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## POPRAWA BEZPIECZEŃSTWA REGULACYJNEGO I PRAWNEGO ADMINISTRACJI PUBLICZNEJ W SFERIE DZIAŁALNOŚCI PLANOWANIA MIEJSKIEGO W WARUNKACH DECENTRALIZACJI

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**Adnotacja.** W artykule przedstawiono perspektywy optymalizacji mechanizmu regulacyjno-prawnego zarządzania publicznego w zakresie rozwoju miast w warunkach decentralizacji, w tym: ustanowienie obowiązku realizacji zasadniczych ustaleń planu zagospodarowania przestrzennego w trakcie budowy (zapewnienie wysokiego stopnia zgodności projekty budowlane zgodnie z zatwierdzonymi planami generalnymi); wprowadzenie mechanizmów zapewniających aktywny udział społeczności w procesie planowania urbanistycznego (przeprowadzanie wysłuchań publicznych, poszerzenie możliwości składania wniosków i udziału obywateli w podejmowaniu decyzji poprzez wykorzystanie platform internetowych i konsultacji); stworzenie jednolitego ustawodawstwa z zakresu urbanistyki, które połączy normy i zasady w jednym prawie, eliminując niepewność i niespójność aktów normatywnych; opracowywanie i wdrażanie kompleksowych programów rozwoju budownictwa mieszkaniowego (przyciąganie inwestycji w celu tworzenia mieszkań niedrogich i wysokiej jakości, wspieranie inicjatyw i programów społecznych ułatwiających społeczeństwu dostęp do mieszkań); tworzenie mechanizmów i platform efektywnej interakcji pomiędzy społecznością, rządem i biznesem (regularne konsultacje i konferencje w celu omówienia problemów i znalezienia wspólnych rozwiązań; zapewnienie przejrzystości i otwartości w interakcji pomiędzy stronami). Oczekuje się, że przyjęcie Kodeksu urbanistycznego Ukrainy zagwarantuje usystematyzowanie ustawodawstwa w dziedzinie planowania przestrzennego i harmonizację jego przepisów zgodnie z normami powiązanych gałęzi ustawodawstwa, pomoże poprawić wydajność organom władzy wykonawczej i organom samorządu lokalnego, poprawi porządek i przejrzystość podejmowania decyzji w sprawach urbanistycznych, zagwarantuje realizację praw wspólnot terytorialnych i poszczególnych obywateli, efektywne wykorzystanie terytoriów, poprawę paradygmatu przygotowania, zatwierdzania i zatwierdzania dokumentacji urbanistycznej, a ponadto tworzenie warunków skutecznej współpracy międzynarodowej w zakresie urbanistyki.

**Słowa kluczowe:** administracja publiczna, władza publiczna, system władzy publicznej, urbanistyka, działalność urbanistyczna, poprawa wsparcia regulacyjnego i prawnego.

## IMPROVEMENT OF THE REGULATORY AND LEGAL SECURITY OF PUBLIC ADMINISTRATION IN THE SPHERE OF URBAN PLANNING ACTIVITIES UNDER THE CONDITIONS OF DECENTRALIZATION

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**Abstract.** In recent decades, the main importance in the development of the state has been urban planning activity, in the process of implementation of which the regulation of this process by the state is considered extremely important. Against the background of the globalization process of the problem of urban planning in Ukraine, the search for the main trends in the regulation of urban planning activity is considered relevant, primarily by examining the mentioned issue from the point of view of socio-economic processes, political-legal processes, etc. In the process of writing this article, the following methods were used: generalization, systematization, systematic, logical, dialectical and analytical. The article presents the aspects that should be taken into account when optimizing the regulatory and legal mechanism. The areas of solving problems inherent in public administration in the field of urban planning are analyzed.

**Key words:** public administration, public power, system of public power, urban planning, urban planning activity, improvement of regulatory and legal support.

## УДОСКОНАЛЕННЯ НОРМАТИВНО-ПРАВОВОГО ЗАБЕЗПЕЧЕННЯ ПУБЛІЧНОГО УПРАВЛІННЯ У СФЕРІ МІСТОБУДІВНОЇ ДІЯЛЬНОСТІ В УМОВАХ ДЕЦЕНТРАЛІЗАЦІЇ

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**Анотація.** У статті окреслено перспективи оптимізації нормативно-правового механізму публічного управління у сфері містобудівної діяльності в умовах децентралізації, серед яких: встановлення обов'язковості виконання принципових рішень генерального плану при здійсненні будівництва (забезпечення високого ступеня відповідності проектів забудови затвердженим генеральним планам); запровадження механізмів для забезпечення активної участі громади у містобудівному процесі (проведення громадських слухань, розширення можливостей звернення громадян та їх участі у прийнятті рішень через використання онлайн-платформ та консультацій); створення консолідованого законодавства в містобудівній сфері, що об'єднає норми та правила в єдиному законі, усуваючи невизначеність та суперечливість нормативних актів; розробка та впровадження комплексних програм розвитку житлового будівництва (залучення інвестицій для створення доступного та якісного житла, підтримка соціальних ініціатив та програм для полегшення доступу до житла для населення); створення механізмів та платформ для ефективного взаємодії громади, влади та бізнесу (регулярні консультації та конференції для обговорення проблем та пошуку спільних рішень; забезпечення прозорості та відкритості у взаємодії між сторонами). Очікується, що ухвалення Містобудівного кодексу України гарантуватиме систематизацію законодавства у сфері містобудування й узгодження його положень відповідно до норм суміжних галузей законодавства, допоможе покращити продуктивність роботи органів виконавчої влади й органів місцевого самоврядування, вдосконалити порядок і прозорість ухвалення ними рішень щодо питань містобудування, гарантуватиме реалізацію прав територіальних громад й окремих громадян, ефективне використання територій, покращення парадигми підготовки, погодження та ухвалення містобудівної документації, та, крім того, формування передумов задля результативної міжнародної співпраці у сфері містобудування.

**Ключові слова:** публічне управління, публічна влада, система публічної влади, містобудування, містобудівна діяльність, удосконалення нормативно-правового забезпечення.

**Introduction.** Over the past decades, urban planning has emerged as one of the key components in state-building, where the regulation of this process by the government is considered essential for the effective and harmonious development of infrastructure for the citizens of Ukraine. Against the backdrop of the globalization process, urban planning issues in Ukraine, the search for main regulatory vectors and trends in urban planning activity are considered relevant, primarily by examining the aforementioned issue from the perspective of socio-economic processes, political-legal processes etc.

**Main part.** Such scholars as: V. Veselovs'ka (2022), V. Yevtushenko (2011), O. Kvasnits'ka (2013), and others devoted their attention to the study of this issue. However, at the present stage, an urgent problem is the search for prospects for optimizing the regulatory and legal mechanism of public administration in the field of urban development.

The purpose of the article is to propose ways to improve the regulatory and legal framework for public administration in the field of urban development in the context of decentralization.

**Material and research methods.** In the process of writing this article, the following methods were used: generalization, systematization, systematic, logical, dialectical and analytical.

**Results and discussion.** The procedure for providing administrative (managerial) services is regulated by law in the vast majority of European countries, where codified acts regulating the procedures in the work of public authorities in terms of their relations with individuals and legal entities are effectively in place. Optimization of the regulatory and legal mechanism of public administration in the field of urban development in the context of decentralization is a complex task that requires consideration of various aspects. Decentralization involves the delegation of power and responsibility to the local level, which requires changes in the regulatory environment to ensure effective and flexible local governance. Here are the key aspects to consider when optimizing the legal and regulatory framework:

1. Defining new roles and powers of local governance in the context of decentralization. Ensuring regional autonomy to make decisions that address local needs and peculiarities.
2. Streamlining and harmonizing regulations to avoid unnecessary bureaucratic procedures and ensure clarity in their application. Developing a unified system of standards for urban planning activities.
3. Providing mechanisms for active participation of the public and business representatives in decision-making. Developing partnership mechanisms between local government, communities, and enterprises.
4. Ensuring access to information about urban planning decisions for the public and stakeholders. Establishing electronic platforms for public discussion and project monitoring.
5. Developing financing mechanisms that take into account the specifics of local budgets and the need for urban development projects. Encouraging private investment in local infrastructure development.
6. Ensuring adequate human resources for the implementation of urban development projects. Introducing a system of training and professional development for professionals in the field of urban planning.

7. Establishing mechanisms for regular review and adaptation of the regulatory framework to changes in the field of urban development. Implementing a system for tracking and analyzing the effectiveness of regulations.

8. Defining mechanisms of control and accountability for the implementation of urban development projects. Creating a monitoring and reporting system for the public.

9. Optimization of the regulatory framework should be based on principles of efficiency, transparency, and ensuring maximum participation of all stakeholders in the decision-making process.

The majority of researchers and practitioners consider the issue of codification of regulatory support to be the main one in the context of streamlining the system of regulatory acts, which can be achieved by adopting the Urban Development Code. The national urban planning system is characterized by a crisis in the model of urban planning process management, in particular, it is chaotic. To solve the problems inherent in public administration in the field of urban planning, we propose to take the following steps:

*Problem № 1: non-implementation of the principle decisions of the master plan.*

Proposal: establishment of mandatory execution of the principle decisions of the master plan during construction. Ensuring a high degree of compliance of construction projects with the approved master plans. The following tools can be used to implement this proposal:

1. Amendments to the legislation to determine the obligation to take into account the principle decisions of the master plan during construction, which may be included in laws on urban planning or other regulatory acts.

2. Development of mechanisms and control systems for the implementation of the principle decisions of the master plan, which may include the creation of specialized bodies or commissions to check construction projects for their compliance with the master plans.

3. Development of a public register of construction projects, where their characteristics and compliance with master plans will be indicated, which will ensure the availability of information for the public and local self-government structures.

4. Implementation of information campaigns for developers to raise their awareness of the importance of complying with the principles of the master plan and legislative requirements.

These tools will make it possible to create an effective mechanism of control and implementation of the mandatory implementation of the principle decisions of the master plan in urban planning activities.

*Problem № 2: Weak role of the public.*

Proposal: Introduce mechanisms to ensure active community participation in the urban planning process. Conducting public hearings, expanding opportunities for citizens to apply and participate in decision-making through the use of online platforms and consultations. The following tools can be used to implement this proposal:

1. Development and implementation of electronic platforms where citizens can submit their comments, suggestions and complaints regarding urban planning projects.

2. Holding regular public hearings on key urban planning projects, where citizens will have the opportunity to express their opinion and make suggestions.

3. Formation of public working groups that will be involved in the discussion and resolution of specific urban planning issues, which can take place both offline and online.

4. Use of online platforms for consultation and discussion of urban planning issues. Ensuring that the community has access to important information and the opportunity to express their views at any time.

5. Regular publication of information reports and updates on urban development projects, as well as information campaigns to disseminate key details and appeals to the community.

6. Conclusion of partnership agreements with media organizations for wide distribution of information about urban development projects and opportunities for public involvement.

The use of these tools will promote the active participation of the community in the urban planning process and ensure an effective exchange of information and opinions between the community, authorities and developers.

*Problem № 3: the contradictory nature of the legislation.*

Proposal: Creation of consolidated legislation in the field of urban planning, which will combine norms and rules in a single law, eliminating uncertainty and inconsistency of normative acts. The following tools can be used to implement this proposal:

1. Conduct public consultations with stakeholders to collect comments and suggestions on the consolidation of legislation.

2. Analyze existing regulations in the urban planning sphere to identify contradictions and uncertainties.

3. Involve independent experts to review and evaluate the draft law in terms of its effectiveness and compliance with the goals of urban development.

4. Developing informational materials for the general public to explain the new legislation and its benefits.

The creation of consolidated legislation in the urban planning sphere requires a comprehensive approach, the participation of all stakeholders and a balance between different interests.

*Problem № 4: the housing crisis:*

Proposal: development and implementation of complex programs for the development of housing construction. Attracting investments to create affordable and high-quality housing. Support of social initiatives and programs to facilitate access to housing for the population. The following tools can be used to implement this proposal:

1. Developing state and regional programs for the development of housing construction that will determine strategic directions and objectives in this area.

2. Creation of investment mechanisms, such as state and commercial investment funds, grants, tax incentives, etc., to attract funds for urban development.
3. Stimulating social initiatives to develop affordable housing for different social groups.
4. Development of public-private partnerships for the joint implementation of housing projects and ensuring the availability of housing.
5. Use of IT solutions for monitoring and analyzing the housing market, demand, supply and other factors.
6. Developing an effective communication strategy to engage the public, investors and other stakeholders in housing development programs.
7. Establishing a regulatory framework for housing price regulation and ensuring market transparency to improve affordability.

These tools will help to create effective and sustainable programs for the development of housing construction, ensuring the availability of quality housing for the population.

*Problem №5: Lack of mechanisms to coordinate interests.*

Proposal: creation of mechanisms and platforms for effective interaction of the community, government and business. Regular consultations and conferences to discuss problems and find common solutions. Ensuring transparency and openness in interaction between the parties. The following tools can be used to implement this proposal:

1. Creating specialized electronic platforms or websites where the community, government, and businesses can exchange ideas, comments, and proposals. It is important for the platform to be easily accessible and user-friendly.
2. Conducting regular consultations and conferences at various levels – from local to national – where representatives of the community, government, and business can discuss pertinent issues and seek common solutions.
3. Implementing electronic voting systems and surveys to gather community opinions and obtain rapid feedback on specific urban planning issues.
4. Actively fostering partnerships between the community, government, and business, possibly through providing incentives or support for joint projects. Launching joint campaigns and projects that promote mutual understanding and the development of shared responsibility.
5. Organizing educational programs and seminars for the community, government, and entrepreneurs on modern trends in urban planning and joint development opportunities.
6. Supporting and creating mechanisms for the active involvement of youth and local initiatives in urban planning processes.
7. Implementing mechanisms to prevent conflicts between the community, government, and business, such as early detection and resolution of discrepancies in urban planning.
8. Developing clear and efficient procedures for processing and considering community requests regarding urban planning issues.
9. Establishing partnerships with research institutions to ensure the scientific basis for decisions made and the development of innovations in urban planning.

Integration of these tools will create a system of interaction that contributes to the development of cities and ensures their sustainable growth. Thus, the above proposals can help address the main problems in urban planning activities in Ukraine and contribute to the creation of a sustainable and efficient urban environment.

Therefore, it is clear that at the current stage, the city management system requires a combination of planning and regulation. During the planning of urban development at the level of the urban planning system (local or regional), activities are regulated through the traditional master plan of the settlement, which is regularly updated and considered an instrument of state management. In addition, local self-government bodies also play a role in the urban planning sphere.

In this context, within the framework of the United Nations, the UN-HABITAT program has developed the concept of “good urban governance”, which defines the following principles of “good governance”:

- 1) “sustainability of urban development by ensuring the balance of various directions to meet all social, economic and ecological needs of the present and future generations;
- 2) decentralization of management and resources based on the principle of subsidiarity – joint responsibility through the distribution of resources and responsibility at a level that corresponds to the efficient and cost-effective provision of services;
- 3) equality of access to the decision-making process and the use of basic city resources;
- 4) formation of various types of partnership, in particular with business, to achieve a common goal;
- 5) creation of an adequate environment of opportunities for all participants, necessary for their participation in the decision-making process and in the process of urban development;
- 6) transparency and accountability of civil servants and officials of local self-government bodies;
- 7) use of the latest achievements of information and communication technologies in order to support proper city management and its sustainable development” (Декларація про міста та інші населені пункти в новому тисячолітті, 2001: 80-87).

However, during the stage of economic development in Ukraine, the issues of urban development had secondary importance among the directions of public and state interests, and urban planning activities themselves did not receive specifically defined priorities that would indicate the course of strategic reforms chosen at the state level.

The negative effect of non-compliance with certain legislative and regulatory acts includes the allocation of land plots designated for parks and squares for construction purposes, as well as situations where construction projects

are located within red lines or in the protective zones of cultural heritage sites. As a result of dynamic residential development, living conditions for residents generally deteriorate, inevitably leading to conflicts between residents and property owners, as well as with the authorities in addressing problematic issues related to construction location, infrastructure development, and urban improvement. Conflicts surrounding construction in Ukraine are symptomatic of a crisis in the urban planning management model, which is considered inadequate. Consequently, conflicts around development projects can be explained by persistent issues that, if unresolved, will inevitably lead to the overall chaotic and unpredictable development of Ukraine's territories, including its cities.

Considering this, we propose implementing the basic principles of UN-HABITAT – the concept of “good urban governance” – as one aspect of improving the legal framework for public administration in urban planning activities. This may include the incorporation of the following legislative norms:

1. Development of integrated urban development strategies that meet the principles of sustainable development and include social, economic and environmental aspects. Let's take a closer look at this approach:

– social aspects: ensuring quality of life, creating comfortable living conditions for residents, including access to education, health care, cultural and entertainment facilities;

– economic aspects: infrastructure development (integrated strategies must take into account the need for efficient infrastructure to support business and provide jobs); sustainability of economic development (implementation of economic practices that contribute to sustainable development, such as the development of energy-efficient technologies and support of local entrepreneurship);

– environmental aspects: sustainable use of resources (development that minimizes the use of energy and water, promotes the use of renewable sources and limits emissions of pollutants); protection of the natural environment (preservation of nature reserves, creation of green areas and implementation of environmental initiatives).

2. Ensuring the active participation of the community in decision-making processes on issues of urban development; establishment of mechanisms for effective information and involvement of the community, which promotes transparency in solving issues of urban development.

3. Creation of advisory bodies from community representatives, experts, and business representatives to participate in making strategic decisions in the field of urban planning.

4. Legislative regulation of integrated information systems that allow collecting, processing and analyzing data for more effective management of urban planning activities.

5. Inclusion in regulatory legal acts of the principles of access to information and ensuring the openness of data in the field of urban planning.

6. Legislative support for the development and implementation of innovative technologies to increase the efficiency of urban planning activities.

7. Ensuring stable financing for the implementation of urban planning projects and creating partnerships with the private sector for joint development and financing of projects.

8. Legal support for programs and schools of public administration to improve the qualifications of government structures, public leaders and specialists in the field of urban planning.

The implementation of these measures can contribute to the improvement of the legal support of public management in the field of urban planning and the implementation of the concept of "proper urban management" in accordance with UN-HABITAT standards.

In addition, it is worth noting that the Law of Ukraine “On the Regulation of Town Planning Activities” (Закон України «Про регулювання містобудівної діяльності», 2011), according to which the legal basis and system of town planning documentation undergo changes and which is considered fundamentally new in approaches to development solving a number of existing problems in the permitting and approval system in construction is not only a practical expression of the government's reform initiatives in the construction field, but also a real step in the direction of reforming the field of regional development. The specified Law of Ukraine guarantees comfortable conditions for doing business, development of not only construction, but also a whole complex of related spheres, significant simplification of permitting and approval procedures, and thus – a significant improvement of the investment climate in the localities.

Today, the most effective principle of managing the development of territories, such as regions and individual settlements, remains a hierarchical approach. This approach involves the creation of urban planning documentation in a certain sequence at different levels:

1. National Level: This level includes the development of the General Plan of Territorial Planning of Ukraine and plans for the planning of individual parts of the country.

2. Regional Level: This level includes plans for the planning of the territory of the Autonomous Republic of Crimea, regions, and districts.

3. Local Level: At this level, General Plans of settlements, zoning plans, and detailed territory plans are developed.

It is important to note that such a hierarchical approach allows systematizing and coordinating the development of territories at all levels of management, ensuring proper planning and efficient use of resources. In order to form a unified approach to the planning and development of the territory, taking into account the European experience, the Ministry of Regional Development and Construction of Ukraine initiated the development of the Urban Development Code of Ukraine in July 2007. This was supported at the government level in the form of approval by the Cabinet of Ministers of Ukraine of the Concept of the Urban Planning Code of Ukraine, which defined the main

provisions that will be approved in the future code, in particular: “definition of the main principles of legislative regulation in the field of urban planning; powers of public authorities, including local self-government, in the field of urban planning; principles of planning development and development of territories; the content of urban planning documentation, the procedure for its preparation, approval and approval; urban planning objects that can be located on land plots with a special regime of legal regulation; principles and procedure for reconstruction or demolition of outdated housing stock; increasing the effectiveness of state control and supervision in the field of urban planning, increasing responsibility for violations of urban planning legislation; as well as a number of other important issues of urban development regulation” (Розпорядження КМУ «Про схвалення Концепції Містобудівного кодексу України», 2007).

It is expected that the adoption of the Code will ensure the systematization of legislation in the field of urban planning and the harmonization of its provisions in accordance with the norms of related areas of legislation. It will help improve the productivity of the executive authorities and local self-government bodies, enhance the transparency and efficiency of decision-making on urban planning issues, guarantee the realization of the rights of territorial communities and individual citizens, facilitate the effective use of territories, improve the paradigm of preparation, coordination, and adoption of urban planning documentation, and create prerequisites for effective international cooperation in urban planning.

To implement this Concept, a draft Urban Planning Code of Ukraine (Проект Містобудівельного кодексу України, 2010) was developed. However, according to the results of the first reading, the project, taking into account numerous comments from the Main Scientific and Expert Department of the Verkhovna Rada of Ukraine dated June 3, 2010, and the Committee of the Verkhovna Rada of Ukraine on Construction, Urban Development, Housing, and Utilities and Regional Policy dated June 9, 2010, was sent for revision.

**Discussion.** The tasks set by the developers are not only about regulating urban planning relations with a single codified document but also about introducing a series of regulatory novelties aimed at ensuring transparency in urban planning regulation. This entails reducing corruptive norms, establishing mandatory professional liability insurance for architects, designers, and contractors, thus ensuring minimizing negative outcomes of design and calculation errors during the formation of project-technical documentation.

It is important to note that the Urban Planning Code of Ukraine should take into account several key aspects that will form the basis for establishing clear and transparent rules in the field of urban planning:

1. Priority of the General Plan and mandatory development of detailed plans and zoning schemes.
2. Personal responsibility of participants in the process of creating architectural objects and construction, including personal certification of professionals.
3. Mandatory insurance of professional risks and further operation of the object, as this provision is currently absent in any regulatory acts.
4. Effective mechanisms for holding accountable those who violate urban planning legislation, i.e., it is necessary to define real means of influence on those who violate established norms.
5. Clear and transparent conditions for the implementation of investment programs in the field of urban planning, ensuring access to investments and their efficient use.

These measures will contribute to the creation of a stable and efficient environment in the field of urban planning, based on transparent and fair management principles.

**Conclusions.** Thus, optimizing the regulatory framework of public administration in the field of urban development in the context of decentralization proves to be extremely important for creating an effective and sustainable urban environment. Decentralization involves delegating governing powers to local authorities, and in this context, an optimized legal framework becomes a key factor in successful urban development. The shift in the paradigm of city management requires a clear, flexible, and effective regulatory mechanism. Optimization should take into account the principles of decentralization, ensuring that local authorities are responsible for urban planning, infrastructure solutions, and socio-economic development.

An important condition is the creation of a unified and understandable system of norms and rules that would allow for considering the specifics of each local environment, facilitating faster decision-making, reducing bureaucratic barriers, and stimulating development at the local level. Optimizing the regulatory mechanism in the context of decentralization is a necessary condition for ensuring flexibility, adaptability, and transparency in urban development management. This approach will contribute to building a sustainable and viable urban environment where local communities feel responsible for their own development.

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