expanded, and some of the authors began to recognize that legal guarantees also ensure the realization of citizens' rights [2, p. 94; 8, p. 14].

In legal science, quite a few different definitions of the concept of «legal guarantees» have already been formulated, both close and quite different in their content. This is, first of all, about legal guarantees in a broad sense, relating to various branches of law.Так, у загальноправовому значенні М. В. Кравчук зазначає, що правильно говорити про юридичні гарантії як про сукупність «засобів і способів» [6].

V. F. Pogorilko understands legal guarantees as special means of practical provision of human and citizen rights and freedoms provided by law [17, p. 40]. This definition does not pay attention to the purpose of legal guarantees, that is, to the fact that they provide. Instead, the definition of this concept should contain an indication of the purpose of these "means and methods" as one of the most essential features of legal guarantees. Therefore, definitions that emphasize that legal guarantees are designed to ensure the actual implementation, comprehensive protection and defense of citizens' rights deserve attention.

Quite complete in its content, revealing all the essential features of the concept of «legal guarantees» in the general legal aspect, is the definition proposed by V. O. Patyulin, namely:

legal guarantees should be understood as legal norms that determine specific legal means, conditions and procedure for the implementation of rights, legal means of their protection and defense in case of violation [15, p. 237].

Let us consider the definition of the concept of «legal guarantees of legality». For example, I. S. Samoshchenko understands legal guarantees of legality as special regulatory and legal means that guarantee strict compliance with the rules of law, prevention of arbitrariness on the part of state bodies and officials in relation to citizens, ensuring the restoration of violated rights and punishment of violators of the law [19, p. 64]. According to others, this is also the activity of state bodies (and in some cases, public organizations), which is carried out in accordance with these norms [7].

The guarantees of legality include the activities of state bodies and public organizations (in accordance with legal norms) [10, p. 83]. There is also an opinion that legal guarantees should be understood as a system of normative and individual legal regulations and the corresponding legal activity specifically designed to ensure legality [12, p. 197].

The scientist S. M. Shylo considers legal guarantees of legality not only as a set of means and methods (as is the case in the above definitions), but as a unity of elements, as a holistic legal entity [21, p. 286].

Special guarantees include legal (juridical) guarantees of legality, which are specific legal means and internal legal mechanisms that are the real embodiment of legality in the legal sphere. Legal guarantees of legality include: completeness and effectiveness of legal norms; high level of control and supervision over the implementation of legality; qualitative activities of competent authorities to ensure legality; improvement and improvement of legal practice; effectiveness of legal liability measures.

Special legal guarantees can be classified into the following groups:

- general legal guarantees (development of the legal system as a whole; completeness and consistency of legislation; availability of developed legal techniques and legal procedures; certain level of legal culture of society);

- organizational and legal guarantees (activity of the legislative, executive, judicial authorities and the President as the guarantor of the Constitution of Ukraine, as well as special-purpose bodies as the guarantor of the effectiveness of laws and the creation of conditions for their implementation and protection);

- procedural guarantees (availability of effective means of state coercion; presumption of innocence; equality of legal status; inalienability of rights and obligations of subjects; normatively defined principle of inevitability of punishment for violation of the Law) [14, p. 135].

Therefore, based on the understanding of guarantees of legality, we propose to distinguish the following types of guarantees for ensuring the legality of the provision of public services in Ukraine: appealing decisions, actions or inaction of public administration entities in the provision of public services in court (administrative proceedings); monitoring the activities of public administration entities in the provision of public services; appeals from individuals (citizens and stateless persons) in accordance with the Law of Ukraine «On Appeals of Citizens»; holding public officials accountable for refusing to provide a certain type of public service.

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ОСОБЛИВОСТІ ЗАБЕЗПЕЧЕННЯ ЗАКОННОСТІ НАДАННЯ ПУБЛІЧНИХ ПОСЛУГ В СУЧАСНИХ УМОВАХ

Стаття зосереджується на розкритті змісту та класифікації гарантій, які забезпечують дотримання законності під час надання публічних послуг в Україні. У межах системи юридичних гарантій законності можна виокремити два ключові складники: нормативну базу та діяльність суб'єктів, що реалізують ці норми. Правові приписи визначають коло зобов'язань учасників публічно-правових відносин, а їх належне виконання слугує інструментом забезпечення прав та інтересів інших осіб. Закон у цьому контексті виступає підґрунтям для правозастосовної діяльності, а сама діяльність є способом втілення його вимог на практиці.

До спеціальних гарантій належать юридичні засоби та внутрішні механізми, що забезпечують фактичне дотримання законності в публічно-правовій сфері. До таких гарантій можна віднести: достатність та результативність нормативного регулювання; належний рівень контролю і нагляду за реалізацією правових вимог; компетентну та ефективну діяльність органів публічної влади; удосконалення юридичної практики; дієвий механізм юридичної відповідальності.

З огляду на зміст та функції спеціалізованих гарантій їх доцільно поділяти на такі групи: а) загально-правові гарантії, що охоплюють стан розвитку правової системи, узгодженість та повноту законодавчих актів, належний рівень юридичної техніки і процедур, а також сформованість правової культури в суспільстві; б) організаційно-правові гарантії, пов'язані з діяльністю органів законодавчої, виконавчої та судової влади, Президента України як гаранта Конституції, а також спеціалізованих органів, відповідальних за реалізацію та захист правових норм; в) процесуальні гарантії, серед яких — ефективний державний примус, дотримання принципу презумпції невинуватості, рівність суб'єктів перед законом, невідчужуваність їх прав та обов'язків, а також визначена законом невідворотність юридичної відповідальності.

До основних видів гарантій, що забезпечують законність у сфері надання публічних послуг, належать:можливість судового оскарження рішень, дій або бездіяльності суб'єктів публічної адміністрації у сфері публічних послуг шляхом звернення до адміністративного суду; здійснення контролю за діяльністю органів та посадових осіб, відповідальних за надання цих послуг;) подання звернень громадянами та особами без громадянства відповідно до положень Закону України «Про звернення громадян»; притягнення посадових осіб публічного сектору до юридичної відповідальності у випадках необґрунтованої відмови в наданні послуги.

***Ключові слова**: звернення осіб, контроль, послуга, публічна послуга, оскарження, відповідальність публічних службовців, суб'єкт публічної адміністрації.*