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Brief

Services and their digitalization

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1. Key events in the state policy area, at least after the Revolution of Dignity and the signing of the Ukraine-EU Association Agreement.

After the Revolution of Dignity and the signing of the Ukraine-EU Association Agreement, the state policy on decentralization became one of the most important and urgent areas of reform. This policy concerned both the state's administrative-territorial structure and the delegation of powers from the state (executive authorities) to local self-government bodies (LSGBs). It also affected the area of administrative services. Thus, after the adoption of the relevant laws in 2015, a number of administrative services were delegated from the central executive authorities (CEAs) to the LSGB. In particular, these were services for state registration of the residence and real estate and business, as well as separate land issues. Thus, it became much easier and faster to integrate these services into the centers for provision of administrative services (CPAS) and to improve the territorial accessibility of these services for consumers. But since then, the process of decentralization of administrative services has slowed down for more than five years. This slowing down was even despite the fact that it was envisioned by the government document – i.e., the Strategy for Reforming the Public Administration of Ukraine for the period until 2021.

After the change of power in 2019, the digitalization of services became a priority of the state policy in the area of provision of administrative services - that is, the maximum transition of services provision into electronic (digital) form. Much less attention was paid to the policy of decentralization in the area of administrative services. However, thanks to the public and the concerned MPs, in spring 2021, the Verkhovna Rada of Ukraine adopted a law on decentralization of certain services regarding the state registration of civil status acts (SRCSA). Accordingly, such services (three key ones: registration of birth, marriage, and death) should have been gradually delegated from the Ministry of Justice to all LSGBs, including former cities of regional status. However, in practice, this Law was being implemented extremely slowly. Only a few cities have taken measures to obtain the relevant powers. There was more resistance than support from the Ministry of Justice on this issue.

After the Revolution of Dignity, the **CPAS network** continued to expand, primarily due to the motivation of LSGB, as well as donors and state support. CPASs become especially important in the context of the UTC formation, to ensure territorial access to services. Since November 2020, Law № 943 was adopted regarding the CPAS network. It provided for the mandatory step-by-step creation of CPAS in all communities (in three years). Also, the Law provided more flexibility to LSGB regarding the organization of the CPAS's work. As of February 2022 (before the beginning of large-scale war, when a number of CPASs could be destroyed by hostilities or closed due to difficult security conditions), there were 1,027 CPASs operating in Ukraine, as well as 1,712 remote workplaces, 124 territorial units and 28 mobile CPASs.

In 2021, the Ministry of Digital Transformation announced plans to launch the CPAS of new formation – **Diia Centers**, although in fact, it was rather the rebranding of the CPAS than something fundamentally new. Also, the Ministry of Digital Transformation reports on the successful transformation of the DSA CPAS into the LSGB CPAS, despite the fact that 2/3 of the DSA CPASs did not even have adequate premises.

In July 2021, the Law “On Peculiarities of Providing Public (e-Public) Services” was adopted in “turbo mode”. This Law, in particular, provides for the regulation of certain issues of public services provision in e-form and defines new terms in the digitalization of public services. The purpose of this Law was the formation of a unified approach to the provision of e-services. Such a step should also be an incentive for executive authorities and local self-government bodies to expand the system of e-services in their areas. The subordinate legal acts provided for by it were adopted in December 2022-January 2023 (in particular, resolutions of the CMU of December 23, 2022 No. 1191 and January 13, 2023 No. 111). This is also the Action Plan for 2023 regarding the

transfer of public services to electronic form, a list of electronic public services provided automatically, and etc. In addition, the Government approved the Procedure for the provision of electronic public services in automated mode.

The subject of payment for administrative services has not yet been properly regulated by law. Thus, there are numerous laws and regulations regarding this area of in Ukraine. Some acts of the Government provide for separate “paid services”, which mean splitting a full service into separate installments in order to establish extra fees for each of them. The amount of the fee for some services has not changed since the 1990s (for example, the CMU Fee Decree). As a result, local communities suffer significantly from this, because they are the ones that are insufficiently financed by the local budget due to established amount of the fees for administrative services being de minimis or even free of charge. In the fall of 2020, a group of MPs registered in the Parliament the draft law № 4380 “On administrative fees”, which proposes to establish uniform, clear, and fair criteria for determining the amount of fees for administrative services and contains a list of the most popular (basic) services, along with transparent amount of fees. However, the draft law was blocked by the Ministry of Digital Transformation, which advocated for the approach that the administrative fees should be established by the Government. The Ministry promoted this idea in draft law № 3515, which was adopted in the first reading in June 2021 (and generally concerns other issues). Subsequently, the same ministry proposed in this draft law to set the amount of administrative fees in the annual law on state budget.

The Ministry of Digital Transformation also did not support the implementation of a real **declarative model of residence registration**. Although in the new law, adopted on October 2021, the authorities use the terminology of “declaration”, it is actually limited only to the digitalization of this area (Law № 1871-IX). Therefore, citizens still have to verify their housing right with documentation or show the owner’s consent to the accommodation in order to register their residence – even though, according to the declarative principle, simply informing the authorized body / CPAS of current address should be sufficient.

As of the middle of 2022, there is also **lack of certainty in the model of providing administrative services of a social nature** (ASSN). The government is creating a new state body charged with providing administrative services – that is, instead of delegating these powers to the LSGB, a centralization policy is being implemented. It is believed that “assignment” is easier to automate centrally. The LSGB is assigned only the front office function. This position is presented in the government’s draft law №5849. Among others, this will lead to depriving former cities of regional status of their powers in the area of social protection (i.e., regarding the assignment of state benefits, granting of statuses, etc.). Finally, in September 2022, the Government adopted a somewhat unexpected decision, which transferred back-office powers in the area ASSN provision (in terms of assigning subsidies and providing benefits) to the Pension Fund of Ukraine (starting December 1, 2022).

Administrative services for businesses also require administrative simplification and procedural improvement. The Government is making some attempts to simplify the process of receiving of these services by legal entities through their digitalization. As a result, some of the permits in the area of construction can be obtained in digital form through the Diia Portal. For example, this includes permit to perform construction work on objects belonging to the CC2/CC3 class of responsibility and a certificate of acceptance of such facility into operation. However, digitalization does not address the numerous systemic issues that remain in this area. In particular, this includes the high degree of by-laws regulation, non-transparency of payment, and excessive fragmentation of services for issuing permits, which requires separately obtaining the conclusions and approvals as conditions for obtaining permits. For example, the procedure for granting a special permit for extractives development is regulated at the by-laws level. Issuance of this permit

requires consent of local state administrations, as well as branches of State Labor and State Sanitary and Epidemiological Services. At the same time, such approvals are actually independent administrative services.

Many practical achievements should be noted in the area of **digitalization** of administrative services. Thus, with the launch of the Diia Portal, its mobile application, and the e-interaction system of state electronic information resources “Trembita”, the authorities made it possible to provide many services in electronic form. A positive step was also the introduction in Diia electronic display of information contained in a number of documents (passport of the citizen of Ukraine in card format, foreign passport, taxpayer card, driver’s license, vehicle registration certificate, car insurance policy, birth certificate, student card, IDP certificate, etc.). Among successful projects is the launch of the “eMaliatko” comprehensive service, as it allows to simultaneously receive several administrative services related to one life event (birth of a child). A number of services can be obtained in automatic mode through “Diia” (that is, without officials’ participation) - for example, registering or closing an individual entrepreneur, receiving or cancelling the unemployment status, or submitting a subsidy application. The Ministry of Digitalization is also trying to integrate other public services into the Diia portal – specifically, issuance of permits in the area of construction or certain types of licenses (e.g., firefighting license). But it should also be taken into account that despite the ease and simplicity of obtaining digital services, certain categories of citizens do not have the opportunity to use them due to age, certain beliefs or socio-economic factors. Therefore, the issue of building high-quality CPASs, which would combine the provision of administrative services, ensuring access to e-services and carrying out qualified information and outreach work, remains relevant.

Adoption of the Law of Ukraine “On Administrative Procedure” can be seen as historical event. The country strived for this for more than 20 years. On November 16, 2021, the relevant draft law was adopted in the second reading and as a whole. Subsequently, the President of Ukraine vetoed it and submitted his proposals (e.g., exclusion of a number of legal relationships from the scope of the Law, extension the term of entry into force). On February 17, 2022, the Law on Administrative Procedure was re-adopted with the proposals of the head of state, which were fully taken into account by the lawmakers. The Law was signed by the President in June 2022. The law introduces a new philosophy of legal relations between citizens and administrative bodies in the area of adoption of administrative acts (acts of an individual nature). Thus, a person is provided with such basic rights as the right to be heard before the adoption of an unfavorable administrative act and to access case materials; the duty of administrative bodies to justify unfavorable administrative acts, to specify the procedure for appealing such acts, etc. The concept of “interested person” and many other important novelties are introduced. But the Law will enter into force on December 15, 2023.

Another important event was adoption of the Law “On Electronic Public Registers” of November, 18, 2021. This Law creates prerequisites for the formation of a single interoperable system of electronic public registers, uniform requirements for registers, as well as for the creation of register information and its use, in particular, in the provision of administrative services. The implementation of the procedures provided for in it will allow to reduce the time of providing certain services, reduce the number of errors due to the human factor and facilitate the collection of information necessary for the provision of the service.

2. Key issues and challenges as of the beginning of 2022

In terms of the CPAS development and provision of physical access to services, the

Territorial accessibility of basic services to certain groups is complicated due to the unification/consolidation of territorial communities and failure to comply with the measures on delegation of powers from the state to the LSGB.

RCSA. For the most part, the Ministry of Justice's territorial branches continue exercising this function, which has led to distancing of these services from consumers, especially in rural areas. This makes it impossible to provide comprehensive service by the CPASs.

Residence registration. Despite the fact that this group of services is the most integrated into the CPAS (almost 100%) and has been delegated to the LSGB since 2016, the content of the service itself remains too complicated and would require simplification and transition to a declarative principle.

Passport services. Configuration of these services in the CPAS requires significant resources. That is why the CPAS of mostly larger communities are capable to organize their provision. At the same time, territorial divisions of the CPAS showed a trend towards "optimizing" i.e., those divisions that provided a small number of services began to shut down. This leads to the distancing of this group of services in some former district centers. Unfortunately, the transfer of the passport workstations (workplaces) to relevant LSGB is not being proposed.

Real estate and business registration. The Ministry of Justice maintains barriers to accessing the registration profession services. Testing for relevant LSGB's officials is almost never conducted. At the same time, some LSGB do not take on the segment of business registration services, given the fact that most services in this group are free of charge.

Registration of land plots. The state does not consider the issue of delegation of these powers to the LSGBs. Instead, there are periodically initiatives to optimize the State Geocadaster, including the risks of reducing state cadastral registrars. The ideas of delegating relevant powers to "certified land surveyors" are being promoted, despite the negative experience with "accredited entities" in the field of real estate and business registration in 2016-2019.

Administrative services of a social nature. In general, this group of services is – finally – better integrated into the CPAS thanks to the position of the Ministry of Social Policy. But the idea of centralizing the provision of this group of services is very controversial. Contrary to the provisions of the Public Administrative Reform Strategy (up to 2021; and for the 2022-2025) and successful practices of delegating basic administrative services to the LSGBs, which have already been successful in Ukraine.

Retirement services. Cooperation between the PFU and the LSGBs significantly worsened after 2019. The PFU is categorically refusing to use the CPAS at the LSGB in order to improve territorial accessibility of its services, including such critical ones as the assignment of funeral assistance.

Registration of vehicles. The CPASs of LSGB still have a very limited list of powers, limited to only registration of new vehicles and exchange of driver's licenses. At the same time, with the help of the state, many LSGBs purchased appropriate equipment for the CPASs at the expense of state subvention.

Development of the CPAS network in general. Existence of state subvention for the CPAS, on the one hand, is a positive factor. But on the other hand, non-governmental experts have doubts regarding fairness of the distribution of this subvention in individual cases. In particular, this includes both repeat (duplicate) funding of the CPAS in certain communities and disproportionate (excessive) amounts of subventions for certain other communities.

List of services at the CPASs. There is a lack of prioritization in the state policy regarding the expansion of the list of services provided by the CPAS. The inclusion of almost all services available at the relevant administrative and territorial level in the CMU Order №523 takes into account neither the capacity of the LSGB nor the needs of consumers. Thus, the state is not

sufficiently emphasizing the basic groups of services and there is a lack of organizational assistance in “bringing” these services under the CPAS – since the departmental barriers remain extremely difficult for the LSGBs themselves.

Sustainability of the area. As already noted above, a significant number of administrative services remain unjustifiably free of charge for consumers (or with a minimal fee), which does not contribute to the sustainability of the system. LSGBs are too dependent on the political will and other sources of funding.

Imbalances toward digitalization. The state too insistent in promoting the digital services which significantly reduce corruption risks during their provision and significantly simplify the procedure for applying to the relevant authorities. At the same time, there is a need to strengthen explanatory work regarding the procedure and procedures for providing individual administrative services, as well as to improve the work of contact centers to which citizens can turn for advice. In addition, the percentage of citizens for whom digital services are not available due to technical support, physical or age capabilities remains quite high. The state did not pay due attention to solving these problems. Indeed, in certain cases, there is digital discrimination against the non-digitalized part of society, or those consumers who do not trust the digital state (for example, the payment of Vaccination eBenefits is available only to “Diia” users, as was the case previously for businesses negatively impacted by the quarantine measures, etc.).

It is worth emphasizing that the digitalization policy for public services should be developed on the basis of high-quality communications with LSGBs and representatives of civil society, which will significantly increase its effectiveness.

3. Plans and actions of the authorities in this area as of beginning of 2022 (policy documents whose implementation is ongoing)

The Public Administration Reform Strategy of Ukraine for 2022-2025 approved by the Cabinet of Ministers Order of July 21, 2021 № 831-p. is the main government document setting the grounds of state policy in the area of administrative services/procedures. According to the Strategy, the expected results of public administration reform by 2025, among others, include ensuring the provision of high-quality services and the development of administrative procedure convenient for citizens and businesses.

The above-mentioned Government Order also approved the Action Plan for the implementation of the Public Administration Reform Strategy of Ukraine for 2022-2025. It includes, in particular, the following tasks:

- implementation of the Action Plan for the execution of the Law of Ukraine “On Administrative Procedure” (draft laws developed in accordance with the Action Plan were approved by the Cabinet of Ministers of Ukraine and submitted for the Verkhovna Rada’s consideration);
- organization of training on the new principles of the administrative procedure implementation;
- ensuring coordination of the CPAS network development and its optimization, taking into account the administrative-territorial reform in order to ensure territorial accessibility of administrative services;
- development and submission to the Cabinet of Ministers of Ukraine of a draft law on simplifying the procedure for state registration of a land plot, including through the delegation of powers to local self-government bodies - third quarter of 2024;

- development and submission to the Cabinet of Ministers of Ukraine of a draft law on simplifying the procedure for vehicles registration and issuance of driver's licenses, including through the delegation of powers to local self-government bodies - third quarter of 2023;
- development and submission to the Cabinet of Ministers of Ukraine of a draft law on simplifying the procedure for registration of civil status acts, including through the delegation of powers to local self-government bodies - first quarter of 2022, etc.

4. The impact of the war and martial law on this area of state policy

On February 24, 2022, Ukraine faced the full-scale military invasion by the aggressor state. It could not have left no impact on the area of provision of administrative services and processes of digitalization of the state. The issues of cyber-security, protection of electronic public registers, citizens' personal data, and other information important for the security of the state emerged primarily. There was the need to protect all public registers, including those used to provide administrative services. This protection during wartime was a priority, and therefore the provision of a whole range of administrative services was suspended due to restrictions on access to the relevant registers. First of all, it affected the LSGBs and the CPASs established by the LSGBs. Thus, on February 24, SE "NAIS" temporarily suspended the work of the Unified and State Registers of the Ministry of Justice of Ukraine. The work of all information systems of the State Migration Service of Ukraine also stopped on February 24 – in particular, access to the Unified State Demographic Register was suspended. Activity of other state registers also stopped.

On February 28, 2022, the Government adopted Resolution № 165 "On some issues of implementation of the rights, freedoms, and legal interests of individuals and legal entities", which provided for the suspension of the terms of administrative services' provision by the providing entity, as well as the issuance of licensing documents by the licensing authorities during martial law in Ukraine.

In general, during the first months of martial law, the provision of a number of administrative services was completely suspended (registration of place of residence, integrated service eMaliatko, consideration of land issues, etc.), and some of them were significantly simplified taking into account the circumstances of martial law (for example, marriage registration for military personnel, policemen, and medics is conducted through their commanders and supervisors, without mandatory physical presence of one of the fiancés; and in case of expiration of the passport for international travel, its validity period may be extended for up to 5 years, etc.).

Over time, when some of the territories became liberated from the occupiers, the provision of all basic administrative services began to resume. At the same time, a rather alarming trend is observed. In particular, the policy of decentralization of the provision of administrative services has actually completely ceased. LSGBs / CPASs must make exceptional efforts to restore their rights to provide delegated services. In particular, the resolution of the CMU № 209 "On certain issues of state registration and functioning of unified and state registers administered by the Ministry of Justice during martial law" of March 6, 2022, de facto introduces a manual access regime for state registrars of LSGBs to perform their functions, because the list of these officials is developed based on a separate request of each LSGB. In addition, the Ministry of Justice, taking advantage of the martial law, has again maintained the centralized provision of services from the SRCSA to the greatest extent. On the one hand, this allows measures to be taken to secure personal data and other information contained in state registers, and on the other hand, there is a risk of maintaining the status quo after the termination or termination of martial law.

The war also led to the introduction of new services and documents. For example, a new digital document, eDocument, is now available in the “Diia” mobile application. During martial law, it serves as an ID and can substitute a passport of a citizen of Ukraine. Yet, most of the new services concern IDPs (issuance of IDP certificate, compensation to cover IDP living expenses, notification of damaged housing, issuance of certificate regarding submission of documents for obtaining a passport of a citizen of Ukraine, etc.), because their number has increased significantly. This, in turn, has significantly increased the workload of state authorities (departments of social welfare - DSW) and LSGBs. Thus, in accordance with the resolution of the Cabinet of Ministers № 269 of March 13, 2022, during the period of martial law, a person can apply not only to the social protection authorities of DSA and cities of regional significance, but also to the authorized person of the executive body of village, settlement, or city council, or to CPAS. Thus, the state placed a heavy workload on LSGBs regarding maintenance of IDP records. Incidentally, this resolution did not provide for an alternative for LSGBs that have both their own DSWs and CPASs – which should have given LSGBs a choice in how to organize services in their territory, taking into account their own organization of points for access to administrative services in the community. Also, in practice, there were significant difficulties with the use of information systems and the Ministry of Social Policy’s decisions (in particular, “Social Community” software), which early resulted in long lines for receive services.

Too rapid nature of legislation changes in the area of administrative services is a major issue during martial law, which deprives the LSGBs and CPASs of the opportunity to properly adapt to the new working conditions in wartime. This can be seen as yet another challenge, apart from the growing tendency to centralize administrative services.

At present, the number of administrative services that can be provided in a given community mostly depends on its security situation. In relatively safe communities, the provision of all services is being actively restored. At the same time, the Government quite regularly amends regulations in the area of administrative services, changing the rules of their provision or introducing new services.

The provision of a number of administrative services has been significantly simplified (especially in the permitting and construction area).

As of the fall of 2022, the following may also be added that state bodies are resuming the provision of services more efficiently than the LSGBs and their CPASs are able to do. In general, LSGBs and their CPASs in de-occupied and frontline territories are mostly unable to provide services that depend on state registers (in particular, passport services) and even services within the scope of such delegated powers as registration of the place of residence (due to state restrictions on access to the registers of territorial communities of these LSGBs). In Kharkiv and Kherson regions, there are significant losses of the CPASs infrastructure, premises, and equipment. Since December 1, 2022, the authority to provide ASSN has been transferred to the jurisdiction of the Pension Fund of Ukraine.

5. Requirements and standards in this area of the EU, as well as other international documents binding for Ukraine, including considering the status of candidate for EU membership

In June 2022, Ukraine gained the status of a candidate for EU membership. It helped the signing of the Law of Ukraine “On Administrative Procedure”. The text of corresponding draft law received preliminary positive assessment from the respected SIGMA program.

It must be noted that at least two questions on the EU questionnaire (which Ukraine had to pre-fill in order to obtain the status of a candidate for membership) were related to the administrative procedure. The adopted Law is important for Ukraine’s compliance with the

Copenhagen Criteria. Thus, the Charter of Fundamental Rights of the European Union is a fundamental EU document in the area of ensuring human and citizen rights and freedoms. According to Part 1 of Article 6 of the EU Treaty, “The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties”. Article 41 of this Charter provides for the human right to good administration.

It is important to emphasize that each EU member state has similar provisions in its national legislation. From now on, such a Law has been adopted in Ukraine.

6. Current government plans as of the Fall of 2022, including Ukraine’s Recovery Plan

Ukraine’s Recovery Conference presented the draft Ukraine’s Recovery Plan. It contains the section on “Public administration”, which sets forth public policy in the area of administrative services and procedure. In particular, the following goals and objectives are envisioned:

Goal: The preparatory stage for creating the necessary regulatory framework for the Law on Administrative Procedure has been completed (June 2022 - end of 2022).

Goal: The Law on Administrative Procedure is in force and necessary measures for its implementation have been completed to ensure the full functioning of the law after the end of the transition period (January 2023 - December 2025).

Objectives: *Ensure that 50% of current legislation acts are brought in line with the Law of Ukraine “On Administrative Procedure” (December 2025);*

Conduct trainings for civil servants and other public sector officials, including local self-government officials, on the application of the Law on Administrative Procedure (December 2025)

Conduct an information campaign to raise citizens’ awareness of the new rights and obligations acquired as a result of the adoption of the Law of Ukraine “On Administrative Procedure” (December 2024).

Goal: Interaction between the state and the citizens and business entities is based on clear and unified principles for all administrative procedures, with respect for the rights of individuals and legal entities (January 2026 - December 2032).

Objectives: *Finalize bringing the legal regulations that govern relations between the state, the citizens, and the business in line with the principles of the Law of Ukraine “On Administrative Procedure” (2030);*

Improve legislation based on the practice of implementing the Law of Ukraine “On Administrative Procedure” – particularly, implementing the procedure for appealing against adverse decisions of the government representatives (2032);

Provide for a system of continuous training of civil servants and other public sector officials, including local self-government officials, on the application of the Law of Ukraine “On Administrative Procedure” (2032).

The document also provides for the need to ensure the delegation of powers on provision of administrative services to the public from the state to the local self-government bodies (June 2022 – December 2022).

The “Digitalization” section of the draft Ukraine’s Recovery Plan provides for the following strategic goal with regards to public services:

- citizens and businesses have access to high-quality, affordable, and convenient public services, digital solutions, and electronic identification

as well as for the following objectives:

- for 2022: comprehensive electronic public services are implemented, and network of centers for the provision of administrative services is restored;

- for 2023-2025: key public services converted to electronic form (digitalized), and the CPAS network is expanded and modernized;

- for 2026-2032: most of public services are accessible in electronic form, and the number and quality of public services in the CPAS is increased.

The anti-corruption strategy for 2021-2025, approved by the Law of Ukraine "On the principles of state anti-corruption policy for 2021-2025", also provides for a number of measures to eliminate corruption from below (when citizens themselves resort to corrupt practices, considering them a more convenient, efficient and effective means of obtaining services). These measures, in particular, provide for a risk-oriented approach, improvement of legal forms of obtaining administrative services and coordination of actions of state authorities and local self-government.