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Administrative services and their digitalization

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1. Decentralization of powers

The power to provide the vast majority of basic administrative services should be delegated from central executive authorities (CEAs) and their territorial network to local self-government bodies (LSGBs).

There is already noticeable progress in this direction in Ukraine. Thus, among the basic administrative services, services related to the registration of business, real estate, and place of residence have been delegated to the competence of the LSGBs.

Three basic services in the area of *registration of civil status acts* (RCSA) have also been delegated; at least, all territorial communities have had equal opportunities to obtain these powers since 2021. However, this group of services is still not systematically decentralized in practice. The Ministry of Justice continues to provide services regarding RCSA through its territorial bodies. Therefore, in the near future, it is necessary to delegate these three main services regarding the RCSA (registration of birth, marriage, and death), as well as all other RCSA services from the Ministry of Justice to all LSGBs. At the same time, the Ministry of Justice or the CEAs within the Ministry of Justice's provenance should continue to be responsible for the state policy itself, departmental supervision in this area, and centralized registers.

Such decentralization steps will allow to bring back / make closer the services that are crucial for the people, especially in rural areas. Also, this policy will improve the comprehensive servicing of citizens in the CPAS, because delegated services are best integrated into the CPAS.

The Ministry of Justice should also remove obstacles for LSGBs in two other groups of administrative services that were already decentralized (*real estate and business registration*). The Ministry should ensure clear and transparent rules for assessment of state registrars of LSGBs, in particular, by publishing a comprehensive list of questions for assessment, as well as resume the assessment itself and conduct it on a regular basis.

Also, in the medium-term, it is necessary to ensure the decentralization of powers regarding: registration of land plots, registration of vehicles and issuance of driver's license, and administrative services of a social nature (subsidies, state aid, etc.). These tasks are enshrined in the government documents (Public Administration Reform Strategy for 2016-2021 and the current Strategy through 2025).

At the same time, in each of the basic groups of services, it is necessary to remove obstacles and take into account the risks. In particular, in the area of *registration of land plots*, the idea of transferring the relevant powers to "certified engineer-surveyors" should be abandoned, because this carries the risk of conflict of interests and raiding (similar to Ukraine's negative experience with "accredited entities" that conducted real estate registration during 2016-2019). These services should be provided by local government officials to ensure proper responsibility for this activity and guaranteed legal succession. In this area, there can be both a policy

of full delegation and an optional one – given the willingness and readiness of individual LSGBs (for example, as in the architectural and construction sector).

In the area of *vehicle registration and issuance of driver's license*, the starting assumption should be assumed that this area is no more difficult than real estate or business registration, which is already conducted by the LSGBs. The delegation of these powers will reduce the MIA's system workload from secondary functions in favor of the safety mission, and will also facilitate the integration of these services into the CPAS. Obviously, decentralizing these powers also requires delegating more authorities and responsibilities to driving schools (in terms of driver trainings), as well as reinstating mandatory technical inspection ("control") of all types of vehicles by accredited technical inspection stations. Under such a model, all registration powers of the LSGBs will primarily be documentary in nature. Thus, more political will is needed for systemic changes here.

Decentralization of ASSN is the greatest and most urgent challenge. The decentralized model in this area means that the LSGBs (exclusively or mainly) should conduct entire procedure for the provision of ASSN, including making decision on the assignment of social status, public benefits, housing subsidies, etc., and CEAs should perform a limited list of oversight functions and the administration of benefits. At the same time, it is necessary to strive for the maximum digitalization of processes in the area of ASSN and the assignment of benefits in automatic mode (where possible), which will facilitate both the work of LSGBs and the public oversight. It is also necessary to recognize the importance of "live" (offline) communication for citizens who are in difficult life circumstances. The decentralized model in the ASSN, as well as in other areas will have the following advantages:

- 1) the maximum territorial proximity of services to the place of one's residence, because LSGB is more sensitive to the needs of its residents, interested in providing high-quality service to its voters, and therefore is motivated to provide services, including in elder-managed districts and even in separate localities. LSGB is interested in ensuring the best territorial accessibility of services;

- 2) LSGB is more flexible and rapid in decision-making than the state, including in matters of formation of relevant structures, recruitment of personnel, and assignment/combination of duties;

- 3) easier integration of ASSN into CPAS and the possibility of comprehensive customer servicing;

- 4) LSGB is more informed about the real living conditions of members of the territorial community and can monitor the targeted use of public aid more effectively.

Such an approach will mean the consistency of public policy in terms of equalizing the powers of territorial communities by following the example of the most capable communities (former cities of regional importance). That is, decisions will be made as close as possible to the people.

It is important to emphasize that the administration of payments to recipients of public aid and subsidies in monetary form should be carried out centrally by the state – i.e., by the CEA, the National Social Service. That is, funds should not be transferred to local budgets.

Under this model, it will be possible to rationally distribute other functions between the National Social Service and the Ministry of Social Policy itself. In particular, it is proposed to assign to the National Social Service the following powers: maintaining state registers (databases) and developing state digital solutions; providing the LSGBs with methodological assistance regarding provision of ASSN; administering aid payments from the state budget; and conducting state supervision and control over compliance with the legislation by the LSGBs. This is one of the advantages of this model, whereby one authority (LSGB) makes a decision, and another authority - not a subordinated one - can professionally assess such a decision and conduct an impartial review of complaints on the LSGB's activities.

The state's success in digital transformation, in particular, the creation and development of the Unified Information System of Social Area (UISSA), would be extremely helpful in this reform, as this will significantly facilitate activity of both LSGBs and the National Social Service.

It should be recognized that from the end of 2022, the powers (primarily back-office ones) in the area of ASSN began to be transferred from the departments of social protection (DSPs) of the district state administrations and of the LSGBs to the Pension Fund of Ukraine. Currently, it is difficult to assess the effectiveness of this step. However, it should be taken into account that each body has its own key purpose (mission), which is quite obvious for the PFU. The reduction in the scope of powers of capable communities after the decentralization reform is quite unexpected. If the availability of good electronic solutions and databases at the PFU was one of the main arguments for the transfer of powers from the DSPs (including those of the LSGBs), then it would be more appropriate to consider the option of providing access to relevant solutions to the DSPs (including those of the LSGBs), etc.

2. Simplification

All administrative services, especially the basic ones, need constant attention regarding simplifying the procedure for their provision. In particular, in the coming years, Ukraine should fully *switch to a declaration (notice)-based model of registration of place of residence*. Under such a model, a person simply has to provide notice of his/her actual place of residence, without need for documentary confirmation, and the competent authority has to records this. At the same time, the rights of the owners of housing to be aware about the residents registered in their housing and to terminate the registration must be ensured. The fact of registration of place of residence at a certain housing should not in itself grant a person any property rights regarding this housing. Essentially, the model already used for the IDPs (internally displaced persons) should be implemented.

Simplifications are also possible for a number of other groups of basic administrative services. In particular, to implement a delegation-based model of *vehicle registration and issuance of driver's licenses*, one could eliminate unnecessary expert inspection of vehicles (during registration/renewal of

registration), as well as duplicative passage of exams at a driving school and at service centers of the Ministry of Internal Affairs. Vehicle inspection should be conducted during the mandatory periodic technical inspection (control), and as part of the police inspection activities.

The ASSN system also has great potential for simplification. It is necessary to rationalize excessive internal controls in the social protection departments at each stage of the decision-making process. It is necessary to increase individual responsibility of officials authorized to accept citizens' applications and make decisions, implement high-quality re-engineering of administrative processes regarding provision of ASSN, and maximize automation of the decision-making processes. Institutional combination of front-office and back-office functions LSGBs in this area will also contribute to simplification. After all, this will remove unnecessary transfers of cases and reduce paperwork, at least regarding the most basic services.

Implementation of the Law of Ukraine "On Administrative Procedure" (LAP) will also contribute to simplification of administrative services, primarily due to the principle of formality. It is necessary to ensure a systemic revision of the legislation in order to identify its compliance with the provisions of the LAP, according to which an administrative body may not require a person to provide documents and information that are in possession of an administrative body or another public authority, the authorities of the Autonomous Republic of the Crimea, local self-government body, or an enterprise, institution, or organization that are under jurisdiction of such a body.

Digitalization, electronic interdepartmental interaction, etc. also create broad-ranging opportunities in this area (for more details, please refer to a separate subsection of this document).

3. Integration of services in the CPAS

An effective CPAS in a community greatly facilitates the lives of residents and promotes economic activity. It is also the face of the state and the LSGB, the main place for direct communication between citizens and the authorities, and the place where people's problems are solved. That is why it is necessary to support the functioning of the CPAS, in order to ensure the accessibility of the government and services for citizens. Together with the development of digital services, the LSGBs/CPASs should provide consumers of services with everything they need from the state.

Basic administrative services include those services that need to be received by all citizens and/or are the most widespread among over 2,000 administrative services that are currently available. These include: registration of civil status acts, registration (declaration) of the place of residence, administrative services of social nature (housing subsidies, public aid, etc.), passport services, real estate registration, business registration, land registration, vehicle registration, driver's licenses, pension services, and certain tax services.

At the same time, all basic administrative services, regardless of whether they belong to an LSGB's authority, should be provided through the CPAS. This is an issue of territorial accessibility, respect for the person, comfort, and barrier-free access. This also means comprehensive nature of servicing, because administrative services are usually provided according to the "life situation" model, when a person needs several different services regarding one event. The CPASs are the best capable to provide such an approach in an offline format.

It is necessary to *ensure adequate prioritization* in the current state policy regarding the expansion of the list of services by the CPAS (as part of implementation of the Government Order № 523 of May 16, 2014), taking into account the consumers' needs and the LSGBs' capacity. Therefore, efforts should be focused on the basic groups of administrative services. The state must ensure *adequate political and organizational assistance* regarding the "launch" of these groups of services in the CPAS and overcoming of relevant departmental barriers.

In particular, in order to set up passport services at the CPAS, it is necessary to rationalize solutions that currently require significant resources of the LSGBs for equipment, secure communication channels, and technical support. It is also necessary to take into account the release of resources of the State Migration Service due to the reduction of its territorial network. Passport workstations (workplaces) must be offered for the use by the relevant LSGBs and their CPASs. Passport services should not be distanced, because it is not just a matter of comfort but also of security and the exercise of basic human and citizen rights.

There is also the need for continuing to provide assistance to the LSGBs in overcoming departmental obstacles from other entities authorized to provide administrative services. This even concerns the challenges faced by the LSGBs and their CPASs regarding services even in the areas of registrations of civil status acts, real estate, and business.

Restoring access to public registers of the LSGBs and their CPASs is a distinct block of tasks caused by the negative impact of the full-scale war. This concerns both state registers and registers of territorial communities.

Pension services should be integrated into the CPASs, at least in those communities that do not have their own territorial departments of the Pension Fund of Ukraine (PFU). After all, the number of the CPAS access points (along with territorial departments and remote workplaces) is significantly greater than the number of "service centers" of the PFU. This approach will also reduce the overall workload of the PFU.

Separately, it should be added that all CEAs that are currently providing and will provide administrative services in the CPASs must work according to the work schedule of the CPAS, provide appropriate levels of access to departmental electronic registers or, primarily, ensure electronic interaction in order to ensure acceptance of applications and informing about results of their consideration by the CPAS administrators, as well as to promote the training of LSGB's staff, etc.

4. Staffing and infrastructure of the CPAS

The most valuable aspect of the CPAS itself is its staff. Taking into account the forecasted deficit of budget funding in the medium term, maximum efforts should be made to retain qualified staff. In particular, it is necessary to implement mechanisms of part-time employment and/or assigning other powers of the LSGB to the CPAS staff, flexible transfer rules, etc.

Considering the need for economical use of resources, it is advisable to “soften” the requirements for the CPAS infrastructure. That could mean both simpler premises and more relaxed requirements for waiting and service conditions. Preference should be given to a greater number of remote workplaces (RW) and territorial departments of the CPASs (TD) instead of large CPASs. This can be both more economical and provide better territorial accessibility of services. Further piloting and implementation of mobile CPASs, especially considering the needs of areas that have suffered from war, must also continue. At the same time, the effectiveness of mobile CPASs will increase significantly in case of setting them up for passport services (which requires genuine support from the Ministry of Internal Affairs, the State Migration Service, and the State Service of Special Communication and Information Protection).

In forecasting the allocation of state or international aid to restore the CPASs, it is important to ensure the fairness of the distribution of such aid. First of all, the workplaces for the staff of the CPASs who worked there before the start of hostilities must be resumed. Additionally, in terms of infrastructure restoration, this could include - among others – the “norms” for the distribution of such aid proportionally to the number of community residents. However, this should be, first and foremost, done rationally and economically.

Safety is a new factor that should be taken into account in every policy in Ukraine at the national and local levels. Safety rules should be thoroughly considered in the development of the CPASs’ infrastructure (availability of shelter, etc.).

The cooperation mechanisms for territorial communities (CMTC) in terms of development of the CPASs and their access points (RW, TD) should also be utilized. For the smallest communities, such access points to services can be formed on the basis of the CMTC. This will allow bringing all the necessary administrative services closer to the community, while at the same time reducing the resource workload of small communities related to the formation and maintaining of their own CPASs.

5. Administrative services fees

The area of administrative services fee should be adequately regulated at the legislative level as soon as possible.

The fee for providing administrative services should be sufficiently compensatory for the state and local self-government bodies. This especially concerns the LSGBs, as they bear the main burden of providing administrative services, including the implementation of delegated authorities, as well as of ensuring the creation and functioning of centers for providing administrative service.

Currently in many communities, the revenues in the local budgets do not even cover the costs of salaries for staff who perform this work.

Therefore, the law on administrative fees must be adopted. Such a law should define the basic principles and purpose of administrative fees, establish the criteria for fee-based and free administrative services, and regulate the procedure for fee setting, payment, and refund. Most importantly, such a law should contain a list of all basic administrative services with clear, fixed amounts of fees for each. The Verkhovna Rada of Ukraine must periodically revise these fees.

In this manner, the state should provide citizens with transparency and sustainability in this area. Furthermore, such a law should eliminate additional, illegal payments charged by some public enterprises and even by some of the authorities during provision of administrative services.

It is worth to note that the relevant draft law (№ 4380) has already been registered in the Verkhovna Rada for more than 2 years. Work can continue on this draft law or another draft law on its basis, which responds to both past and present challenges, the requirements of the Constitution of Ukraine regarding the establishment of fees exclusively by law, and the appropriate foreign experience (in particular, that of the EU countries).

It is important to address the issue of rationalization of administrative fees as soon as possible. This should at least partially fill the area of the provision of administrative services (both by the CPASs and the electronic public services) with financial resources at the expense of partially compensatory payments. Accordingly, it may be an important source for maintaining the system and its current expenses, including for retention of staff, as well as for reconstruction and development.

6. Implementation of the Law “On Administrative Procedure”

To implement the Law of Ukraine “On Administrative Procedure”, it is necessary to launch systemic work on the development and introduction of amendments to other “general” and special laws aimed at their harmonization with the LAP. The Ministry of Justice should serve as both the assessment center and the main initiator of changes.

In developing the amendments, it is necessary to minimize the duplication of provisions and special procedures (exceptions), and to maximize reliance on the general procedure established by the LAP.

During ongoing legislation development (before the LAP enters into force), it is also necessary to be guided by the LAP in order to avoid creation of new legislative conflicts. One must remember that unification of procedures for resolving administrative cases to the greatest extent possible, in order to ensure a common algorithm for citizens’ and business representatives’ relations with the state, is the aim of the LAP.

It is advisable to “link” the LAP and special legislative acts to ensure the LAP’s efficiency from the first days of its entry into force. Thus, it is advisable to refer to the LAP in each of the laws under which cases are to be resolved through the adoption of administrative acts.

In general, nearly 400 legislative acts require at least a review regarding the presence of conflicts with the provisions of the LAP. Based on foreign countries' experience, the number of laws requiring amendments has been in the range of 100-150 laws. Some of these laws are also "general" or "framework" in nature. These include, in particular, the laws of Ukraine "On appeals of citizens", "On permit-based system in the area of economic activity", "On licensing of types of economic activity", and "On the basic principles of state oversight (control) in the area of economic activity". These laws require priority harmonization with the provisions of the LAP.

Another – no less important – block of measures is the training component of the LAP's implementation. It is necessary to ensure the development and implementation of training programs and events regarding the general administrative procedure for a wide range of future users (primarily for practitioners – e.g., civil servants, judges), as well as for those who provide trainings – instructors of law faculties, training and advanced training institutions for civil servants, etc.

As a sub-area of the training block, it is necessary to also set forth activities aimed at informing citizens and businesses of the novelties of the LAP and new opportunities that will become available for individuals after the Law enters into force. Private individuals must be trained to use the capabilities of the LAP and demand the fulfillment of the LAP by the public officials.

For scholars in the area of administrative law and instructor, it is necessary to extend the theoretical development of certain novelties and institutes of the general administrative procedure, in order to ensure timely dissemination of relevant knowledge among practitioners and future generations of Ukrainian lawyers.

After all, many provisions of the LAP have not yet been tested in the national practice. These include the following, among others: scope and criteria (boundaries) of the area of public administration (including the issue of community services of a "monopoly" nature / general interest); limits of the functional understanding of the category of an "administrative body" (especially regarding issues that are fully transferred/delegated to business entities); criteria for determining the "higher-level administrative body" for purposes of administrative appeals (taking into account special and general subject matter competence, as well as mixed political and administrative nature of certain executive authorities and local self-government bodies); mechanisms for withdrawing and invalidating of administrative acts, compulsory enforcement of administrative acts, etc.

7. Development of electronic public services

One of the principal documents that currently reflects the strategic vision for the development of electronic public services¹ is the Public Administration Reform

¹ *The Ukrainian legislation uses primarily the concept of "electronic public services", as well as "electronic government" (e-government). Instead, the EU legislation frequently uses the concepts of "digital government" and "digital public services". The difference, in particular, lies in the distinct approaches to developing and designing the public services, their delivery in digital format, etc. The concept of Digital Government is based on a premise that all public services from the outset are digital by design, data-oriented. This ensures accessibility of these services via alternative channels. The concept of e-government, on the other hand, envisions the conversion of existing public*

Strategy for 2022-2025, approved by the Government's order of July 21, 2021 № 831.

The relevant component of the draft Ukraine's Recovery Plan presented in Lugano on July 4-5, 2022 is also important in terms of the strategic vision for the development of electronic public services; however, this document has not yet been approved by any government act in Ukraine.

It is worth noting that Digital Government is a new evolutionary stage in the development of e-government resulting from enhancing the digitalization and the improvement of digital technologies.

A full-fledged digital government must be designed on the basis of digital technologies; guided by data in policy making and implementation; act as a platform, be open, people-centric (customer-oriented), and proactive.

Digital government initiatives are currently developing in the following areas: 1) promotion of digital procedures and virtual government services; 2) use of digital technologies for timely and effective communication with society and strengthening the society's control through digital technologies; and 3) implementation of public administration based on partnership, openness, and inclusivity that are supported by digital technologies.

In general, the government's digital transformation policy should be based on a long-term strategy. Strategies for the development of digital government and digital transformation operate in most European countries. The development of such strategy should be carried out with the involvement of civil society representatives and based on open public communication.

One should also take into account the fact that public administration should focus and develop proactive mechanisms and processes. This also applies to the services sector. The activity of government entities based on the principle of proactivity is the most effective. Implementation of digital technologies contributes to this, which means that an administrative body does not need to wait for a person's application to provide a service but, guided by the data, anticipates and forward-offers services. The "forward-looking" policy is formed in the same way, which means that the Government, rather than reacting to the problems that have already occurred, first and foremost prevents them. Digital tools are used to this regard, including data, monitoring, digital algorithms, and artificial intelligence (AI).

Digital transformation of public services should be one of the key policy directions, because it is a way to provide faster, cheaper, and better public services. It also promotes the spread of ethical practices in the public sector and reduces the risks of corruption. At the beginning of 2021, a document of the European Commission, "*2030 Digital Compass: The European Way for the Digital Decade*", was adopted, which aims – among others – at development of digital public services with the use of automated data processing, artificial intelligence technologies, and virtual reality. The Framework Document of the European Commission on the

services into an e-format. There is also a number of other differences. In developing the public services policy, it is advisable to take into account these trends by gradually shifting attention and transitioning to the development of a system of digital services, thus continuing the harmonization of domestic legislation with EU legislation in the area of digital transformation.

interoperability of digital services provides specific guidelines for the set-up of compatible digital public services, as well as establishes 12 principles to be guided by in order to ensure interaction and development of a system of compatible digital public services (*European Interoperability Framework, 2017*).

According to these documents, digital public services should be developed based on the principles of openness, transparency, data reusability, technological neutrality, inclusivity and accessibility, as well as security and privacy. In the future, digital transformation will include greater focus on the quality of data and the relevancy of public electronic registers, the development of electronic interactions, as well as e-identification.

Analyzing materials of the “Digitalization” working group that were included in the draft Ukraine’s Recovery Plan, it is worth noting they are generally comprehensive and systemic in terms of electronic public services. At the same time, a number of issues require additional emphasis.

In particular, it is worth paying attention to the need for:

- creation and development of a complete ecosystem of electronic public services. In the future, it is necessary to develop the elements of the ecosystem and to strengthen the relevant relationships between institutions (Ministry of Digitalization - CEBs - LSGBs - National Center of Competence for e-Services - international community - associations - educational institutions - businesses - CSOs);

- development of the LSGB’s capacity for the creation and provision of electronic public services within the framework of their own authority. Currently, a very positive trends is observed in the creation of electronic public services at the national level in Ukraine. However, the issue of electronic public services at the local level has not yet been systemically implemented.

Creation of the National Center of Competence for e-Services should significantly strengthen the institutional capacity of state authorities and local self-government bodies in the digitalization of public services. The tasks of this Center should include the analysis and consideration of modern trends in the development of electronic public services; collection of good European and national practices, solutions, and tools; increasing the capacity of national, regional, and local level staff on the subject of electronic public services; implementation of tasks related to organization of creation/modernization of electronic public services; etc.

At the same time, digitalization of services should not create new barriers for residents in accessing services. There should always be an alternative for “non-digitalized” residents to receive relevant services offline. This is currently especially relevant for residents of rural areas and senior citizens. This possibility should be envisioned at the stage of designing the creation/modernization of electronic public services. For this purpose, it is reasonable to widely involve the CPASs administrators as the “digital intermediaries”.

In many countries, proactive, automatic, and integrated electronic public services are increasingly used. This area should also continue to be developed in Ukraine.

In the context of Ukraine's accession to the European Union, the formation and observance of approaches to the provision of cross-border services and the use of Core Vocabularies for describing public services (e.g., *Core Public Service Vocabulary Application Profile, CPSV-AP*, etc.) that are applicable in EU countries also present challenges.

At the same time, the design of conversion of public services into an e-format and their ongoing delivery should also take into account the Law “On Administrative Procedure” - notably, its provisions on the principle of formality, the right to be heard, the possibility of involving interested parties, the justification of an unfavorable administrative act, the possibility to appeal, etc. This will be relevant not only for new electronic public services, but also for those already in existence, which will need also to take into account the mentioned provisions.

Thus, **the main task with this regard are as follows:**

- implementation of digitalization and Digital Government projects based on a developed national long-term public administration digitalization strategy, which takes into the current state of development of digital technologies and corresponds to the principles and trends established at the EU level, in particular, the 2030 Digital Compass.

- establishment of an ecosystem of electronic public services: creation of the National Center of Competence for e-Services, comprehensive management of services' digitization (including reengineering and deregulation), development of public electronic registers, electronic identification systems, cyber security and access to electronic public services;

- implementation of comprehensive electronic public services based on life and business situations models / events and proactive, automatic electronic public services. Designing of new electronic public services and reengineering of public services must consider the capabilities and interests of various social groups. Electronic public services should be accessible and inclusive, as digital technologies allow for designing of digital services for people with various needs, including people with disabilities;

- preparation for the subsequent delivery of cross-border e-services;

- formation and development of the local self-government bodies' capacity in the creation and provision of electronic public services within the framework of their own authorities;

- minimizing the digital inequality and development of users' ability to receive electronic public services; multi-channel access to public services;

- ongoing comprehensive development of Digital Government initiatives, including in the public services area. It is advisable to continue the use of digital transformation policy to increase the effectiveness of public authorities. The use of digital technologies is necessary for timely and effective communication with the public and its involvement in public policy making, implementation, and evaluation.