

# PARTICIPATION OF CIVIL SOCIETY IN PUBLIC ADMINISTRATION: PROSPECTS FOR INTERNATIONAL EXPERIENCE IMPLEMENTATION IN UKRAINE

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## Abstract

**Purpose:** Determination of possible ways to increase the effectiveness of interaction between civil society institutions and public administration subjects in Ukraine through the use of international experience; determination of a unified concept of management humanization and democratization and proposal of specific recommendations for reforming the existing public administration system in Ukraine.

**Methodology:** General and specific methods of scientific knowledge were applied during the research: a system analysis method, a dialectical method, a formal-logical method, a structural-functional method, and empirical methods.

**Result:** The authors concluded that there is poor interaction between the public administration subjects and the civil society institutions in Ukraine. In order to increase the positive effect of introducing new forms of civil participation in public administration, it is important to popularize citizens' e-participation in public administration. Free access to the electronic reflection of activities of any public administration subject allows simplifying public participation in making specific decisions.

**Applications:** The results of the research are believed to be interesting and useful for domestic legislators and public administration subjects at actualization of tendencies to administration democratization and humanization.

**Novelty/Originality:** The results are obtained independently and original (no analogues or incorrect borrowings). The research subject is considered in Ukraine for the first time and seems to be prospective for further development.

**Keywords:** *civil society, participation form, public administration, institutional and legal principles, social and economic principles, international standards.*

## INTRODUCTION

One of the archetypes of the modern society development is the democratic model of the sociopolitical institutions functioning, which mediates the humanistic type of power-subordination relations ([Bunakov et al., 2015](#); [Erdyneeva et al., 2016](#); [Sudarikov and Merkulova, 2017](#); [Fedorova et al., 2017,2018](#); [Vinogradova et al., 2018](#); [Voronina, Ignatiev and Merkulova, 2019](#)). The unconditional advantage of management democratization is primarily in the long term, flexible and provided by effective feedback between citizens and government structures regarding the managed object.

Governance cannot exist apart from social development. Many factors affect the formation of institutional and legal principles of public administration transforming it and enduing new characteristics ([Sabirov et al., 2015](#); [Voronina and Tretyakova, 2016](#); [Denisova, Voronina and Tretyakova, 2018](#); [Mukhametshin et al., 2019](#)). And among other things, it requires effective forms of civil society institutions' participation in public administration to be integrated ([Baibarin, Mashkin, and Shelengovskiy, 2016](#)). Under political instability, imperfect current legislation, ineffective interaction of public authorities and civil society institutions, to study advanced foreign experience of public involvement into administration seems to be urgent. Similar goals are contained in the National strategy for the support of civil society development in Ukraine for 2016-2020, which adoption "...is caused by the need to create favorable conditions for development of civil society, various forms of participation democracy, and effective interaction of the public with public and local government authorities" ([On support for civil society development in Ukraine, 2016](#)).

## RESEARCH METHODOLOGY

Although the issue of the civil society institutions' participation in public administration seems to be relevant the community participation in public administration has not been fully studied so far.

Various social sciences explore the functioning of civil society institutions and thus determine certain features for its definition ([Karas, 2004](#)). The study is theoretically based on the social concept of definition of the essence of civil society (Kornienko, 2006), which contains the latter interpretation as public relations in all spheres of human existence: public (social interests, public authority functioning), economic (economic interests which may develop in strong or poor civil society), public (free communication of society members for implementation of certain common public interests and freedoms). It should be noted that civil society can be understood as a certain stage in development of social relations, or a complex of social relations without state participation ([Solar, 2013](#)).

The coexistence of state power and civil society institutions seems to be crucial definition in the concept of civil society in

public administration. A dogmatic approach is used from this position to show the rule-of-law state not opposing civil society, but creating benefit conditions for its normal functioning and development.

In spite of the obvious relevance of actual involvement, not formal, of civil society institutions into public administration, it should be noted that domestic scientists studied these issues fragmentarily ([Petrovskaya et al., 2016](#); [Merkulova, Voronina and Tretyakova, 2018](#); [Bak et al., 2019](#)). Thus, just to study institutional and legal or social and economic principles of the effective participation of civil society institutions in public administration is not enough. The study of society participation in public affairs is believed to be an effective step towards development of system democratization management processes in Ukraine.

Forms of participation of civil society institutions in public administration as a systemic tool of democratization processes in Ukraine are explored for the first time herein. For consistent coverage of the issue, substantial parts are allocated which characterize a homogeneous group of social relations in terms of determining the civil society's participation in public administration, namely: institutional and legal, social and economic principles for the participation of civil society institutions in public administration, international standards and international experience in involvement of civil society institutions into public administration.

## RESULTS

### Institutional and Legal Principles for Participation of Civil Society Institutions in Public Administration

Formally, civil society institutions consist of: public associations, trade unions and their associations, creative unions, employers' organizations and their associations, charitable and religious organizations, neighbourhood associations, nongovernmental mass media and other social businesses legalized as prescribed by the law ([On approval of the order for public evaluation of the executive authorities' activities, 2008](#)). Thus, the forms of these entities' participation in public administration may vary and are characterized by different features depending on the rights granted to citizens. Constitutionally, every citizen is guaranteed the right to freedom of thought and speech, to free expression of his views and beliefs (Article 34), the right to freedom of association into political parties and public organizations for exercising and protecting their rights and freedoms and for satisfying their political, economic, social, cultural, and other interests (Article 36), the right to participate in the administration of state affairs, in all-Ukrainian and local referendums, to freely elect and be elected to state and local self-government authorities (Article 38), the right to address individual or collective petitions or to personally recourse to public authorities, local self-government bodies, officials of these bodies, and other rights and freedoms ([The Constitution of Ukraine, 1996](#)), which are provided by corresponding measures. That is, methods of exercising the rights provided by civil society institutions serve as forms of these entities' participation in public administration.

In general, the forms of civil society institutions' participation in public administration include the following:

- Public consultations on state policy development and implementation ([Order for public consultation on state policy development and implementation, 2010](#));
- Establishment and functioning of public (expert) councils in activities of public administration subjects ([Regulations on the functioning of public councils in activities of state administration, 2019](#));
- Public examination of the activities of government bodies, anticorruption public examination of the activities of public administration subjects ([On Approval of the order for public evaluation of the executive authorities' activities, 2008](#));
- Ensuring the possibility for citizens' electronic petitions to public administration subjects ([On Citizens' Appeal, 1996](#));
- Ensuring the possibility for citizens to communicate with public administration subjects through call centers, "hotlines", online and other electronic communication ([On Approval of the concept for the establishment of the National contact center, 2015](#)), etc.

Despite the above-mentioned forms of civil society institutions' participation in public administration exist in the legal reality in Ukraine, those participation forms seem to be ineffective until supported by specific responsibilities (for example, public consultations do not mediate the obligation to consider public opinion de facto). Also, the low general living standards in Ukraine do not allow electronic communication with the public administration subjects. In addition to these obvious disadvantages of interaction between civil society institutions and public administration subjects, there are gaps associated with corruption risks, poor legal awareness of citizens, and outdated archetypes of public government.

Trying to adapt governance democratization to the European level, programs of implementation of new forms of civil society institutions' participation in public administration are highlighted in Ukraine. For example, it includes creation and functioning of citizens' access to environmental information provided by public authorities in environmental protection, rational use, restoration and protection of natural resources, the introduction of one e-government web portal for electronic services, etc. ([The Cabinet of Ministers of Ukraine, 2018](#)).

As for responsibility for cooperation of civil society institutions with public administration subjects, it is theoretically clear that it is supposed to be state executive authorities (the Cabinet of Ministers of Ukraine, ministries and other central bodies,

local state administrations, local self-governments, administrations of state enterprises, institutions and organizations and their officials) with competencies in planning, ensuring, implementing, control over ensuring the rights and freedoms of man and the citizen. This is partially stipulated regulatory, for example, according to the Law of Ukraine "On the Cabinet of Ministers of Ukraine" this executive body:

- Shall function according to such main tasks as: implementation of the state's domestic and foreign policy; taking measures to ensure the rights and freedoms of man and the citizen, creating benefit conditions for free full development of the individual; development and implementation of national programs for economic, scientific, technical, social, cultural development (Article 2);
- General authorities of the Cabinet of Ministers of Ukraine related to the civil society development include: "activities on ensuring the Ukrainian people's interests through execution of the Constitution, laws of Ukraine, decrees of the President of Ukraine...", "resolving issues of public administration in legal policy, legality, ensuring the rights and freedoms of man and the citizen" (Article 19);
- Main authorities of the Cabinet of Ministers of Ukraine in social policy, health, education, science, culture, sports, tourism, environmental protection, and emergency responses include the participation of the Cabinet of Ministers of Ukraine in the social dialogue at the national level; promoting its development, consultations in accordance with the law with other parties in the social dialogue regarding draft laws, other regulatory acts on formation and implementation of state social and economic policies, regulation of labor, social, economic relations (Article 20), etc. ([On the Cabinet of Ministers of Ukraine, 2014](#)).

The system of central executive bodies consists of the ministries of Ukraine and other central executive bodies, which:

- Have to ensure the social dialogue at the sectoral level;
- May establish ministry collegiums as consultative and advisory bodies consisting of representatives of civil society institutions for recommendations on the implementation of ministry tasks ([On the central executive bodies, 2011](#));
- Have to organize public consultations, to publish information related to public consultations on a specific page "Public Consultations" of the official executive authority's website, to draw up an indicative plan for public consultation;
- Have to submit to the public council relevant draft legal acts and supported information and analytical materials;
- Have to establish public councils at central and local executive authorities and to ensure their functioning. Thus in order to form a public council, the body should: within 60 calendar days before the date of the constituent meeting, form an initiative group for their preparation with civil society institutions attended; within 45 calendar days before the constituent meeting, publish on its official website and otherwise notify of the date, time, place, procedure for the constituent meeting, the procedure for submitting applications for participation in the constituent meeting, information on the initiative group and the responsible person's name, surname, e-mail address and telephone number and etc.

### **Social and Economic Principles for Civil Society Institutions' Participation in Public Administration**

For the formation of social and economic principles for a citizen's effective participation in public administration, conditions are required to facilitate and not to interfere with productive joint activities and full development of the personality in the group. Corresponding moral values serve as determinants of the appropriate social conditions of interaction between civil society institutions and public administration subjects ([Iushina, 2013](#)).

Concurrently the social and economic principles of the civil society institutions' participation in public administration include humanistic values of civil society's participation in public administration, which become self-valuable and are reflected in the categories: freedom, equality, justice, etc. Humanism as a specific type of worldview mediates views, ideas, moral principles denying all types of inequality between citizens; practical actions that implement this principle.

In today's conditions, European countries use such social models of interaction between civil society institutions and government authorities as: a liberal-tradition-based regulatory-positivistic model; a system-approach-based legitimation model with civil society institutions performing important functions at the political system "entrance"; an instrumental model with the civil society institutions functioning ineffective solution of social problems. At the local level, the communicative interaction models are structured as a social project "state power - civil society", based on a mini-model of civil society within a certain administrative-territorial unit. The modules are deputies and executive bodies of local self-government, neighborhood associations, social businesses, socialization institutions, local communication means, and the town social infrastructure. A mechanism of feedback and mutual monitoring over public opinion, government and self-government effectiveness is provided for all elements of the system ([Gavkalova and Gruz, 2014](#)).

The favorable social atmosphere of civil society development is in government democratization in the positive atmosphere of the holistic formation of a comprehensively developed civil society. The main parameters of the civil society development are: duration of the existence of civil society (characterized by the stability of motives, their invariance throughout the entire period of development, chronological consistency); realism (continuous assessment by the individual

of ideas about the public administration subject comparing to expectations; the ability to realistic self-assessment as personality);

differentiation (the ability to see the necessary information from traditional managerial processes to solve various problems of civil society development); complexity (a synthesized approach to integral formations, which includes accumulated knowledge: methodological, methodical, technological, and professional, psychological, providing effective solutions of managerial tasks); activity (hard work from acquired to unachieved); consistency (degree of connectedness of all motives of a citizen's activity); dynamism (characterized by formation and development from a conditional initial level to conditional formedness).

To improve the social prerequisites for community participation in public administration, competitive principles should be specified for determination of performers of state, regional and local target programs among civil society organizations and ensuring equal opportunities for participation in such competitions; giving to the civil society organizations that provide social services at the expense of budget funds, the right to use state and municipal property on preferential terms; etc). In addition, courses and topics on civil society development seem to be reasonable for the curricula of general education, vocational, higher education institutions; training in the system of higher and postgraduate education of specialists on non-governmental organization management.

### **International Standards for the Involvement of Civil Society Institutions in Public Administration**

The system of international legal norms related to civil society development and various forms of its participation in public administration is based primarily on the provisions of the Universal Declaration of Human Rights. According to this international document, "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers" (Article 19), the right to freedom of peaceful assembly and association (Article 20), the right to take part in the government of his country, directly or through freely chosen representatives (Article 21), etc. (Universal Declaration of Human Rights, 1948). Subsequently, citizens' rights in public management were supplemented and specified in the International Covenant on Civil and Political Rights, which stipulates that "the right to freedom of expression includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice" (Article 19). A progressive rule is that which provides that every citizen should have, without any discrimination or unreasonable interference, the right and the opportunity to: take part in public affairs, either directly or through freely chosen representatives; to vote and be elected at genuine periodic elections held by universal and equal suffrage by secret ballot and ensuring the free expression of the will of the voters; to have access, on general terms of equality, to public service in his country ([International Covenant on Civil and Political Rights, 1966](#)).

Certain international legal standards for the participation of civil society institutions in public administration are stipulated by the Convention for the Protection of Human Rights and Fundamental Freedoms (Convention for the Protection, 1950). The European Social Charter has already established the right of workers and employers to form local, national or international organizations to protect their economic and social interests and join such organizations. On the other hand, the states shall act so that national legislation does not restrict this freedom. The procedure and scope for applying these guarantees to persons belonging to the armed forces are also determined by national laws or regulations ([European Social Charter, 1996](#)).

The Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) became a new impetus for the development of society institutions' participation in public administration. This international document for the first time has established the basis for public participation in decisions on specific activities (Article 6), public participation concerning plans, programs and policy relating to the environment (Article 7), public participation during the preparation of executive regulations and/or generally applicable legally binding normative instruments (Article 8). For execution of these provisions, the following measures are taken: terms sufficient to ensure effective participation are determined; draft rules are published or otherwise publicized; the public is given the opportunity to comment directly or through representative advisory bodies. The results of public participation are considered at most ([Convention on Access to information, 1998](#)).

The 2001 Recommendations of the Committee of Ministers of the Council of Europe "On the participation of citizens in local public life" stipulates the obligation of public administration subjects to guarantee citizens the right of access to clear, comprehensive information on various issues concerning their local communities, and the right to speak about the most important decisions affecting their future; to assist a culture of democratic participation; to encourage citizens to take responsibility and contribute to the life of their communities. It is important to create conditions for the activities of public associations as important partners and driving forces in the development, support, and implementation of democratic participation ([On the participation of citizens in local public life, 2001](#)).

The next step in the development of international standards for civil society institutions' participation in public administration was the adoption in 2017 by the Committee of Ministers of the Council of Europe of Guidelines for civil participation in political decision making. This international document highlights the general principles of civil society institutions' participation in public administration. Thus, such participation can take various forms, in particular,



informing, counseling, dialogue, and active participation. Regarding the decision-making process, all relevant information should be provided in clear and understandable statements in a proper and accessible format, without inappropriate administrative obstacles and, in principle, free of charge, in accordance with the open data principles. Public authorities should provide full access to key documents and information offline and online, not restricting the ability to analyze and use such information.

Regarding counseling, the public authorities are allowed to consider views of civil society in general. Consultations can be conducted using various methods and tools, such as meetings, public hearings, focus groups, public opinion polls, questionnaires, and digital tools. The public authorities should provide available comments on the results of consultations, especially information on the reasons for the final decisions taken.

The dialogue between the civil society institutions and the public administration subjects should be constant and structured and oriented upon mutual interests in the exchange of views. The public authorities and civil society, in general, can consider the creation of various platforms as a permanent place for dialogue and participation. Such platforms may cover regular public hearings, public forums, advisory boards or similar events.

The active involvement of civil society institutions concerns opportunities for public participation in decision making offered by the public authorities to citizens beyond providing information, consultations, and dialogue. This may include working groups or committees for the document collaboration, and policies and laws requiring the decision of the relevant public authority. If joint working groups or committees are established, public authorities should introduce criteria and processes for representing citizens and civil society. Citizens should be able to participate at different stages of decision making adopted by the public authorities with relevant powers ([Guidelines for civil participation in political decision making, 2017](#)).

Thus, international standards for the participation of civil society institutions in public administration constitute a system of rules that cover the most important aspects of public participation. This system is unsustainable; it is constantly evolving with the development of public relations. For example, under technologies intensification, it is important to popularize citizens' e-participation in public administration. Free access to the electronic reflection of activities of any public administration subject allows simplifying public participation in specific decisions making. For Ukraine, the creation of an electronic database of public administration activities concerning the environment seems to be relevant.

The report on the development of civil society for 2019, prepared by the United Nations Organization, stipulated that in order to improve the national democracy as a civil society, new election standards should be developed and promoted as well as institutions free from political control and subject to democratic accountability and new rules for maintaining election periods, from misinformation and unlawful interference. It seems necessary to enhance the role of citizens in monitoring and reporting of elections, including the possibility of inclusive decision-making for the maximum number of citizens ([State of civil society report, 2019](#)).

### **International Practice of Involving Civil Society Institutions into Public Administration**

For Ukraine, a unified platform for interaction of the civil society institutions with the public administration subjects seems to be urgent for electronic participation in solving public issues. Such systems function effectively, for example, in France and the Netherlands. The French model provides access to general information on legislation materials, procedures and proposed amendments, information on each deputy's votes over the past years. Besides, every citizen can contribute to the study of the consequences of the rapporteurs responsible for specific draft laws. The website provides an "open license" to everyone to facilitate and encourage the reuse of existing data. A Roadmap has been added to the program to simplify its implementation.

The roadmap provides for the continuous collection of data on legal and legislative resources and other documents. Events open to interested parties were conducted within its framework in order to obtain additional innovative solutions ([Tastan & Davoudi, 2017](#)) for parliament operation and holding debates. In the Netherlands, a system of involvement of civil society provides access to information on documents for decision making, including the municipality/province expenditures. Besides, citizens can offer alternative solutions to specific issues. The purpose of the Open municipal information is to collect public data and publish them in a unified and integrated way in open sources. Thus, citizens can create innovative programs and data visualization, develop websites, analyze, and offer new solutions to municipalities. Open municipal information can be found through search engines ([Review of standards and practices in member states of the Council of Europe, 2016](#)).

The experience of Poland in establishing relations between the state and civil society seems to be useful for Ukraine. The Polish authorities have implemented the following measures that ensured the participation of civil society in government regulation:

- Founding a Civic Initiatives Fund - a government program aimed to support community initiatives;
- Execution by state institutions of documents supporting the activities of civil society institutions;
- Adoption of laws: "On socially useful activities and volunteering", "On lobbying", "On foundations";

- Budget support for nongovernmental organizations;
- Establishment of the Department of State Patronage at the Ministry of Culture and National Heritage in accordance with the tradition of integrity;
- Ensuring the participation of non-governmental human rights organizations in monitoring the activities of state bodies;
- Establishment of the Polish Council for socially useful activities, authorized, in accordance with the law "On socially useful activities and volunteering" to monitor its implementation;
- Establishment of the parliamentary committee to develop draft laws for the activities of civil society organizations.

In general, as V. Sukhenko notes, the state and civil society are closely related but not subordinate in Poland: civil society is not a product of government activity, it is formed spontaneously, and the state, in turn, regulates the activities of civil society institutions, supporting their development (Sukhenko, 2015). However, the activities of the Polish Council for socially useful activities and the mechanism of interaction with the authorities are supported by law, formalizing its status and outlining its competence. In Ukraine, the Coordination Council for the promotion of civil society was established solely as an advisory body to monitor the implementation of the strategy (not the law), with no real influence on the relationship between the civil society institutions and the state ([On the Coordination Council for Support of Civil Society Development, 2016](#)).

## CONCLUSION

One of the outcomes of the 20th century, a lesson learned at the cost of huge social cataclysms was the relative, but very important advantage of the democratic model of socio-political institutions, relations between governors and governed, established in Western countries. This advantage, primarily expressed in the long term, lies in the flexibility and elasticity provided by effective feedback. The democratic transformation in Ukraine is connected directly or indirectly with the involvement of civil society institutions into public administration.

The institutional and legal principles for community participation in public administration require for adequate legal support. The Law of Ukraine "On civil participation in public administration" seems reasonably adopted in order to clearly establish the forms of participation of civil society institutions and the consequences of not taking public opinion into account at making administrative decisions, the consequences of not examining the activities of public authorities with official reports, the consequences of not consulting the public before adoption of regulations defining the citizens' rights and duties. It seems reasonable to establish a permanent advisory body at the Cabinet of Ministers of Ukraine - the Council on socially useful activities, focused upon the involvement of civil society institutions into government regulation in all spheres, with real powers.

To improve the social prerequisites for civil participation in public administration, courses and topics on civil society development should be added into the curricula of general education, vocational, higher education institutions; training in the system of higher and postgraduate education of specialists in nongovernmental organizations management.

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