

## PUBLIC ADMINISTRATION IN THE FIELD OF LAND RELATIONS IN UKRAINE: TRENDS, CHALLENGES AND SOLUTIONS<sup>1</sup>

**Purpose.** This paper aims at the analysis of the organizational and legal issues of the system of land public administration in Ukraine and elaboration of possible solutions for its further development.

**Methods.** The dialectic method was used in order to analyze the development of the system of public administration in the field of land relations in Ukraine. The method of systematic and structural analysis was used for the characteristics of the elements of the system of public administration in the field of land relations, the distribution of powers between them, and their governmental ties. Modern theoretical approaches to the system of public administration were considered on the basis of the method of critical analysis.

**Results.** In the first part of this paper, the legal and organizational aspects of land public administration in Ukraine have been analysed. The necessity of improvement of powers, in particular, related to land management, have been identified among current problems. The second part of this paper is devoted to the administrative procedures in the field of land relations. The collisions between the general and special laws related to administrative procedures in the field of land relations have been identified among key problems and the case law on this matter has been analyzed. In the third part of the paper the recent trends, challenges in frames of the state of martial law, and solutions have been analyzed.

**Conclusions.** Decentralization and digitalization were considered as the dominate trends in the public governance in the field of land relations. The distribution of powers between central bodies of executive power, as well as between central and local public authorities, the improvement of powers related to the land management, and elimination of the collisions between general and special norms on administrative procedures in the land relations were defined among necessary improvements. During the state of martial law, special mechanisms for land data protection introduced by public administration entities in Ukraine have been considered as important solutions.

**Key words:** public administration entities, administrative procedures, decentralization, land management, land cadaster.

<sup>1</sup> The work was supported by the Slovak Research and Development Agency under contract № APVV-19-0494 – “Effective land consolidation”.

**Prof. Mgr.****Yuliia Vashchenko,***Dr. Habil. (Law), Ph.D.**(Law), Professor,**Professor**at the Department**of Administrative**and Environmental Law**Comenius University in**Bratislava**orcid.org/0000-0002-**5252-1997**yuliia.vashchenko@flaw.**uniba.sk***Doc. Mgr.****Liudmyla Golovko,***Ph.D. (Law), Associate**Professor,**Associate Professor**at the Department**of International Law**and International Relations**Comenius University in**Bratislava**orcid.org/0000-0002-**3742-2827**liudmyla.golovko@flaw.**uniba.sk***1. Introduction**

The land is defined among the objects of the right of property of the People of Ukraine (Art. 13 of the Constitution of Ukraine (Konstitutsia Ukrainy, 1996)). The effective use of land resources and full realization of the right of property to land is Not possible without the efficient system of public administration.

In the recent years, significant changes took place in the field of legal regulation of land relations. The agricultural land market was opened on 01.07.2021 that led to both opportunities and challenges. Decentralization of public administration functions and digitalization became the dominated trends.

Full-scale aggression of the Russian Federation against Ukraine influences the land sector and requires adequate decisions from public authorities, in particular related to the protection of the State Land Cadaster data.

Some legal issues of public administration in the field of land relations were explored by Ukrainian scholars. Legal issues of land relations are elaborated by the representatives of the Land and Agrarian Law science (e.g., Miroshnychenko, 2009) and Administrative Law Science (e.g., Melnyk and Bevzenko, 2014; Bevzenko, 2015). Okhotnikova, O. (Okhotnikova, 2019) analyzed the international experience of public administration of land management and suggested improvements on the distribution of powers between public administration entities. Nezhevelo, V., Piddubny, O. (Nezhevelo and Piddubny, 2020) analyzed some international and Ukrainian experience in the public administration in the field of land relations and supported the idea on minimization of discretionary powers of public authorities in order to minimize risks of corruption. Kozhurina, V. (Kozhurina, 2021) stresses the importance of adequate distribution of powers between public authorities on governance of land resources and the role of civil society in these processes.

In this paper, the authors analyze the current state of the system of the public administration in the field of land relations (the land public administration) in Ukraine, with consideration of recent changes, the main administrative procedures used by public administration entities in this field, modern trends, challenges, and express authors positions on possible solutions.

For the purpose of this research, a range of scientific methods were used. In particular, the dialectic method was used in order to analyze the development of system of public administration in the field of land relations in Ukraine. The method of systematic and structural analysis was used for the purposes of characteristics of the elements of the system of public administration in the field of land relations, the distribution of powers between them, and their governmental ties. Modern theoretical approaches to the system of public administration were considered on the basis of the method of critical analysis.

## **2. The system of land public administration in Ukraine**

The functions of land public administration in Ukraine are performed by bodies of executive power and other public administration entities on the basis of delegated powers (e.g., bodies of local self-government and private persons).

The legal basis for the system of land public administration has been formed by the Verkhovna Rada of Ukraine and consists of the Constitution of Ukraine and other laws and regulations, in particular: Land Code of Ukraine, Laws of Ukraine on Land Management, Topographic-geodesic and Cartographic Activity, Regulation of Construction Activity, State Control over the Land Use and Protection, State Land Cadaster, Land Assessment, and Land Rent.

The system of bodies of executive power in the field of land relations is organized at the following levels: highest, central, republican, and local.

The highest level is represented by the Cabinet of Ministers of Ukraine (Government of Ukraine, GoU) that is responsible for the realization of the state land policy of Ukraine, in particular, for organization of state land cadaster functioning, state control over the organization of land use and protection and organization of land management (Art. 13 of the Land Code of Ukraine), realization of the state policy in the field of land use and protection, encouragement of the realization of state programs on land use and protection, legal regulation in the field of land management (Art. 10 of the Law of Ukraine “On Land Management”).

The GoU established the following central bodies of executive power in the field of land relations and coordinates their activities:

- Ministry for Agrarian Policy and Food of Ukraine (MinAgroPolicy),
- State Service of Ukraine for Geodesy, Cartography and Cadaster (StateGeoCadaster).

The MinAgroPolicy is a central body of executive power responsible for the development of the state policy in the field of land relations and organization of its realization. The Ministry is the sole body according to the decision-making procedure established by the Law of Ukraine “On Central Bodies of Executive Power”. The powers of the MinAgroPolicy are stipulated by laws and specified in the Regulation on the Ministry for Agrarian Policy and Food of Ukraine (Polozhennia pro Ministerstvo Agrarnoi Polityky ta Prodovolstva Ukrajiny, 2021). In particular, the MinAgroPolicy is responsible for the development, approval, assessment, review, amending, and cancellation of the standards in the field of land management

and protection, organization of land management, development and realization of state and regional programmes in the field of land management, organization and encouragement of monitoring of land relations.

Whereas the MinAgroPolicy is mostly responsible for the development of the state policy in the field of land relations and organization of its realization, the majority of functions of its realization belong to the StateGeoCadastr. This authority has a status of other central body of executive power (according to the system of central bodies of executive power established by the Law of Ukraine “On Central Bodies of Executive Power”) and it is established in the organizationally-legal form of a service.

The Constitution of Ukraine and laws of Ukraine, regulations of the President of Ukraine, the Verkhovna Rada of Ukraine, and the Cabinet of Ministers of Ukraine, other legal acts constitute the legal basis for the StateGeoCadastr. The powers of the StateGeoCadastr are stipulated by laws and specified in the Regulation on State Service of Ukraine for Geodesy, Cartography and Cadaster (Polozhennia pro Dergavnu Sluzhbu Ukrajinu z pytan geodezii, kartografii ta kadastru Ukrajinu, 2015). The chairperson of the StateGeoCadastr is appointed and dismissed by the Cabinet of Ministers of Ukraine. This authority is coordinated and determined by the Cabinet of Ministers of Ukraine via the Minister for Agrarian Policy and Food of Ukraine. Whereas the MinAgroPolicy is directly represented in the GoU by its chairperson – the Minister, the StateGeoCadastr is represented in the GoU also by this Minister, Not by its chairperson.

The StateGeoCadastr conducts the state geodesic supervision over the topographic and geodesic, and cartographic activity, performs improvement measures regarding the records maintaining and preparation of reports on regulation of the land relations, land use and protection, and development of Eco network. The StateGeoCadastr organizes and controls the use and protection of lands of all categories and forms of ownership.

According to the Law of Ukraine “On State Land Cadaster” the StateGeoCadastr established the public enterprise “State Land Cadastral Center” which performs the functions of the administrator of the State Land Cadaster. It acts on the basis of the legislation and the statute (Statut Derzhavnoho centru zemelnoho kadastru, 2018).

The republican level (at the level of the Autonomous Republic of Crimea (ARC)) of the public administration in the field of land relations is represented by the Verkhovna Rada of the ARC (a representative authority) and the Council of Ministers of the ARC (a body of executive power).

At the local level, land management powers are divided between the local state administrations (local bodies of executive power) and local self-government bodies. Their powers in this field are stipulated by general laws (primarily, the Laws of Ukraine “On Local State Administrations” and “On Local Self-Governance”) and special laws in the field of land relations.

Also, the important role in the realization of functions of land public administration play self-regulated organizations in the fields of land management and topographic, geodesic and cartographic activity. Such self-regulated organizations, e.g., in the field of land management, define the rules of entrepreneurial and professional activity that are legally binding for their members, perform control over the fulfilment of legislative norms, norms and rules of land management, adequate quality of the land management documentation prepared by certified engineers-land managers – their members, participate in the procedures of examination of future certified engineers-land managers, etc. The status of the self-regulated organization is designated by the StateGeoCadastral according to the legislation, in particular, the Procedure on the Recognition of the Status of Self-regulatory organizations in the field of land management and in the field of topographic and geodesic and cartographic activity (Poriadok vyznannia statusu semoregulivnyh organizacii u sferi zemleustroyu ta u sferi topografo-geodezycnoi i kartografichnoi diyal'nosti, 2013).

It should be noticed that some Ukrainian scholars and practitioners express the opinion that the system of public administration in the field of land relations needs to be enhanced, in particular, in part of the distribution of powers between different public authorities. Thus, Okhotnikova, O. (Okhotnikova, 2019), makes conclusions about the overlapping the powers of MinAgroPolicy and StateGeoCadastral in the field of land management and suggests to establish a specialized public authority responsible for land management. We support the necessity of improvement of Ukrainian legislation regarding the powers of the public authorities related to land management in order to avoid competence disputes, however, in our opinion, it can be done within the current system of public authorities, without the establishment of additional authority.

### **3. Administrative procedures in the field of land relations in Ukraine**

There are different administrative procedures that are used by land public administration entities, e.g.: regulatory procedures (issuing legal acts by authorized public bodies), service procedures (registration, certification, permission, approval of the land management project, etc.), control (supervisory) procedures (e.g., state control over the land use and protection, supervision over the land management), sanctioning procedures (e.g., the StateGeoCadastral prepares infringement Notices on administrative offences and conducts hearings of cases on administrative offences), monitoring procedures (e.g., land capacity monitoring).

The administrative procedures in Ukraine are regulated by general laws that stipulate the unified principles of certain types of administrative procedures, and by special laws that establish the peculiarities of administrative procedures in certain spheres of relations. The Law on Administrative Procedure (Zakon Ukraïny "Pro administratyvnu proceduru", 2022) enters into force on 15<sup>th</sup> of December 2023. Its provisions will be applicable also to the land administrative procedures.

As to the regulatory procedures, the GoU plays a significant role in by-law legal regulation of land relations. In particular, it approves the model agreement on land

management project preparation on allocation of a land plot (Art. 123 of the Land Code of Ukraine), land inventory procedure (Art. 35 of the Law of Ukraine “On Land Management”), land assessment methodology (Art. 38 of the Law of Ukraine “On Land Management”), state land cadaster procedure (Art. 5 of the Law of Ukraine “On State Land Cadaster”).

Only MinAgroPolicy, among other central bodies of executive power, is responsible for legal regulation in the field of land relations. The StateGeoCadaster does not have such powers; however, it is responsible for the drafting the legal and technical documents, state standards, norms and rules in the field of land relations, drafting the standards and technical regulations in the field of the State Land Cadaster, regulations on establishment and updating the cartographic materials, cadaster classificatory, guidelines, and data bases, normative and technical documentations related to geodesy, cartography, and geoinformation systems. MinAgroPolicy approves the annual work plan of the StateGeoCadaster that includes the drafting activity (e.g., Plan roboty Dergavnoi Sluzhby Ukrajin y z pytan’ geodezii, kartografii ta kadastru na 2023 rik, 2022).

Rendering administrative services in the field of land relations constitute a significant part of the powers of public administration entities in Ukraine. Via the mechanism of administrative services, the private persons can realize their rights and legal interests related to use of land. Legal relations on rendering administrative services in the field of land are regulated by general laws (in particular, Law of Ukraine “On Administrative Services”) and special laws that regulate land relations. In particular, StateGeoCadaster provides such administrative services as state registration of the land parcel with issuing the excerpt from the State land cadaster, includes data on a land parcel to the State land cadaster with issuing the excerpt. Private persons can find all necessary information related to the administrative services in the information cards presented on the official web dia.ua (Zemlia ta ekologia).

Certification of the engineers-land managers can be provided as an example of the certification procedures in the field of land relations that are conducted by the StateGeoCadaster. This certification procedure is regulated by the Law of Ukraine “On Land Management” and Procedure on the Work of the Qualification Commission, issuing and annulling the qualification certificate of engineers-land managers (Poriadok roboty Kvalifikacijnoi komisii, vydachi ta anulyuvannia kvalifikacijnoho sertyfikata inzhenera-geodezista, 2021).

Supervision/control procedures of public administration entities in the field of land relations are applied at different levels and conducted by different authorities. In particular, the GoU is responsible for the organization of state control over the land use and protection (Art. 13 of the Land Code of Ukraine), the StateGeoCadaster – for organization and realization of this control (Art. 15-1 of the Land Code of Ukraine), the Council of Ministers of the Autonomous Republic of Crimea – for coordination of this control activity (Art. 16 of the Land Code of Ukraine), whereas

the powers to conduct this type of control are distributed between different public authorities – the executive bodies of Kyiv and Sevastopol city councils conducts (Art. 9 of the Land Code of Ukraine), executive bodies of village, town, and city councils (Art. 12 of the Land Code of Ukraine). The sphere of the state control over the land use and protection is one of the objects for decentralization in the field of land relations, that will be characterized later in this paper.

Sanctioning procedures in the field of land relations are regulated, in particular, by the Land Code of Ukraine and the Code of Ukraine on Administrative Violations. State inspectors in issues of the control over the land use and protection prepare infringement notices on administrative offences and submit requests on elimination of offences (Art. 144 of the Land Code of Ukraine (Zemel'ny kodeks Ukrainy, 2002). The StateGeoCadastr considers cases on administrative violations in the field of land relations according to Art. 242-2 of the Code of Ukraine on Administrative Violations (Kodeks Ukrainy pro administratyvni pravoporushennia, 1984).

Monitoring of land capacity can be provided as an example of the monitoring procedures in the field of land. According to Art. 5 of the Law of Ukraine “On State Control over the Land Use and Protection” (Zakon Ukrainy “Pro derzhavny control za vykorystanniam ta okhoronou zemel’”, 2003) monitoring of agricultural land capacity is conducted by the MinAgroPolicy. The StateGeoCadastr also participates in this monitoring procedure (Art. 8 of the above-mentioned Law).

In some cases, there are collisions between general and special laws that regulate administrative procedures in the field of land relations. In such cases courts decide on the issue. In particular, one of the recent cases is related to the correlation of the Law of Ukraine “On General Framework for State Supervision (Control) in the Sphere of Economic Activity” (general law) and the Law of Ukraine “On State Control over the Land Use and Protection” (special law). In the case in question, the farming enterprise challenged in the court the control measures of the state inspectors of the StateGeoCadastr regarding the fulfilment of the legislation on land use and protection. The state inspectors defined that the complainant used the land parcel without necessary permission and requested to leave the land parcel. Such control actions were conducted in the format of inspections which, in the opinion of the complainant, are subject to the Law of Ukraine “On General Framework for State Supervision (Control) in the Sphere of Economic Activity”, and its Norms were not fulfilled. However, courts of the first and appeal instances dismissed the claim. The Supreme Court, as a cassation court, in its judgement (Postanova Verkhovnoho Sudu, 2022) decided that in this case the Law of Ukraine “On State Control over the Land Use and Protection” shall be applicable to the legal relations of the state control over the land use and protection in the cases of publicly-owned land parcels, but Not the Law of Ukraine “On General Framework of State Supervision (Control) in the Sphere of Economic Relations”, taking into consideration that the object of the inspection was the fact of usage of the land parcel without necessary permission (violation of the legislation on land use and protection), but not an economic activity

of the farming enterprise. This judgement of the Supreme Court is a very significant precedent in the consideration of conflicts of norms of general and special laws related to supervision/control administrative procedure.

#### **4. Recent trends, challenges and developments in the system of public administration in the field of land relations**

In the recent years, important reforms in the field of the land public administration have been started, including digitalization and decentralization (deregulation).

Digitalization aims, in particular, at optimization of activities of public administration entities, improvement of accessibility of administrative services for private persons, and the elimination of corruption risks. In particular, electronic services provided by the StateGeoCadaster include: services available after authorization in the electronic cabinet (e.g., data of the state land Cadaster, provision of the information on a property right subject in the state land Cadaster), services available without authorization (e.g., issuing the excerpt from the State register of certified engineers-geodesists), and services for the certified engineers-land managers) (Elektronni servisny zemelnoho kadastru).

Decentralization means the transition of powers (in particular, control/supervision powers) from the central bodies of executive power to the local authorities. It should be noticed that in Ukrainian legislation and legal doctrine of land law the terms “decentralization” and “deregulation” are often used as synonyms. However, in our opinion, “deregulation” should be understood as a switch from state regulation of certain relations to its elimination, whereas “decentralization” does not usually lead to elimination of regulation, rather to changes in its levels – from the central to the local.

In 2021, changes were made in the land legislation of Ukraine (Zakon Ukrainy “Pro vnesennia zmin do deyakyh zakonodavchyh aktyv Ukrainy shchodo vdoskonalennia systemy upravlinnia ta deregulacii u sferi zemelnych vidnosyn”, 2021). In accordance with changes to the Land Code of Ukraine the state control over the land use and protection also is conducted by the executive bodies of the village, town, and city councils. In order to obtain such control powers such local authorities shall make a respective decision (Art. 188 of the Land Code of Ukraine). As to the issues related to the moment transfer of powers from the StateGeoCadaster to the local authorities the case law of the Supreme Court should be taken into consideration. In particular, in case № 280/717/19 on the dispute to the rejection in the approval of the land management project decided that the local council became a legal successor of the StateGeoCadaster in such relations taken into consideration that the abovementioned legislative changes came into force by the moment when the decision of the court of appeal came into effect (Postanova Verkhovnoho Sudu, 2023). However, such changes cannot be considered as a pure decentralization, because it does not mean that the StateGeoCadaster has no control powers in this field anymore. Such powers of the StateGeoCadaster are stipulated both by the Land Code of Ukraine and by the special Law of Ukraine “On State Control over Land Use and Protection”.

In 2023, the StateGeoCadastr was provided with some new powers (Postanova Kabinetu Ministriv Ukrainy “Pro zminy do Polozhennia pro Derzhavnu Sluzhbu Ukrainy z pytan’ geodezii, kartografii ta kadastru ta vyznannia takoyu, shcho vtratyla chynnist’”, posta№vy Kabinetu Ministriv Ukrainy vid 12 veresnia 2018 r. № 727”, 2023). In particular, the StateGeoCadastr designates and organizes the activity of the administrator of the national geoportal, designates the administrator of geoportals of the State geodesic network and the topographic data base, and the administrator of the State cartographic and geodesic fund of Ukraine; encourages the organization of formation and maintenance of the State cartographic and geodesic fund of Ukraine; provides the status of the self-government organizations in the field of land management and topographic and geodesic and cartographic activity; conducts the public monitoring of land relations, in particular, monitoring of the land market; brings an action before the court on recognition of the agreements concluded with violations of the legal procedures of sale, rent, gift, mortgage, or exchange of publicly- or communally-owned land parcels as invalid.

At the same time, the supervision over the land management, state control over the losses of agricultural production, provision of the recommendations regarding the use of costs transferred as compensations of losses of agricultural production, and bringing an action before the court regarding the compensation of losses of agricultural production were excluded from the powers of the StateGeoCadastr by the abovementioned Regulation. Also, Regulation of the Cabinet of Ministers of Ukraine “On Approval of the Criteria that are Basis for the Economic Activity Risk Assessment in the Field of Land Relations and for the definition of the periodicity of planned state supervision (control) actions” of 12 September 2018 № 727 was revoked because of exclusion from the powers of the StateGeoCadastr. Such changes can be explained by lack of necessity in such type of additional supervision, because the StateGeoCadastr can supervise the fulfilment of the legislation on land management via the mechanisms of supervision of professional activity of the engineers-land managers, in particular, via the complaint procedure conducted by the Qualification Commission that was mentioned above. However, the function of the supervision over land management still belongs to the central body of executive power that realizes the state policy in the field of land relations and land management (which is currently the StateGeoCadastr) in accordance with the Law of Ukraine “On Land Management” (Art. 14, part 1, p. “ж”) (Zakon Ukrainy “Pro zemleustriy”, 2003). Therefore, appropriate changes shall be made to this Law.

Due to the full-scale aggression of the Russian Federation against Ukraine the land public administration has to develop appropriate measures aimed at the protection of the rights and legal interests in the field of land relations. In particular, the State Land Cadaster in Ukraine in frames of the state of martial law is functioning with peculiarities established by Regulation of the Cabinet of Minister of Ukraine of 07.05.2022 № 564 “On certain issues of maintaining and functioning of the State Land Cadaster in frames of the state of martial law” (Postanova Kabinetu Ministriv

Ukrainy “Deyaki pytannia vedennia ta funkcionuvannia Derzhavnoho zemel’noho kadastru v umovah voyennoho stanu”, 2022). This Regulation (with changes made by Regulation of the GoU № 469 of 09.05.2023) aims at the establishment of conditions necessary for the renovation of functioning the State Land Cadaster in frames of the state of martial law, introduction of mechanisms for the protection of the State Land Cadaster data from the unauthorized interventions by the third parties, public and private rights and legal interests during the access to the State Land Cadaster. In particular, such peculiarities include the limited list of the state cadaster registrars who can execute powers, data from the State Land Cadaster is not published, public cadaster card does not function, only defined state registrars, certified engineers-land managers, certified engineers-geodesists can use the data, excerpts, copies, map extracts are not provided.

### 5. Conclusions

Land resources is a national wealth of Ukraine. Adequate realization of people’s property right to land and efficient functioning of agricultural sector of economy requires effective system of public administration that follows the principles of good governance.

In Ukraine, the functions of public administering in the field of land relations, in particular, land management, land use and protection are distributed between public administration entities at different levels: highest, central, republican, and local. The system of land public administration is represented by the bodies of executive power (the Cabinet of Ministers of Ukraine, the Ministry for Agricultural Policy and Food of Ukraine, the State Service of Ukraine for Geodesy, Cartography and Cadaster, bodies of executive power of the Autonomous Republic of Crimea, local bodies of executive power), local self-government authorities and other subjects of public administration in frames of delegated powers.

The main legal framework for the organization and functioning of the land public administration has been approved in Ukraine and consists of general legal acts (e.g., status laws on the Cabinet of Ministers of Ukraine, on central bodies of executive power, on local state administrations, on local self-government, on administrative procedure, on administrative services, etc.) and special legal acts that regulate land relations.

In recent years, decentralization/deregulation, and digitalization are among topical trends in the development of the land public administration in Ukraine. Due to decentralization/deregulation reforms local authorities were empowered with certain public administering functions that previously were allocated at the central level. Digitalization of the land public administration, in particular, the introduction of electronic administrative services aims at improvement of accessibility of administrative services provided by the land administration for private persons and elimination of risks of corruption.

Despite significant progressive changes in the system of land public administration in Ukraine, there is a room for improvement, in particular concerning the distribution

of powers between central bodies of executive power, as well as between central and local public authorities, and elimination of the collisions between general and special norms on administrative procedures in land relations.

The legal issues of the involvement of civil society institutions in the decision-making and control/supervision procedures of the land public administration, the peculiarities of the legal status of self-regulated professional institutions of certified engineers-land managers can be defined as perspective directions for the future scientific research.

### Bibliography:

1. Бевзенко В.М. Адміністративно-земельне право України : навчальний посібник. Київ : Алерта, 2015. 180 с.
2. Кодекс України про адміністративні правопорушення від 7 грудня 1984 р. *Відомості Верховної Ради Української РСР*. 1984. Додаток № 515. Ст. 1122.
3. Конституція України від 28 червня 1996 р. *Відомості Верховної Ради України*. 1996. № 30. Ст. 141.
4. Кожуріна В.М. Питання взаємодії суб'єктів публічного управління земельними ресурсами територіальної громади. *Державне будівництво*. 2021. № 1/2021. URL: <https://periodicals.karazin.ua/db/article/view/19204/17487> (дата звернення 30.10.2023).
5. Мельник Р.С., Бевзенко В.М. Загальне адміністративне право : навч. посіб. / за заг. Ред. Р.С. Мельника. Київ : Ваїте, 2014. 376 с.
6. Мірошниченко А.М. Земельне право України : підручник. Київ : Алерта, КНТ, ЦУЛ, 2009. 712 с.
7. Нежевело В.В., Піддубний О.Ю. Публічне адміністрування у сфері землекористування та охорони земель: поняття, зарубіжний досвід та сучасний стан в Україні. *Юридичний науковий електронний журнал*. 2020. № 9/2020. С. 164–167. URL: [http://lsej.org.ua/9\\_2020/41.pdf](http://lsej.org.ua/9_2020/41.pdf) (дата звернення: 30.10.2023)
8. Охотнікова О.М. Публічне адміністрування землеустрою в Україні: проблеми та шляхи їх вирішення. *Часопис Київського університету права*. 2019. № 2019/3. С. 103–108.
9. План роботи на 2023 рік Державної служби України з питань геодезії, картографії та кадастру, затверджений наказом Міністра аграрної політики та продовольства України 20.12.2022 р. URL: <http://surl.li/jdhin> (дата звернення: 30.10.2023).
10. Положення про Державну службу України з питань геодезії, картографії та кадастру, затверджене постановою Кабінету Міністрів України від 14.12.2015 № 15. *Урядовий кур'єр*. 27.01.2015. № 14.
11. Положення про Міністерство аграрної політики та продовольства України, затверджене постановою Кабінету Міністрів України від 17.02.2021 р. № 124. *Урядовий кур'єр*. 20.02.2021. № 35.
12. Порядок роботи Кваліфікаційної комісії, видачі та анулювання кваліфікаційного сертифіката інженера-геодезиста, затверджений наказом Міністерства аграрної політики та продовольства України від 27.10.2021 № 317. *Офіційний вісник України*. 21.12.2021. № 97. С. 276. Ст. 6326.
13. Порядок визнання статусу саморегульованої організації у сфері землеустрою та у сфері топографо-геодезичної і картографічної діяльності, затверджений постановою Кабінету Міністрів України від 05.06.2013. № 398. *Урядовий кур'єр*. 20.06.2013. № 110.
14. Постанова Кабінету Міністрів України «Деякі питання ведення та функціонування Державного земельного кадастру в умовах воєнного стану» від 07.05.2022 р. № 564. *Урядовий кур'єр*. 14.05.2022. № 109.

15. Постанова Кабінету Міністрів України «Про зміни до Положення про Державну службу України з питань геодезії, картографії та кадастру та визнання такою, що втратила чинність, постанови Кабінету Міністрів України від 12.09.2018 р. № 727» від 24.02.2023 р. № 164. *Урядовий кур'єр*. 01.03.2023. № 42.

16. Постанова Верховного Суду від 25.05.2022 р. у справі № 120/1196/19а. URL: <https://reustr.court.gov.ua/Review/104466891> (дата звернення 30.10.2023).

17. Постанова Верховного Суду від 7 серпня 2023 р. у справі № 280/717/19. URL: <https://reustr.court.gov.ua/Review/112672099> (дата звернення: 30.10.2023).

18. Статут Державного центру земельного кадастру, затверджений наказом Державної служби України з питань геодезії, картографії та кадастру від 22.10.2018 р. № 164. URL: <http://dzk.gov.ua/wp-content/uploads/2018/10/Statut-TSentru-DZK-vid-22.10.2018-164.pdf> (дата звернення: 30.10.2023).

19. Про адміністративні послуги : Закон України від 6 вересня 2012 р. № 5203-VI. *Відомості Верховної Ради України*. 2013. № 32. Ст. 409.

20. Про адміністративну процедуру : Закон України від 17 лютого 2022 р. № 2073-IX. *Голос України*. 2022. № 123.

21. Про центральні органи виконавчої влади : Закон України від 17 березня 2011. № 3166- VI. *Відомості Верховної Ради України*. 2011. № 38. Ст. 385.

22. Про державний контроль за використанням та охороною земель: Закон України від 19 червня 2003 р. № 963-IV. *Відомості Верховної Ради України*. 2003. № 39. Ст. 350.

23. Про державний земельний кадастр : Закон України від 7 липня 2011 р. № 3613-VI. *Відомості Верховної Ради України*. 2012. № 8. Ст. 61.

24. Про Кабінет Міністрів України : Закон України від 27 лютого 2014 р. № 794-VII. *Відомості Верховної Ради України*. 2014. № 13. Ст. 222.

25. Про місцеве самоврядування в Україні : Закон України від 21 травня 1997 р. № 280/97-ВР. *Відомості Верховної Ради України*. 1997. № 24. Ст. 170.

26. Про місцеві державні адміністрації : Закон України від 9 квітня 1999 р. № 586-XIV. *Відомості Верховної Ради України*. 1999. № 20-21. Ст. 190.

27. Про основні засади державного нагляду (контролю) у сфері господарської діяльності : Закон України від 5 квітня 2007 р. № 877-V. *Відомості Верховної Ради України*. 2007. № 29. Ст. 389.

28. Про Раду Міністрів Автономної Республіки Крим: Закон України від 16 червня 2011 р. № 3530-VI. *Відомості Верховної Ради України*. 2012. № 2-3. Ст. 3.

29. Про внесення змін до деяких законодавчих актів України щодо вдосконалення системи управління та дерегуляції у сфері земельних відносин: Закон України від 28 квітня 2021 р. № 1423-IX. *Голос України*. 26.05.2021 р. № 96.

30. Про землеустрій : Закон України від 22 травня 2003 р. № 858-IV. *Відомості Верховної Ради України*. 2003. № 36. Ст. 282.

31. Земельний кодекс України від 25 жовтня 2002 р. № 2768-III. *Відомості Верховної Ради України*. 2002. № 3-4. Ст. 27.

### References:

1. Bevzenko, V. (2015). *Administrativno-zemelne pravo Ukrainy* [Administrative and Land Law of Ukraine], Kyiv, Alerta, 2015, 180 p. [in Ukrainian].

2. *Kodeks Ukrainy pro administrativni pravoporushennia* (1984) [Code of Ukraine on Administrative Offences]. *Vidomosti Verkhovnoi Rady Ukrainjskoi RSR*, 1984, dodatok do № 515, st. 1122.

3. Konstytutsia Ukrainy (1996). [Constitution of Ukraine] of 28 June 1996. *Vidomosti Verkhovnoi Rady Ukrainy*, 1996, № 30, st. 141 [in Ukrainian].
4. Kozhurina, V. (2021). Pytannia vzayemodii subjektiv publichnoho upravlinnia zemelnymy resursamy terytorialnoji hromady [Issues of Interaction of Subjects of Public Management of the Territorial Community Land Resources]. *Derzhavne budivnytstvo*, № 1/2021. Retrieved from: <https://periodicals.karazin.ua/db/article/view/19204/17487> (accessed on 30.10.2023) [in Ukrainian].
5. Melnyk, R., Bevzenko, V. (2014). *Zahal'ne administratyvne pravo* [General administrative law: a textbook / edited by Melnyk, R., 2014, Baire, 376 p. [in Ukrainian].
6. Miroshnichenko, A. (2009). *Zemelne pravo Ukrainy* [Land Law of Ukraine]. Kyiv, Alerta, KNT, TSUL, 2009, 712 p. [in Ukrainian].
7. Nezhevelo, V., Piddubny, O. (2020). Publichne administruvannya u sferi zemlekorystuvannya ta ochorony zemel: ponniattia, zarubigny dosvid ta suchasny stan v Ukraini [Public Administration in the Field of Land Use and Land Protection: Concepts, Foreign Experience and Current Situation in Ukraine]. *Yurydychny naukovy elektronny zhurnal*, № 9/2020, pp. 164-167. Retrieved from: [http://lsej.org.ua/9\\_2020/41.pdf](http://lsej.org.ua/9_2020/41.pdf) (accessed on 30.10.2023) [in Ukrainian].
8. Okhotnikova, O. (2019). Publichne administruvannya zemleustroyu v Ukraini problemy ta shliachy ich vyrishennia [Public Administration of Land Management: Problems and Solutions]. *Chasopys Kyivs'kogo Universytetu Prava*, 2019/3, pp. 103-108 [in Ukrainian].
9. Plan roboty Dergavnoi Sluzhby Ukrainy z pytan' geodezii, kartografii ta kadastru na 2023 rik (2022). [Work plan for 2023 of the StateGeoCadaster approved by the Minister for Agrarian Policy and Food of Ukraine] on 20.12.2022. Retrieved from: <http://surl.li/jdhin> (accessed on 30.10.2023) [in Ukrainian].
10. Polozhennia pro Dergavnu Sluzhbu Ukrainy z pytan' geodezii, kartografii ta kadastru Ukrainy (2015). [Regulation on the State Service of Ukraine for Geodesy, Cartography and Cadaster approved by Regulation of the Cabinet of Ministers of Ukraine] of 14 December 2015 № 15. *Uriadovy kurjer*, 27.01.2015, № 14 [in Ukrainian].
11. Polozhennia pro Ministersto Agrarnoi Polityky ta Prodovolstva Ukrainy (2021). [Regulation on the Ministry for Agrarian Policy and Food of Ukraine approved by Regulation of the GoU] of 17 February 2021 № 124. *Uriadovy kurjer*, 20.02.2021, № 35 [in Ukrainian].
12. Poriadok roboty Kvalifikacijnoi komisii, vydachi ta anulyuvannya kvalifikacijnoho sertyfikata inzhenera-geodezista (2021). [Procedure on the Work of the Qualification Commission, issuing and annulling the qualification certificate of engineers-land managers approved by Order of the MinAgroPolicy] № 317 of 27 October 2021. *Oficijny visnyk Ukrainy*, 21.12.2021, № 97, p. 276, St. 6326 [in Ukrainian].
13. Poriadok vyznannia statusu semoregulivnyh organizacii u sferi zemleustroyu ta u sferi topografo-geodezychnoi i kartografichnoi diyal'nosti (2013). [Procedure on the Recognition of the Status of Self-regulatory organizations in the field of land management and in the field of topographic and geodesic and cartographic activity approved by Regulation of the Cabinet of Ministers of Ukraine] of 05.06.2013 № 398. *Uriadovy kurjer*, 20.06.2013 № 110 [in Ukrainian].
14. PostaNova Kabinetu Ministriv Ukrainy "Deyaki pytannia vedennia ta funkcionuvannia Derzhavnogo zemel'noho kadastru v umovah voyennoho stanu" (2022). [Regulation of the Cabinet of Minister of Ukraine of 07.05.2022 № 564 "On certain issues of maintaining and functioning of the State Land Cadaster in frames of the state of martial law"]. *Uriadovy kurjer*, 14.05.2022 № 109 [in Ukrainian].
15. PostaNova Kabinetu Ministriv Ukrainy "Pro zminy do Polozhennia pro Derzhavnu Sluzhbu Ukrainy z pytan' geodezii, kartografii ta kadastru ta vyznannia takoyu, shcho vtratyla chynnist", postanovy Kabinetu Ministriv Ukrainy vid 12 veresnia 2018 r. № 727" (2023). [Regulation of the Cabinet of Ministers of Ukraine "On amendments to the Regulation on the

State Service of Ukraine for Geodesy, Cartography and Cadaster and revocation of Regulation of the Cabinet of Ministers of Ukraine of 12 September 2018 № 727” of 24 February 2023 №164. *Uriadovy kurjer*, 01.03.2023, № 42 [in Ukrainian].

16. Postanова Verkhovnoho Sudu (2022). [Judgement of the Supreme Court] of 25.05.2022 in case № 120/1196/19a. Retrieved from: <https://reyestr.court.gov.ua/Review/104466891> (accessed on 30.10.2023) [in Ukrainian].

17. Postanova Verkhovnoho Sudu (2023). [Judgement of the Supreme Court] of 7 August 2023 in case № 280/717/19. Retrieved from: <https://reyestr.court.gov.ua/Review/112672099> (accessed on 30.10.2023) [in Ukrainian].

18. Statut Derzhavnoho centru zemelnogo kadastru (2018). [Statute of the State Land Cadastral Center approved by Order of the StateGeoCadaster] of 22.10.2018 № 164. Retrieved from: <http://dzk.gov.ua/wp-content/uploads/2018/10/Statut-TSentru-DZK-vid-22.10.2018-164.pdf> (accessed on 30.10.2023) [in Ukrainian].

19. Zakon Ukrainy “Pro administrativni poslugy” (2012). [Law of Ukraine “On Administrative Services”] of 6 September 2012 № 5203-VI. *Vidomosti Verkhovnoi Rady Ukrainy*, 2013, № 32, St. 409 [in Ukrainian].

20. Zakon Ukrainy “Pro administrativnu proceduru” (2022). [Law of Ukraine “On Administrative Procedure”] of 17 February 2022 № 2073-IX. *Golos Ukrainy*, 2022, № 123 [in Ukrainian].

21. Zakon Ukrainy “Pro central’ni organy vykonavchoji vlady” (2011). [Law of Ukraine “On Central Bodies of Executive Power”] of 17 March 2011 № 3166-VI. *Vidomosti Verkhovnoi Rady Ukrainy*, 2011, № 38, St. 385 [in Ukrainian].

22. Zakon Ukrainy “Pro derzhavny control za vykorystanniam ta okhoroною zemel’” (2003). [Law of Ukraine “On State Control over the Land Use and Protection”] of 19 June 2003 № 963-IV. *Vidomosti Verkhovnoi Rady Ukrainy*, 2003, № 39, St. 350 [in Ukrainian].

23. Zakon Ukrainy “Pro derzhavny zemelny kadastr” (2011). [Law of Ukraine “On State Land Cadaster”] of 7 July 2011 № 3613-VI. *Vidomosti Verkhovnoi Rady Ukrainy*, 2012, № 8, st. 61 [in Ukrainian].

24. Zakon Ukrainy “Pro Kabinet Ministriv Ukrainy” (2014). [Law of Ukraine “On Cabinet of Ministers of Ukraine”] of 27 February 2014 № 794-VII. *Vidomosti Verkhovnoi Rady Ukrainy*, 2014, № 13, st. 222 [in Ukrainian].

25. Zakon Ukrainy “Pro mistzeve samovriaduvannia v Ukraini” (1997). [Law of Ukraine “On Local Self-governance in Ukraine”] of 21 May 1997 № 280/97-BP. *Vidomosti Verkhovnoi Rady Ukrainy*, 1997, № 24, st. 170 [in Ukrainian].

26. Zakon Ukrainy “Pro mistzevi dergavni administratsii” (1999). [Law of Ukraine “On Local State Administrations”] of 9 April 1999 № 586-XIV. *Vidomosti Verkhovnoi Rady Ukrainy*, 1999, № 20-21, st. 190 [in Ukrainian].

27. Zakon Ukrainy “Pro osnėvni zasady derzhavnoho nahl’adu (kontroly) u sferi hospodarskoji dialnosti” (2007). [Law of Ukraine “On General Framework for State Supervision (Control) in the Sphere of Economic Activity”] of 5 April 2007 №877-V. *Vidomosti Verkhovnoi Rady Ukrainy*, 2007, № 29, st. 389 [in Ukrainian].

28. Zakon Ukrainy “Pro Radu Ministriv Avtonomnoji Respubliky Krym” (2011). [Law of Ukraine “On the Council of Ministers of the Autonomous Republic of Crimea”] of 16 June 2011 № 3530-VI. *Vidomosti Verkhovnoi Rady Ukrainy*, 2012, № 2-3, st. 3 [in Ukrainian].

29. Zakon Ukrainy “Pro vnesennia zmin do deyakyh zakonodavchyh akviv Ukrainy shchodo vdoskonalennia systemy upravlinnia ta dereguliacii u sferi zemelnykh vidnosyn” (2021). [Law of Ukraine “On Amendments to Certain Legal Acts of Ukraine on Improvement of the Governance System and Deregulation in the Field of Land Relations”] № 1423-IX of 28.04.2021. *Golos Ukrainy*, 26.05.2021, № 96 [in Ukrainian].

30. Zakon Ukrainy “Pro zemleustriy” (2003). [Law of Ukraine “On Land Management”] of 22 May 2003 № 858-IV. *Vidomosti Verkhovnoi Rady Ukrainy*, 2003, № 36, St. 282 [in Ukrainian].

31. Zemel’ny kodeks Ukrainy (2002) [Land Code of Ukraine] of 25 October 2002 № 2768-III. *Vidomosti Verkhovnoi Rady Ukrainy*, 2002, № 3-4, st. 27 [in Ukrainian].

## ПУБЛІЧНА АДМІНІСТРАЦІЯ У СФЕРІ ЗЕМЕЛЬНИХ ВІДНОСИН В УКРАЇНІ: ТЕНДЕНЦІЇ, ВИКЛИКИ ТА РІШЕННЯ

**проф. маг. Юлія Ващенко,**

доктор філософії (право), професор,  
професор кафедри адміністративного права та екологічного права  
Університету Коменського у Братиславі  
orcid.org/0000-0002-5252-1997  
yuliia.vashchenko@flaw.uniba.sk

**доц. маг. Людмила Головко,**

доктор філософії (право), доцент,  
доцент кафедри міжнародного права та міжнародних відносин  
Університету Коменського у Братиславі  
orcid.org/0000-0002-3742-2827  
liudmyla.golovko@flaw.uniba.sk

**Мета.** Стаття спрямована на аналіз організаційних та правових аспектів системи публічної адміністрації у сфері земельних відносин в Україні, визначення сучасних тенденцій та проблем, а також розробку можливих рішень щодо її майбутнього розвитку.

**Методи.** У статті використано низку сучасних методів наукового пізнання. Діалектичний метод використано для аналізу розвитку системи публічної адміністрації у сфері земельних відносин в Україні. Метод систематичного та структурного аналізу було використано для характеристики елементів системи публічної адміністрації у сфері земельних відносин, розподілу повноважень між ними та їхніх управлінських зв’язків. Сучасні теоретичні підходи до системи публічної адміністрації було проаналізовано за допомогою методу критичного аналізу.

**Результати.** У першій частині цієї статті було проаналізовано організаційно-правові аспекти публічної адміністрації у сфері земельних відносин в Україні, зокрема, визначено та охарактеризовано ключові елементи системи публічної адміністрації та зв’язки між ними. Необхідність удосконалення правового регулювання повноважень органів публічної адміністрації, зокрема, щодо їх розподілу між різними суб’єктами публічної адміністрації, в сфері землеустрою, було визначено серед поточних проблем публічної адміністрації у сфері земельних відносин. Друга частина статті присвячена адміністративним процедурам у сфері земельних відносин. Колізії між загальними та спеціальними законами, які регулюють адміністративні процедури у сфері земельних відносин, було визначено серед ключових проблем, а також проаналізовано судову практику щодо вирішення спорів у цій сфері. У третій частині статті проаналізовано сучасні тенденції розвитку публічної адміністрації у сфері земельних відносин, виклики в умовах воєнного стану, а також можливі рішення.

**Висновки.** Децентралізацію та диджиталізацію визначено як домінуючі тенденції публічного управління у сфері земельних відносин. До ключових напрямів удосконалення

*публічного управління у сфері земельних відносин віднесено розподіл повноважень між центральними органами виконавчої влади, між центральними та місцевими публічними органами, удосконалення повноважень у сфері землеустрою, а також усунення колізій між загальними та спеціальними правовими нормами, які регулюють адміністративні процедури у сфері земельних відносин. Підкреслено важливість застосування спеціальних механізмів захисту інформації у сфері земельних відносин в умовах воєнного стану, що вживаються органами публічної адміністрації в Україні.*

**Ключові слова:** органи публічної адміністрації, адміністративні процедури, децентралізація, землеустрій, земельний кадастр.