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## Public administration in the activities of the court apparatus: Approaches to the formation of the concept

**Olena V. Gulac\***

Full Doctor in Law, Associate Professor  
National University of Life and Environmental Sciences of Ukraine  
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

**Artem V. Shcherbak**

Postgraduate Student  
National University of Life and Environmental Sciences of Ukraine  
03041, 15 Heroiv Oborony Str., Kyiv, Ukraine

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The article analyses the scientific approaches to the content of the concepts of “public administration” and “public administration in the activities of the court apparatus”. It is noted that establishing the essence of public administration, its features and the actual formulation of the definition of public administration in the activities of the court apparatus, which would fully reflect its legal nature, is the most pressing issue in the light of judicial reform. The author argues that a separate component of building the organizational structure of the court apparatus is the established practice of organizing activities in each particular court, with due regard to which the court administration develops and approves standard staffing tables for each group of courts; based on the maximum number of civil

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\*Corresponding author

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servants and technical staff, the staffing tables of courts are approved by the heads of their apparatus and court presidents. It is proved that public administration in the activities of the court apparatus has not been studied in detail. The doctrinal teachings regarding the understanding of administration in the judicial system are in many cases opposite and are not applied unambiguously. When characterizing public administration in the judicial system, the semantic load is focused on the characterization of “organizational support of the courts”, “judicial management”, “organizational management of courts”, and management relations existing in the judicial system

**Keywords:** court, public administration, court apparatus, administration of justice

## **Introduction**

We live in an era of constant transformations that are taking place in the integration of all spheres of life. Such globalization is a challenge for research, which does not bypass the field of court administration. In order to see new opportunities for improving the activities of the court administration and to prevent possible threats, it is necessary to understand the essence and approaches to the formation of the concept of public administration in the activities of the court administration.

To date, management in the judicial system in Ukraine has been almost ignored by scholars. The Ukrainian judiciary has an imperfect system of public administration in the activities of the court apparatus. Among these problems are the following: limited funding and, as a result, low salaries; lower social status of court employees; inefficient, overly centralized management and funding system; imperfect legislation in this area; lack of an effective system of monitoring and control over the work of court employees.

The existence of these problems is very closely related to the problems of efficiency of all components of public administration in the activities of the court apparatus. At the same time, the study of these important practical issues is impossible without clarifying the essence of the concept of “public administration in the activities of the court apparatus”.

The issue of the content of public administration has been studied in many scientific works. In particular, V.B. Averyanov [1] in his scientific work considered the issue of “public administration”. When studying the issue of court staff activities, we tried to analyse the scientific work of I.E. Marochkina and N.V. Svibilova [2], and based on their findings, to form a model of court administrators. However, these and other researchers did not address the issue of the content of the concept of public administration in the activities of the court apparatus.

The purpose of the article is to consider scientific approaches to the content of the concept of “public administration in the activities of the court apparatus”.

## ***Results and Discussion***

Establishing the essence of public administration, its features, and, in fact, formulating the definition of “public administration in the activities of the court apparatus” that would fully reflect its legal nature is the most pressing issue in the light of judicial reform. Therefore, first of all, let us analyse the definition: “public administration” and “public administration”.

Therefore, at the beginning of our study, we will try to define such theoretical definitions in administrative law as “public administration” and “public administration”.

Let's start with the term “public”, which is found in foreign scientific literature and is translated as “state, public, public, social” [3]. The terms “public” and “public administration” are closely related to the category of “public” [4].

In particular, Webster's Revised Unabridged Dictionary defines the word “administration” as “management; the management of public affairs; rendering services or assuming duties in the conduct of affairs; the management of any institution or service; direction; management”. In addition, the dictionary provides an interpretation of this term as: “the executive part of the state power, which consists in the implementation of constitutional and legal powers, general supervision of national affairs and the application of law” [5].

While researching the origin of the term “public administration”, we found out that this term was used in 1887 by the 28th President of the United States, Woodrow Wilson, in his essay entitled “The Study of Administration”. In his work, he wrote: “The

purpose of administrative science is to determine, first, what the business of government is, and second, how it should carry out this business efficiently and with the least financial and energy costs” [6].

In European law, the concept of “public administration” is understood as a system of public authorities that exercise their powers in the public sphere exclusively in the public interest. In addition to public authorities and bodies performing functions delegated to them by the authorities, it also includes independent public enterprises and individuals, if they exercise the powers of official bodies [7].

V. Averyanov [1] understands the concept of “public administration” as a set of executive authorities and local self-government bodies that are subordinated to the political power, ensure the implementation of the law and perform other public administration functions. However, most researchers of public administration point out that this term is part of a broader concept – management, the content of which is defined as a certain action to achieve a specific goal [9].

This understanding emphasizes that administration is the methods and techniques, actions of direct and mandatory determination of the behavior and activities of people by the relevant governing components of the state. These methods on the part of a state body or official have a direct impact on the will of performers by establishing their duties, norms of behavior and instructions, unilaterally affect the solution of problems, resolving situations that are subject to mandatory execution, requiring indisputable

orders and instructions, and establishing legal liability for failure to comply with legal obligations [10].

In general, “public administration” is a multifaceted entity defined by such basic concepts as: state, politics, public administration and power. Therefore, it can be argued that court administration is the provision, organization and coordination of the work of structural units of the court, court staff, and their interaction in performing the tasks assigned to them.

Public administration in the activities of the court apparatus is carried out through the so-called administrative corps, in particular through administrative positions, namely: Chief Judge and Deputy Chief Judge(s); Chief of Staff. Therefore, only coordinated interaction of the said corps is the key to high-quality systemic support of the management of the judicial process and the administration of justice.

Thus, under the definition of the category “public administration of the judiciary”, O. Gulak, V. Ladychenko and L. Holovko [11] understand a complex system of administrative institutions with a hierarchical structure, which has a purposeful activity, forms goals, works on all elements of the judicial system and makes management decisions. At the present stage, in the context of public administration of the judiciary, it is important to ensure conditions for integrity and avoidance of conflicts of interest by the judiciary [12].

According to I.E. Marochkin and N.V. Sibilova [2], the task of the court staff is to provide organizational support for the implementation of the functions assigned to a particular judicial institution. Therefore,

depending on the number of staff and the place (level) of the court in the judicial system, which determine their structure, the apparatus of local and appellate courts are classified into the following types 1) local court apparatus with up to 5 judges; 2) local court apparatus with 6 to 10 judges; 3) local court apparatus with 11 or more judges; 4) apparatus of appellate courts with up to 50 judges; 5) appellate court apparatus with 50 or more judges [2].

It should also be noted that another component of building the organizational structure of the court apparatus is the established practice of organizing activities in each particular court, taking into account which, the court administration develops and approves standard staffing tables for each group of courts, based on the maximum number of civil servants and technical staff, and approves staffing tables of courts by the heads of their apparatus and presidents of courts [2].

At the same time, the staffing level and structure of the local court apparatus are approved within the limits of the court maintenance costs by the territorial department of the State Judicial Administration of Ukraine with the consent of the court chairman. And the structure and staffing of the appellate court's apparatus are approved within the limits of the court's maintenance costs by the State Judicial Administration of Ukraine with the consent of the Chief Justice [13].

Thus, according to I.E. Marochkin and N.V. Sibilova [2], Ukraine is characterized by the American model of court management through court administrators (court administrators) who fully perform the functions of

court presidents in terms of work with court personnel and staff (except for judges), logistics, and organization of work of all parts of the court staff. Moreover, some structures (court reporters, judicial assistants) in specific cases are also subordinate to judges and other court officials [2].

The powers and managerial responsibilities of the chairman and chief of staff of a court are set out in the Law of Ukraine "On the Judicial System and Status of Judges". The provisions of this Law divide the powers vested in administrative positions into two categories: The chief judge and deputy (deputy) chief judges who control the efficiency of the court administration; and the chief of staff, who is more responsible for organizational support of the court, judges, court proceedings and administration of justice.

Organizational support for the work of the court is provided by its staff, headed by the chief of staff. The Regulation on the Court Staff is developed on the basis of the Model Regulation on the Court Staff and approved by the meeting of judges of the respective court. Temporary Regulations on the staff of a newly established court shall be approved by the acting chief of staff of that court. The Model Regulation on the Court Staff is approved by the State Judicial Administration of Ukraine in agreement with the High Council of Justice [14].

The chief of staff of the court is personally responsible for the proper organizational support of the court, judges and the judicial process, the functioning of the Unified Judicial Information (Automated) System, and informs the meeting of judges about his/her activities. The meeting of judges may express

no confidence in the chief of staff, which results in his/her dismissal.

Thus, analysing the Model Regulations "On the Court Staff" [13] and relevant practice, the typical organizational structure of the court staff is as follows:

- chief of staff of the court;
- case management services (general and specialized offices, court clerks, expedition, archive, etc.);
- statistics and generalization service;
- information technology and logistics service;
- service of citizens' appeals;
- court bailiffs' service;
- personnel service;
- finance and planning service;
- judicial assistants [15].

Depending on the progress of the case in the court apparatus, elements of the court apparatus are also classified from the other, procedural, side:

1. At the stage of preparing a case for consideration: a) the service of initial reception of documents/materials (service of appeals, general office); b) the service of automated registration (specialized office); c) the service responsible for automatic distribution and transfer of the case to a specific judge (specialized office); d) the service of citizens' appeals (providing information on the progress of the case, organizing the reception of visitors); e) the service of information technology (support).

2. At the stage of consideration of the case on the merits: a) judge's assistant review of the case and case law, preparation of the regulatory framework, draft procedural documents, inquiries, notifications, summonses

of parties, actions to obtain evidence, etc.; b) court reporter recording of the trial, registration of the case, transfer to a specialized office; c) court bailiffs' service ensuring and observance of the established order in the court session; d) service of receiving, sending, registration of documents and correspondence (office, forwarding); e) service of appeal

3. At the final stage after the case has been considered: a) the specialized office performs immediate procedural actions, issues (sends) copies of decisions to the parties to the process, prepares them for storage/sending to the appellate instance, transfers the decision to the executive service; b) the service for receiving, sending, registering documents and correspondence (office, forwarding); c) the service for citizens' appeals (providing information on the progress of the case, organizing the reception of visitors); d) statistics and analytics service storage, accumulation and processing of statistical data on the case; e) archival case storage of the case, issuance of archival certificates; f) information technology service (support) [15].

In other words, departments, divisions, and sectors may be established within the court apparatus, which conduct their functions on the basis of regulations approved by the chief of staff of the relevant court. An office is established in the court apparatus, and the court staff also includes court reporters, scientific consultants and court administrators.

The legal status of court staff members is determined by the Law of Ukraine "On Civil Service" with due regard to the specifics defined by this Law.

Organizational support for the activities of the Supreme Court of Ukraine is provided by the Supreme Court apparatus in accordance with Article 156 of the Law of Ukraine "On the Judicial System and Status of Judges". Regulations on the apparatus, structure and staffing of the Supreme Court of Ukraine are approved by the Plenum of the Supreme Court upon the proposal of the Chief Justice of the Supreme Court of Ukraine [14].

A court library may be established in each court to provide courts with legal acts, special scientific literature, and case law materials. The library's funds shall consist of printed publications and computer databases. Regulations on the court library are approved by the State Judicial Administration of Ukraine.

Each court has a bailiff service. Court bailiffs ensure that persons in court comply with the established rules and that they comply with the orders of the presiding officer.

The work of court staff members is also ensured in compliance with the Rules of Conduct for Court Staff Members is also ensured in compliance with the Rules of Conduct for Court Staff Members approved by the Council of Judges of Ukraine on February 06, 2009, No. 33, the Rules of Internal Labour Regulations and Labour Discipline, and the Rules of Internal Service Regulations.

## **Conclusions**

Thus, the national legislation vests court administrations with a significant range of powers in the field of public administration in the administration of justice. This makes it possible to form and implement the provision, organization, and coordination of the

work of structural units of the court, employees of the court apparatus, and to exercise control functions.

Having analysed the peculiarities of the content of the concept of “public administration in the activities of the court apparatus”, it can be argued that public administration in the activities of the court apparatus is primarily intended to ensure high-quality organizational support for timely, complete, public and independent work of the court.

Therefore, ensuring the functioning of courts is not only about the justice procedure itself, but first and foremost organizational support. Efficiency, efficiency, and accessibility have a direct impact on the performance of judges, and this, in turn, has a positive impact on the reputation of the judiciary among the public.

Establishing a proper regulator of court administration is the key to meeting the requirements of society and ensuring the smooth operation of the judicial system as a whole.

## References

- [1] Kilievich, O. (2003). *Anglo-Ukrainian glossary of terms and concepts for the analysis of state policy and economy*. Kyiv: Publishing House of Solomia Pavlychko “Osnovy”.
- [2] Yarmysh, O.N., & Seryogin, V.O. (2002). *State construction and local self-government in Ukraine*. Kharkiv: Publishing House of the National University of Internal Affairs.
- [3] Webster’s Revised Unabridged Dictionary. (2021). Retrieved from <http://machaut.uchicago.edu>.
- [4] Yastremska, O.M. (2015). *Public administration: study guide*. Kharkiv: HNEU named after S. Kuznets.
- [5] Pukhtetska, A. (2006). “European administrative space” as a novel of Ukrainian administrative and legal science: conceptual and terminological characteristics. *Legal Ukraine*, 8, 41-45.
- [6] Bilozerska, T.O. (2007). Reforming public administration in Ukraine as a step towards European integration. *Law Forum*, 2, 11-19.
- [7] Averyanov, V.B. (2003). Reforming Ukrainian administrative law: a solid reason for a theoretical discussion. *Law of Ukraine*, 5, 117-122.
- [8] Meltyukhova, N.M., Naboka, L.V., & Didok, Yu.V. *Methodical approaches to the organization of activities in public administration*. Kyiv: National Academy of Public Administration.
- [9] Melnyk, A.F., Obolenskyi, O.Yu., Vasina, A.Yu., & Gordienko, A.Yu. (2003). *State administration*. Kyiv: Znannia-Press.
- [10] Marochkin, I.E., Sibileva, N.V., & Tyhiy, V.P. (2007). *Organization of judicial and law enforcement bodies: a textbook*. Kharkiv: Odyssey.
- [11] On the approval of the Standard Regulation on the court apparatus: Order of the State Judicial Administration of Ukraine. No. 131. (2019, February). Retrieved from [https://dsa.court.gov.ua/userfiles/media/media/Dod\\_131\\_19.pdf](https://dsa.court.gov.ua/userfiles/media/media/Dod_131_19.pdf).

- [12] On the judicial system and the status of judges: Law of Ukraine No. 1402 VIII. (2016, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/1402-19#Text>.
- [13] *Head of the court apparatus: Introduction to the profession. Book 1.* (2013). Kyiv: National Academy of Public Administration.
- [14] Hulak, O.V., Ladychenko, V.V., & Golovko, L.V. (2021). Public administration of judicial power as one of the forms of ensuring equal access to justice. *Interscience*, 1, 5(39), 11-17.
- [15] Kurylo, V., Kurylo, I., Mashevska, O., & Gulac O. (2021). The conflict of interests and teaching activity of a judge. Retrieved from <https://www.abacademies.org/articles/the-conflict-of-interests-and-teaching-activity-of-a-judge-11188.html>.

## Публічне адміністрування в діяльності апарату суду: підходи до формування поняття

**Олена Василівна Гулак**

Доктор юридичних наук, доцент  
Національний університет біоресурсів і природокористування України  
03041, вул. Героїв Оборони, 15, м. Київ, Україна

**Артем Валерійович Щербак**

Аспірант  
Національний університет біоресурсів і природокористування України  
03041, вул. Героїв Оборони, 15, м. Київ, Україна

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### **Анотація**

У статті проаналізовані наукові підходи стосовно змісту поняття «публічне адміністрування», «публічне адміністрування в діяльності апарату суду». Зазначається, що встановлення сутності публічного адміністрування, його особливостей та власне формулювання визначення публічного адміністрування в діяльності апарату суду, яке б у повній мірі відображало його правову природу, є найбільш актуальним питанням у світлі судової реформи. Відстоюється думка, що окремою складовою побудови організаційної структури апарату суду є усталена практика організації діяльності в кожному конкретному суді, враховуючи яку, судова адміністрація розробляє та затверджує типові штатні розклади для кожної з груп судів; на підставі граничної чисельності державних службовців і технічного персоналу затверджуються штатні розклади судів керівниками їх апарату та головами судів. Доведено, що публічне адміністрування в діяльності апарату суду не досліджено детально. Доктринальні вчення стосовно розуміння адміністрування у судовій системі, в багатьох випадках є протилежними та застосовуються не однозначно. При характеристиці публічного адміністрування у судовій системі, смислове навантаження орієнтується на характеристику: «організаційного забезпечення діяльності судів», «судове управління», «організаційного керівництва судами», управлінських відносин, що існують в судовій системі

**Ключові слова:** суд, публічне адміністрування, публічна адміністрація, апарат суду, відправлення правосуддя

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