


OLEKSANDR ANATOLIIOVYCH MORHUNOV,*Doctor of Law, Professor,**Dnipro State University of Internal Affairs;* <https://orcid.org/0000-0003-2259-3620>,*e-mail: mail@dduvs.in.ua***REASSESSMENT OF VIEWS ON PUBLIC ADMINISTRATION IN THE FIELD OF PHYSICAL CULTURE AND SPORTS IN UKRAINE UNDER MARTIAL LAW**

The scientific research is aimed at determining the forms of public administration in the field of physical culture and sports, in particular, at clarifying the peculiarities of this field in the conditions of martial law. In order to fulfill the tasks of the research, the author analyzed the forms and means of public administration in the field of physical culture and sports, determined the state of their legal regulation, taking into account the substantiated provisions regarding the need to increase the efficiency of the use of some of them in wartime conditions.

According to the results of the conducted research, it has been established that public administration in the field of physical culture and sports is the activity of public administration subjects regulated by laws and other normative legal acts, aimed at the implementation of laws and other normative legal acts, including making administrative decisions, provision of administrative services established by legislation regarding the development of physical culture and sports.

Forms of public administration in the field of physical culture and sports are systematized, in particular: issuance of normative acts of public administration in the field of physical culture and sports, their application and implementation of material and technical measures; provision of administrative services by carrying out registration, permit (licensing) and approval procedures in the field of physical culture and sports; conclusion of administrative contracts in the field of physical culture and sports regarding the delegation of management powers to local sports federations with the minimization of centralized management; implementation of public control over compliance with legislation in this area, detection, recording of violations and application of measures of legal responsibility.

It has been established that in the conditions of martial law and post-war period, there will be following most effective forms of public administration in the field of physical culture and sports: attraction of investments in the reconstruction of destroyed or damaged infrastructure; further development and investment of veteran sports and sports aimed at restoring the physical and psychological shape of military personnel, involving the military in the sports movement and reviving the country on the international arena, as well as simplifying the system of providing administrative services in the specified areas.

Key words: *administrative and legal relations, public administration, public administration in the field of physical culture and sports, administrative services, administrative procedures, administrative responsibility.*

Original article

INTRODUCTION. Physical culture and sports are quite logically included among the priority vectors of the movement for the introduction of European living standards in Ukraine and Ukraine's rise to a leading position in the world. At the same time, the introduction of a legal regime of martial law in Ukraine poses new challenges to Ukrainian society, which arise for the first time in the 30-year history of the existence of modern independent Ukraine and lead to the application of critical norms (not inherent in the normal development of the state), the implementation of which can, due to the limitation of certain rights of citizens, ensure proper defense capability of the country, create opportunities to repel armed ag-

gression and ensure the constitutional rights of citizens, including the realization of their rights in the field of physical culture and sports, and regulates social relations in creating conditions for the development of physical culture and sports¹. Starting from 2014, from the moment when the territorial integrity of Ukraine was violated by the armed invasion of Russia and until today and even after the end of the war, the issue of the development of physical culture and sports as the key to a

¹ President of Ukraine. (2022). *On the implementation of martial law in Ukraine* (Decree No. 64/2022). <https://www.president.gov.ua/documents/642022-41397>.

healthy nation in which a healthy lifestyle is cultivated and proper conditions for playing sports are created and will remain urgent. for the purpose of self-realization of the individual, as well as representation of Ukraine on the international sports arena. One can talk about the recognition of Ukrainians on the international sports arena and their achievements for a long time, but a vivid example of the unity of our nation during the war is the winning of the Ukrainian national team 2nd place at the Paralympic Games in Beijing in 2022, the most difficult year in our recent history with the largest number of medals of various types, which were obtained at the highest level of world sports competitions and achievements¹. The quality of the development of physical education and sports is directly related to the effectiveness of public administration in the field of physical education and sports in Ukraine, even in the conditions of martial law, when huge amounts of budget allocations go to ensure the defense capability of Ukraine and the liberation of temporarily occupied territories. In this regard, the issues of accumulation and development of effective forms of public administration in the field of physical culture and sports in Ukraine in war conditions do not lose their relevance and require scientific generalization, which is the goal of scientific research within the scope of this article.

PURPOSE AND OBJECTIVES OF THE RESEARCH. The purpose of the article is to highlight and research the effective forms of public administration in the field of physical culture and sports in Ukraine under the martial law.

In order to achieve the defined goal, the author set the following research tasks:

- to clarify the forms and means of public administration in the field of physical culture and sports;
- to determine the state of their legal regulation and substantiation of the provisions on increasing the effectiveness of the application of some of them in wartime conditions;
- to determine the most effective forms of public administration in the field of physical culture and sports in the conditions of martial law and the post-war period.

METHODOLOGY. Based on the defined purpose and set objectives of the research, the author chose a comprehensive approach to the applica-

tion of scientific research methods. The presentation of scientific material is carried out taking into account both general and specific features of the field of administrative law. It is through the prism of this that the author determined the forms and means of public administration in the field of physical culture and sports, as well as determined the most effective forms of public administration in the field of physical culture and sports in the conditions of martial law and the post-war period.

The methodological basis of the study is the dialectical method, the application of which made it possible to comprehensively reveal the nature of “public administration in the field of physical culture and sports” as a form of exercising power and providing high-quality administrative services in this field. The formal legal method was used to establish the content of legal norms and analyze the practice of their application in the specified area. The application of the formal-logical method became the basis for identifying shortcomings in the national legislation and making proposals for its improvement.

RESULTS AND DISCUSSION. General approaches to understanding the methodology of public administration research were laid by such domestic scientist as V. Sokurenko (2016), who understands such a methodology, in particular in the field of defense, as “a set of cognitive methods and techniques, thanks to which special research tasks related to research are solved specifics of the activities of the relevant subjects in terms of their performance of functions aimed at the realization of public interest in the sphere of defense in Ukraine”.

I. Kovalov (2017) considers the content of physical training of law enforcement agencies in Ukraine “as a necessary condition for serving in law enforcement agencies and an element of personal security of law enforcement officers”.

According to A. Komziuk (2017), one of the main formal arguments in favor of using the term “public administration” is the need to use world experience and the term “public administration”, which is popular abroad, which supposedly translates exactly as “public administration”.

In turn, O. Muzychuk and K. Bugaychuk (2023) noted that “the processes of European integration and the introduction of the categories ‘public management’ and ‘public administration’ actualize the need to develop effective mechanisms for restructuring the essence of the activities of state authorities in the context of the latest understanding of the management of such activities in various spheres of public life”.

In general, the term “public administration” is not new for domestic scientific thought, while it

¹ Moroz, Ye. (2022, March 13). *Ukraine took second place in the medal tally of the 2022 Paralympics. This is the best result in the history.* Community Sport. <https://suspilne.media/sport/217003-ukraina-posila-druga-misce-u-medalnomu-zaliku-paralimpiadi-2022-ce-najkrasij-rezultat-v-istorii>.

should be noted that a unified approach to determining the place of public administration among other related categories has not yet been formed in scientific circles. The opinions of scientists investigating the phenomenon of “public administration” boil down to the fact that changing the name of the terminological definition of a separate concept will leave its essence unchanged. Therefore, it is important that when the term public administration and public administration were replaced, the meaning of the latter acquired a significant update and expanded interpretation, in which it covers not only management by state power, but also management by communities (Bugaychuk, 2017; Sokurenko, 2016; Dzhafarova, Shatrava, 2022).

In previous studies, it was established that “public administration in the field of physical culture and sports should be considered professional politically impartial activity in public service positions in state and local self-government bodies within their competence for the practical implementation of tasks and functions of the state to improve the standard of living and health population, spreading mass sports and increasing physical activity, maintaining a healthy lifestyle, improving Ukraine’s performance in sports competitions” (Morhunov, 2020). However, over time, taking into account the thorough analysis of this issue and the need to adapt legal principles to the human-centered model of state building in which subjects of power (public administration) are created and exercise their powers to provide administrative services, the content of public administration has been rethought in this field. Today, we believe that public administration in the field of physical culture and sports is the activity of public administration subjects regulated by laws and other legal acts, aimed at the implementation of laws and other legal acts, including by making administrative decisions, providing administrative services established by law regarding the development of physical culture and sports.

Undoubtedly, the content of the public administration of physical culture and sports in Ukraine is changing taking into account current trends in the development of administrative law in Ukraine and deepening European integration with a view to Ukraine’s EU membership. Nowadays, scholars, civil servants, politicians and other subjects of administrative legal relations are increasingly replacing the concept of “public (state) administration” with the concept of “public administration”, which broadens the essence of management and removes it exclusively from the influence of state bodies and shifts this vector towards the possibility of direct managerial influ-

ence by the public, at least in the form of public control over the activities of a particular sphere of public relations.

Taking into account the above, it is considered necessary to reveal the essence of public administration in the field of physical culture and sports through the analysis of its forms. To fulfill this task, within the framework of the study, it is advisable to consider the theoretical and legal doctrines of the essence of the forms of public administration. For example, V. Kolpakov (2012) understands the form of public administration as “the outwardly expressed action of public administration subjects, which is carried out within the framework of their competence to fulfill the tasks set before them and entails certain consequences”.

O. Kuzmenko (2017) singles out the following features of forms of public administration: “there is a way of external expression of the activity of public administration and its officials; depend on the content of the competence of the public administration; caused by the implementation of tasks and functions of subjects of authority (fulfillment of administrative obligations) within their competence; in most cases require legal regulation; the choice of forms of activity is determined by the specifics of the goal, determines the most effective option of activity; entail certain consequences”.

The classification of forms of public administration is quite broad, revealed in the works of other leading administrative scientists (Averianov et al., 2004; Bytiak, 2007; Kolomiets et al., 2011; Kolpakov et al., 2012; Paterylo, 2015; Prymakov, 2022).

In the scientific literature, there are quite different grounds for classifying forms of public administration, namely: 1) according to the degree of legal expression i.e. basic (issuance of legal acts), derivative (registration, licensing, supervisory, preventive, security actions, etc;) 2) according to the results achieved i.e. positive regulation (approval of development programmes for the territories of settlements), application of administrative coercion measures; 3) according to the focus i.e. external, internal; 4) according to the circle of persons they apply to i.e. mandatory, addressed to specific persons; 5) according to the nature and methods of resolving issues of competence referred to as procedural (e.g., preparation and adoption of an administrative act), as well as proceeding (issuance of a resolution on imposition of a fine); 6) according to the conditions of application referred to as normal conditions of public life and state of emergency; 7) according to the legal content referred to as binding, prohibiting, and permissive.

In the legal literature, there are other grounds for classifying forms of public administration, but

two classifications are the most common: “firstly, according to the meaning of the consequences that arise as a result of the use of one or another form (presence of legal effect); secondly, by the degree of legal regulation of the process of their application” (Halunko et al., 2018).

According to the significance of the consequences arising from the use of forms, the following are distinguished: a) legal forms of public administration; b) illegal forms of public administration.

Legal forms include forms, the use of which causes the emergence of legal consequences, namely: legal facts, administrative-legal relations, application of coercive measures, etc. Non-legal forms include forms that do not have a direct legal significance and do not cause the emergence of administrative-legal relations and precede legal ones (conducting an audit as a result of which a legal act is issued), or are used after them (a meeting on the implementation of a legal act).

According to the degree of legal regulation, the following “forms of public administration” are distinguished: 1) establishment of legal norms (issuance of normative acts of public administration); 2) application of legal norms (issuance of non-normative acts of public administration, acts of application of legal norms); 3) conclusion of administrative contracts; 4) implementation of registration and other legally significant actions; 5) implementation of organizational actions; 6) implementation of material and technical operations” (Myroniuk R., Myromiuk S., Kuntsevych Yu., 2021). The first four forms are legal, the rest are illegal. Such division of public administration forms provides the most complete reflection of public administration activities, their breadth and specificity (Morhunov et al., 2023).

A slightly different approach to the selection of forms of public administration exists in the permanent European administrative and legal doctrine. Thus, R. Melnyk (2014) and J. Pudelka (2019) note that in the “administrative law of the Federal Republic of Germany, the following forms of public administration are distinguished: 1) interventionist public administration; 2) favorable public administration; 3) providing public administration”.

According to professor R. Melnyk (2014): “facilitative public administration is aimed at assisting private individuals in the realization of their rights, freedoms and satisfaction of legitimate interests, and is related to the provision of services, permits, benefits, certificates, etc. by subjects of public administration to private individuals, which is often formalized by the issuance of a facilitating administrative act”, in contrast to this: “intrusive public administration, associated with the restriction of the rights, freedoms and legiti-

mate interests of a private person, which manifests itself in the imposition of duties on him/her, the formulation of prohibitions, the restriction of rights and freedoms”.

According to V. Parkheta (2021): “probably, this idea was the basis of the new Law of Ukraine ‘On the National Police’, which establishes the category of ‘police service’, which is provided by the police in the following areas: 1) ensuring public safety and order; 2) protection of human rights and freedoms, as well as the interests of society and the state; 3) combating crime; 4) providing, within the limits defined by law, assistance services to persons who, for personal, economic, social reasons or as a result of emergency situations, need such assistance”.

Evidently, supportive public administration related to ensuring the normal (full-fledged) existence of society is aimed at providing water, heat, electricity, information, educational, medical and other services. This may also include the activities of public administration entities in the development of sports infrastructure facilities (sports grounds, stadiums, sports arenas and halls, etc.). The peculiarity of this form of public administration is that it can be implemented through the use of both administrative-legal (administrative act, administrative contract, etc.) and private-law instruments (economic or civil deeds, etc.), the latter of which are already subject to the regulatory influence of private law norms.

We have considered various approaches to distinguishing the criteria for the division of forms of public administration based on their systematisation and comparison and consider it appropriate to distinguish the following forms of public administration in the field of physical culture and sports:

1) adoption of regulatory acts on public administration in the field of physical culture and sports;

2) issuance of non-normative acts of public administration in the field of physical culture and sports and implementation of material and technical operations;

3) conclusion of administrative contracts in the field of physical culture and sports;

4) implementation of registration, permit (licensing) and approval procedures in the field of physical culture and sports;

5) monitoring compliance with legislation in this area, identifying and recording violations and applying measures of legal responsibility;

6) each of above mentioned forms of public administration in the field of physical culture and sports requires a separate analysis and identification of ways of its development.

Summing up, it can be stated that the forms of public administration of the spheres of physical culture and sports indicate the external manifestation of a certain activity, and the methods illustrate the means and methods used or applied by the subject of such relations. The forms and methods of public administration in the spheres of physical culture and sports in Ukraine are currently evolving in line with the changes that characterise the development of public administration in the country as a whole in connection with the decentralisation and deregulation reforms and the development of e-government.

CONCLUSION. Based on the results of the conducted research, the following key conclusions can be proposed.

Firstly, we propose to understand public administration in the field of physical culture and sports as the activity of public administration entities regulated by laws and other regulatory legal acts, aimed at the implementation of laws and other regulatory legal acts, including by making administrative decisions, providing administrative services established by law regarding the development of physical culture and sports.

Secondly, having systematized the forms of public administration in the field of physical culture and sports, it is possible to distinguish the following from them:

- issuance of regulatory acts of public administration in the field of physical culture and

sports, their application and implementation of material and technical operations;

- providing administrative services by carrying out registration, permit (licensing) and approval procedures in the field of physical culture and sports;

- conclusion of administrative contracts in the field of physical culture and sports regarding the delegation of management powers to local sports federations with the minimisation of centralised management;

- implementation of public control over compliance with legislation in this area, detection, recording of violations and application of measures of legal responsibility;

- quota of mandatory (minimum) amount of time for coverage of sports events in audiovisual (electronic) media.

Thirdly, in the conditions of martial law and the post-war period, the most effective forms of public administration in the field of physical culture and sports will be: 1) attraction of investments in the reconstruction of destroyed or damaged infrastructure; 2) further development and investment in veteran sports and those sports aimed at restoring the physical and psychological shape of the military, involving the military in the sports movement and advertising the country in the international arena, simplifying the system of providing administrative services in this area.

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ПЕРЕОЦІНКА ПОГЛЯДІВ НА ДЕРЖАВНЕ УПРАВЛІННЯ У СФЕРІ ФІЗИЧНОЇ КУЛЬТУРИ І СПОРТУ В УКРАЇНІ В УМОВАХ ВОЄННОГО СТАНУ

Метою наукового дослідження є визначення форм публічного адміністрування у сфері фізичної культури і спорту, зокрема з'ясування особливостей функціонування цієї сфери в умовах воєнного стану. Для реалізації завдань дослідження проаналізовано форми та засоби публічного адміністрування у сфері фізичної культури і спорту, визначено стан їх правового регулювання з урахуванням обґрунтованих положень щодо необхідності підвищення ефективності використання деяких із них в умовах воєнного часу.

За результатами проведеного дослідження встановлено, що публічне адміністрування у сфері фізичної культури і спорту – це врегульована законами та іншими нормативно-правовими актами діяльність суб'єктів публічної адміністрації, спрямована на виконання законів та інших нормативно-правових актів, що включає прийняття адміністративних рішень, надання адміністративних послуг, встановлених законодавством щодо розвитку фізичної культури і спорту.

Систематизовано форми публічного адміністрування у сфері фізичної культури і спорту, серед яких виокремлено: прийняття нормативних актів публічної адміністрації у сфері фізичної культури і спорту, їх застосування та здійснення матеріально-технічних заходів; надання адміністративних послуг шляхом здійснення реєстраційних, дозвільних (ліцензійних) та погоджувальних процедур у сфері фізичної культури і спорту; укладення адміністративних договорів у сфері фізичної культури і спорту щодо делегування управлінських повноважень місцевим спортивним федераціям із мінімізацією централізованого управління; здійснення громадського контролю за дотриманням законодавства у зазначеній сфері, виявлення, фіксування порушень та застосування заходів юридичної відповідальності.

За результатами дослідження встановлено, що в умовах воєнного стану та післявоєнного періоду найбільш ефективними формами державного управління у сфері фізичної культури і спорту будуть: залучення інвестицій у відновлення зруйнованої або пошкодженої інфраструктури; інвестування та подальший розвиток ветеранського спорту і

спорту, спрямованого на відновлення фізичної та психологічної форми військовослужбовців, залучення військовослужбовців до спортивного руху та відродження країни на міжнародній арені, а також спрощення системи надання адміністративних послуг у зазначених сферах.

Ключові слова: адміністративно-правові відносини, державне управління, державне управління у сфері фізичної культури і спорту, адміністративні послуги, адміністративні процедури, адміністративна відповідальність.

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