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## PUBLIC ADMINISTRATION INSTRUMENTS IN THE SPHERE OF MOBILIZATION TRAINING AND MOBILIZATION: DEFINITION AND CLASSIFICATION

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### **Liutikov P.S., Skalskyi P.P. Public administration instruments in the sphere of mobilization training and mobilization: definition and classification.**

The article attempts to substantiate the conceptual rethinking and updating of scientific research on private law instruments in public administration.

An attempt has been made to reconsider the essence and characteristics of private law instruments of public administration, taking into account existing theoretical developments of administrative law doctrine and current management practices. The authors propose to understand private law instruments of public administration as legal means through which public administration entities participate in private law relations aimed at achieving public interests via coordination, state support, or public-private partnerships based on contractual, property-related, or corporate forms of interaction.

The following characteristics (features) of private law instruments of public administration have been identified: participation of public administration entities in private law relations on equal terms; a combination of imperative and dispositive principles with varying proportions of imperative and dispositive elements depending on the type of instrument; preservation of the public-law status of the public administration entity; targeted orientation of activities towards achieving public interests through private law mechanisms; application of private law instruments focused on the implementation of public administration objectives; the legal nature of actions of public administration entities being coordinative or contractual.

It has been emphasized that the generalized analysis of the existing legal literature and legislation indicates the necessity for further doctrinal developments in terms of private law instruments. Despite extensive research on specific forms of public-private partnership, administrative contracts, state aid, etc., modern studies still do not cover private law instruments as an integral legal institution with a comprehensive system of features and criteria for their application. Thus, the authors' proposed rethinking of their legal nature and classification represents only the next attempt to update this significant direction within administrative law science.

**Key words:** public administration, mobilization training, mobilization, administrative act, regulatory legal act, planning act, factual act, administrative contract, private law instruments, martial law, rule of law.

### **Лютіков П.С., Скальський П.П. Інструменти публічного адміністрування у сфері мобілізаційної підготовки та мобілізації: поняття та види.**

У статті здійснено спробу сформулювати поняття та окреслити види інструментів публічного адміністрування у сфері мобілізаційної підготовки та мобілізації.

Проведений аналіз дозволив авторам стверджувати, що ефективність публічного адміністрування у сфері мобілізаційної підготовки та мобілізації значною мірою залежить від чіткого визначення, систематизації та правильного застосування відповідного інструментарію. Адміністративні акти та нормативно-правові акти виступають найбільш поширеними формами реалізації управлінських рішень, оскільки дозволяють суб'єктам публічного адміністрування оперативно реагувати на зміну умов правового режиму особливого періоду.

Наголошено на тому, що застосування приватноправових інструментів є вагомим чинником, що дозволяє державі ефективно залучати приватний сектор до виконання мобілізаційних завдань, зокрема через державно-приватне партнерство, державні замовлення, договори концесії та інші форми економічної взаємодії. Підкреслено, що окремої уваги потребує потенціал адміністративного договору, який наразі обмежено використовується через імперативний характер правового регулювання в умовах воєнного стану. Водночас, в перспективі мирного часу саме цей інструмент може суттєво оптимізувати процеси взаємодії державних органів і приватних суб'єктів у сфері мобілізаційної підготовки.

Вказано, що акти-дії (фактичні дії) суб'єктів публічного адміністрування, хоч і не породжують безпосередньо правових наслідків, проте мають значний вплив на ефективність проведення мобілізаційних заходів, оперативність виконання поставлених завдань та дотримання прав і свобод громадян.

У підсумку авторами зазначено, що у сучасних умовах, коли національна безпека держави залежить від своєчасної мобілізації ресурсів і населення, належна класифікація, удосконалення нормативно-правового регулювання та практичного застосування інструментів публічного адміністрування набуває стратегічного значення. Подальші дослідження у цій сфері повинні бути спрямовані на розроблення комплексних рекомендацій щодо вдосконалення законодавчої бази та адміністративної практики, які дозволять підвищити ефективність процесу мобілізації в Україні.

**Ключові слова:** публічне адміністрування, мобілізаційна підготовка, мобілізація, адміністративний акт, нормативно-правовий акт, акт-план, акт-дія, адміністративний договір, приватноправові інструменти, воєнний стан, верховенство права.

**Statement of the Problem in General Terms and Its Connection with Important Scientific or Practical Tasks.** Recent events related to the full-scale invasion of the Russian Federation into the territory of Ukraine have significantly intensified issues of mobilization training and mobilization, bringing to the forefront the need to enhance the effectiveness and promptness of public administration in this area. Public administration instruments serve as key factors in the successful implementation of mobilization measures, as the quality, speed of decision-making, and legal certainty directly affect the security of the state and society, as well as the citizens' constitutional duty to defend their country.

The current legal reality in Ukraine, especially under the legal regime of martial law, demonstrates that many problems arise from the lack of clarity and certainty in the application of various public administration instruments. This, in turn, necessitates systematic research aimed at clearly defining and classifying these instruments, identifying their essential features, and establishing the limits of their application within the sphere of mobilization training and mobilization.

Particular importance is attached to defining the legal nature of administrative acts, regulatory legal acts, planning acts, factual acts, administrative contracts, and private law instruments. These instruments represent the primary forms of external expression of public administration activities through which mobilization tasks are implemented, direct influence on the behavior of citizens, enterprises, institutions, and organizations is exerted, and conditions for national security and the normalization of societal functioning in crisis situations are formed.

Despite the widespread practical use of these instruments by public authorities and local self-government bodies, a number of issues remain underexplored. In particular, there is no unified view regarding the legal nature of planning acts, private law instruments, and administrative contracts. The lack of adequate theoretical and legislative regulation of administrative contracts in the mobilization sector during martial law is indicative and requires further study to determine their potential as flexible public administration tools in peacetime and the limitations of their application during special periods.

Special attention should also be paid to the role of private law instruments, as there is an active involvement of the private sector in mobilization training and strengthening the state's defense capability. It is therefore important to clarify the boundaries and peculiarities of public administration's participation in private legal relations, which, despite their private nature, must serve the public interest of the state.

Thus, the above indicates the necessity for further theoretical and practical research aimed at a comprehensive analysis and classification of public administration instruments in the field of mobilization training and mobilization, which is not only relevant from a scientific standpoint but also critically important for the effective practical implementation in conditions of modern threats and challenges to Ukraine's national security.

**Analysis of Recent Research and Publications Addressing the Problem and Approaches to Its Solution.** Over more than ten years of the Russian-Ukrainian war and the full-scale invasion, Ukrainian administrative and legal science has been significantly enriched with studies devoted to

the issues of mobilization training, mobilization, and certain legal aspects of strengthening Ukraine's defense capabilities. These scholarly works confirm the relevance of the topic and the necessity for its further academic development.

Special attention should be paid to the research conducted by O.V. Nesterenko, who comprehensively analyzed the administrative and legal foundations of ensuring national security and defense in Ukraine, identifying promising directions for their improvement through the lens of international and domestic experience [1]. Important contributions were also made by A.Yu. Aleksandrova and Ya.F. Fokin, who focused on the criminal law aspects of mobilization, particularly on the issues of criminal liability for evading military service. A.Yu. Aleksandrova developed proposals for improving criminal legislation [2], while Ya.F. Fokin studied procedural and tactical aspects of investigating such crimes [3].

The research of O.P. Kotlyarenko was dedicated to law enforcement activities within the Armed Forces of Ukraine, highlighting organizational and managerial aspects and addressing problems related to the effectiveness of administrative decisions in maintaining public order [4].

V.L. Babich made a valuable contribution by analyzing the problems of administrative liability of conscripts and reservists for violations of legislation on military duty and service, offering reasoned proposals for improving the existing regulatory framework [5].

A special place belongs to the dissertation of O.Yu. Savynets, who conducted a thorough historical and legal analysis of the administrative and legal support of the mobilization of the Armed Forces of Ukraine, outlining directions for its improvement. O.Yu. Savynets emphasized the close interrelation between mobilization and mobilization training while clearly distinguishing between them in terms of timeframes and conditions [6].

V.A. Ivanchenko proposed an original definition of mobilization relations as an object of administrative and legal regulation, stressing the importance of creating an inspection body to monitor the activities of military commissariats [7].

Finally, significant importance is attributed to the work of B.V. Boyko, who formulated doctrinal definitions of mobilization training and mobilization, characterizing the former as a set of measures implemented in peacetime and the latter as a complex of actions aimed at ensuring the functioning of the state during a special period [8].

Thus, the analysis of the mentioned research demonstrates that administrative and legal issues of mobilization and mobilization training remain at the center of attention of contemporary Ukrainian legal scholars, although certain aspects of this field still require deeper scientific exploration.

**Formulation of the Purpose of the Article (Setting the Task).** The purpose of this study is to formulate the concept and outline the types of public administration instruments in the field of mobilization training and mobilization.

**Presentation of the Main Material.** Based on a generalized analysis of modern administrative and legal literature devoted to the issues of administrative acts, the following essential features of an administrative act can be outlined: it is addressed to a specific individual or legal entity; it is issued (adopted) by an authorized subject of public administration; it aims at implementing material norms of administrative law; it possesses an external nature of action; and it is directed towards achieving specific legal consequences for particular subjects – the establishment, modification, or termination of their rights and obligations [9, p. 43].

Undoubtedly, the main entity utilizing administrative acts in the field of mobilization training and mobilization is the Territorial Centers for Recruitment and Social Support (TCRSS), which, given their assigned tasks and powers, interact most actively with citizens. Analyzing the scope of competence of TCRSS reveals that it is realized through administrative procedures, culminating in the issuance of administrative acts.

In particular, a number of subordinate acts in the sphere of mobilization and mobilization training define the legal foundations for conducting various administrative procedures. For example, the organization and maintenance of military records for conscripts, reservists, and liable persons, including the submission of personal and service data about them to the authorities managing the Unified State Register of Conscripts, Reservists, and Liable Persons, are formalized through administrative acts such as requests, applications, certificates, decisions, and orders [10].

During the reservation procedure under martial law, administrative acts such as decisions on recognizing enterprises, institutions, or organizations as critical to the functioning of the economy and life support of the population in a special period are issued; applications (in electronic form) for the annulment of reservation statuses are submitted, among others [11].

Following the procedure for verifying military registration documents, updating personal data of reservists and liable persons, and making appropriate amendments to military documents, summonses are issued and served. Administrative procedures also result in the preparation of military documents

or amendments thereto (military ID cards, temporary certificates, or military registration documents with a QR code generated via the «Reserve+» mobile application, providing limited access to the «Oberih» register) [12].

As a result of the administrative procedure for granting deferments from conscription for military service during mobilization, decisions on granting or denying deferments are made. Such decisions are documented through protocols. If a positive decision is made, the liable person receives a certificate specifying the deferment period. In case of denial, the liable person is notified in writing, stating the reasons for refusal in a legally prescribed format [12].

Similarly, the procedures for medical examinations of reservists and liable persons, which determine their fitness for military service, conclude with the issuance of a decision (resolution) by the Military Medical Commission, and with the issuance of a certificate indicating the individual's fitness status, valid for one year during mobilization or martial law. Also, the procedure for conscription during mobilization is formalized by orders issued by heads of district (city) TCRSS, military unit commanders, heads of intelligence agencies, or authorized officials from these bodies, as well as by the Head of the Security Service of Ukraine (SBU) or designated persons [12].

Thus, an administrative act in the field of mobilization training and mobilization is a decision or legally significant individualized action, having external impact and issued (adopted) by an authorized public administration entity, aimed at implementing material norms of administrative law and achieving specific legal consequences – the establishment, modification, or termination of rights and obligations for relevant subjects.

Undoubtedly, regulatory legal acts issued by public administration entities also constitute a significant form of influence on public relations in this sphere. It is well established that a regulatory legal act is a type of legal act adopted by an authorized entity, which contains administrative law norms. Regulatory acts of public administration simultaneously perform two essential functions: first, they serve as a source of administrative law; second, they act as an instrument of public administration activities [13, p. 253].

Such regulatory acts are issued to implement and apply legislative provisions or to regulate social relations in the absence of a relevant law. Additionally, they can be adopted for the internal needs of public administration itself, namely, for organizing its internal structure and functioning. Regulatory acts are classified according to the issuing subjects, including: decrees of the President of Ukraine of regulatory nature (e.g., the Decree «On General Mobilization» of February 24, 2022, No. 65/2022 [14]); resolutions of the Cabinet of Ministers of Ukraine (e.g., the Resolution «On the Approval of the Procedure for Organizing and Maintaining Military Records of Conscripts, Liable Persons, and Reservists» of December 30, 2022, No. 1487 [10]); regulatory orders of ministries and other central executive bodies (such as the Order of the Ministry of Defense of Ukraine of January 3, 2025, No. 4 [15]; the Order of the Ministry of Economy of Ukraine of December 18, 2024, No. 28003 [16]; the Regulation on the Activities of Medical (Military Medical) Commissions of the Ministry of Internal Affairs of Ukraine, approved by Order No. 285 of April 3, 2017 [17]).

Regulatory legal acts are also adopted by local state administrations, their heads (district, city, or military administrations), and local self-government authorities, regulating issues such as the establishment of alert groups, notification of reservists and liable persons, and other matters.

Among the instruments of public administration in the sphere of mobilization training and mobilization, planning acts (acts of planning) are widely used. As emphasized in the academic literature, it is necessary to distinguish between the plan as a document (planning act) and the act of approving the plan (instrument of public administration). A planning act (e.g., a land zoning plan) acquires legal force and can be applied within the relevant territory only after its approval by a local self-government body. Therefore, the act of approval itself constitutes the legal instrument that generates legal consequences – the emergence, alteration, or termination of rights and obligations for private individuals [18, p. 177].

Mobilization training includes the development of mobilization plans, long-term and annual programs for mobilization preparation. At the national level, a general mobilization plan is developed and approved by the President of Ukraine; the Armed Forces of Ukraine, certain state bodies, territorial communities, enterprises, institutions, and organizations also prepare their respective mobilization plans.

Planning acts in the sphere of mobilization training and mobilization thus serve as instruments by which authorized entities define the content, scope, executors, procedures, and timelines for implementing measures aimed at the mobilization deployment of the Armed Forces of Ukraine, other military formations, civil protection forces, and the transition of the national economy, government bodies, local authorities, enterprises, institutions, organizations, and life support systems of the population to operation under special period conditions.

Public administration entities also actively employ so-called factual acts (acts of action), which are auxiliary in nature since they do not generate legal consequences and do not require the issuance of formal administrative acts. Generally, factual acts as instruments of public administration are characterized by the following features:

- their implementation does not require the issuance of an administrative act, although they can also be based on one;
- they represent a form of active administrative activity by public administration entities;
- they reflect the conscious and voluntary conduct of public administration subjects in specific legal situations;
- they are performed with the aim of achieving a factual result during mobilization measures;
- they can take various forms, ranging from simple actions, such as hand signals by a traffic officer, to complex organizational and technical actions like the allocation and payment of budgetary funds, although most factual acts are relatively simple;
- they do not lead to the emergence, alteration, or termination of administrative legal relations, meaning they do not generate legal consequences;
- although factual acts are not aimed at causing legal consequences, if they result in the violation of citizens' rights and freedoms, affected individuals have the right to challenge them through both non-judicial and judicial means [19, p. 325].

In the sphere of mobilization training and mobilization, public administration entities apply the following types of factual actions:

- dissemination of information to reservists and other citizens via mass media regarding the occurrence or likelihood of certain events or facts;
- serving of summons and performing other actions to notify reservists or liable persons about the need to fulfill specific obligations, such as reporting to TCRSS, undergoing medical examinations, participating in training, or mobilization;
- verifying that males aged 18 to 60 possess a military registration document (in either paper or electronic form) along with an identity document; in cases where such documents are missing, or if records indicate that the individual is wanted, administrative detention and delivery to the nearest TCRSS are conducted;
- administrative detention and compulsory delivery to TCRSS in cases where individuals refuse to comply, based on Articles 261 and 262 of the Code of Ukraine on Administrative Offenses, including the use of physical actions to cease unlawful behavior;
- sending of requests to authorities, institutions, organizations, and enterprises, regardless of ownership form, especially for verifying information about a reservist's right to deferment or reservation;
- other factual acts.

Thus, factual acts by public administration entities in the field of mobilization training and mobilization constitute a form of active administrative activity carried out with the aim of achieving factual results during mobilization measures, without giving rise to legal relations. Nevertheless, they can be challenged if they violate individuals' rights and freedoms.

Despite the public law nature of state authority, Ukrainian legislation, similar to that of most European countries, also provides for a separate group of private law instruments through which public administration entities exert regulatory influence over private legal relations. These relations typically arise in the fields of economic activity, finance, social protection of the population, and the informational support of state authorities and their officials. While applying private law instruments, the state participates in private legal relations without losing its public law nature.

Alongside the traditional (administrative law) regulation of public administration activities, the relations arising from the application of private law instruments are governed by civil law norms unless otherwise expressly provided by Ukrainian legislation [19, p. 356].

It is appropriate to agree with the position of R.S. Melnyk and other scholars who argue that, despite the vivid manifestation of the private law instruments' implementation mechanisms in the activities of public administration entities, the legislation of Ukraine, like the legal systems of most post-Soviet countries, does not provide a legal definition of this concept nor reveals its specific characteristics [19, p. 356].

An analysis of current civil and administrative legislation, its application practice, and a range of doctrinal sources allows identifying the specific features of private law instruments of public administration, namely:

- the mechanism of implementing private law instruments is regulated by the norms of administrative, financial, civil, and other branches of law, which determine the legal grounds, forms, and methods of participation of public administration entities in private legal relations [19, p. 359];

- they serve as means of both imperative and dispositive influence on relations arising in various spheres of public administration;
- private law instruments applied to satisfy public interests of the state, society, and territorial communities are substantively «public-private» by their nature and by the material and organizational methods of influence over the activities of private legal entities or groups of such entities [19, p. 360];
- public administration entities may use only those private law instruments whose application is explicitly provided for in their administrative legal status;
- such instruments can be employed both at the initiative of public administration (e.g., placing state orders, participating in joint ventures) and at the initiative of private entities (e.g., within the framework of public-private partnerships).

Given the critical importance, scope, and specifics of fulfilling mobilization tasks, it becomes evident that public administration entities actively use private law instruments in the field of mobilization training and mobilization for accumulating the necessary material resources. These instruments are manifested through: placement of defense orders by the Ministry of Defense of Ukraine; establishment of joint ventures with domestic or foreign private business entities; contracts for the purchase (supply) of various material resources needed for defense purposes under mobilization plans; military equipment lend-lease agreements with foreign states; concession agreements; financing agreements; property management contracts, and others.

Thus, private law instruments of public administration in the field of mobilization training and mobilization are legal means through which public administration entities exercise certain powers within private legal relations. They do so by providing state assistance to business entities, jointly participating in the activities of private legal entities, financing mobilization training and mobilization measures, and determining the legal forms for engaging such private entities in state programs and public-private partnership projects aimed at meeting the needs of the Armed Forces of Ukraine, other military formations, civil protection forces, and ensuring the functioning of the national economy and vital life support systems for the population.

**Conclusions.** Summarizing the issues addressed, it should be noted that the instruments of public administration in the field of mobilization training and mobilization constitute the external manifestations of a set of homogeneous administrative actions carried out by public administration entities within the framework of legally established procedures. These actions are aimed at achieving the most desirable outcome – the effective and rapid organization and implementation of mobilization measures to protect national security, society, and the state from military threats and various crisis situations.

Among these instruments, the following can be distinguished: administrative acts; regulatory legal acts; planning acts; factual acts; administrative contracts; and private law instruments.

The conducted analysis allows for the assertion that the effectiveness of public administration in the field of mobilization training and mobilization largely depends on the clear definition, systematization, and proper application of the relevant instruments. Administrative acts and regulatory legal acts are the most widespread forms of implementing management decisions, as they enable public administration entities to promptly respond to changing conditions under special legal regimes.

At the same time, the application of private law instruments is a significant factor that enables the state to effectively involve the private sector in fulfilling mobilization tasks, including through public-private partnerships, state procurement contracts, concession agreements, and other forms of economic cooperation.

Special attention should be given to the potential of administrative contracts, which are currently rarely applied due to the imperative nature of legal regulation under martial law. Nevertheless, in peacetime, this instrument could significantly optimize the interaction processes between public authorities and private entities in the sphere of mobilization training.

Finally, factual acts, although not directly generating legal consequences, have a considerable impact on the effectiveness of mobilization measures, the prompt execution of assigned tasks, and the protection of citizens' rights and freedoms.

Thus, under contemporary conditions where the national security of the state depends on the timely mobilization of resources and the population, the proper classification, improvement of regulatory frameworks, and effective practical application of public administration instruments acquire strategic importance. Future research in this field should focus on developing comprehensive recommendations for improving the legislative framework and administrative practice to enhance the efficiency of the mobilization process in Ukraine.

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