

## General characteristics of normative legal acts of local public authorities

*The question of the role and place of local public authorities in the state power system is quite important. The effectiveness and efficiency of adopting legal acts by the local public authorities is, to a certain extent, a way of implementing tasks and functions of the bodies concerned.*

*A developed, democratic state that is committed to the implementation of European standards in its management, as practice and experience say, always has a self-developed and efficient mechanism for adopting normative-legal acts and actions of local public authorities. Therefore, the consideration of a basic definition of the General characteristics of a normative-legal act, which is adopted by the local public authorities, the disclosure of its main features, properties and characteristics will allow to define the role, place and purpose of the normative-legal acts of the local public authority.*

**Keywords:** local public authorities, normative-legal act, local government, local state administration.

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## Загальна характеристика нормативно-правових актів місцевих державних органів влади

*Питання про роль і місце місцевої влади в системі державної влади дуже важливе. Ефективністю і результативністю прийняття нормативно-правових актів органами місцевої державної влади є, певною мірою, спосіб реалізації завдань і функцій відповідних органів.*

*Розвинені демократичні країни, що прагнуть до впровадження європейських стандартів управління, завжди мають самостійно розроблений і ефективний механізм для прийняття нормативно-правових актів місцевою владою. Таким чином розгляд основного визначення загальних характеристик нормативно-правового акта, який буде прийнятий місцевими державними органами, розкриття його основних рис, властивостей і характеристик надасть можливість визначити роль, місце і мету функціонування нормативно-правових актів місцевих органів влади.*

**Ключові слова:** місцеві державні органи влади, нормативно-правовий акт, місцеве самоврядування, місцеві державні адміністрації.

## Общая характеристика нормативно-правовых актов местных государственных органов власти

*Немаловажним является вопрос о роли и месте местных органов власти в системе государственной власти. Эффективность и действенность принятия правовых актов местных государственных органов является, в определенной степени, способом реализации задач и функций соответствующих органов.*

*Развитые демократические государства, которые привержены осуществлению европейских стандартов в управлении, как подтверждает практика и опыт, всегда самостоятельно разрабатывают эффективный механизм для принятия нормативно-правовых актов и действий местных органов государственной власти. Таким образом анализ основного определения и общих характеристик нормативно-правового акта, который будет принят местными государственными органами, раскрытие его основных черт, свойств и характеристик позволит определить роль, место и цель нормативно-правовых актов местных органов власти.*

**Ключевые слова:** местные государственные органы власти, нормативно-правовой акт, местные органы власти, местные государственные администрации.

### **Challenge problem**

Under the basis of organization and activity of local public authorities can be understood the system of normative acts defining the functions, competence, forms and methods of activity of local public authority, as well as their role and value in system of public authorities in general.

The concept of public authority is not unique and controversial in scientific circles, in the first place it is due to the fact that this concept is not defined at the legislative level. The implementation of the function of public authority locally is expressed primarily in the adoption of the normative-legal act by the relevant authorities. It is relevant to study the place and role of local acts of public authorities as a means of implementing the functions and powers of local public authorities, to determine the general characteristics of normative-legal acts of local public authorities, their properties and characteristics, in order to understand the range of subjects, which may issue appropriate kind of legal act of local public authority, its purpose, mechanism of action.

### **A review of recent studies and papers**

Today, the research of this issue is made by such scholars as O.A. Baginova [1], V.I. Bordenyuk [2], N.S. Timofeev [10], O. V. Chernetska [11] and others.

### **Remaining challenges**

However, in their works, they did not pay attention to the unification of the normative-legal act, which may be taken by the body of local self-government as well as by state administrations locally.

### **Draw the objectives of research**

Therefore, the purpose of this study is:

- 1) to distinguish the characteristics and key properties of a normative-legal act of a local public authority;
- 2) to determine the place of a normative-legal act of the local public authority in the system of law-making;
- 3) to make the most clear definition of a normative act of a local public authority through analysis of legislation and opinions of scientists.

### **Discussion**

While studying this question, we should refer to the regulatory framework that governs

this question, first of all, in the Constitution of Ukraine dated on the 28<sup>th</sup> of June 1996, a territorial community was defined as the subject of local government, which can exercise their powers both directly and through elected bodies. However, the Constitution of Ukraine established the main principles of organization and activities of local authorities throughout the country, gave territorial communities and their representative bodies a number of functions and powers on decision-making in the field of financial-economic, socio-cultural, public and other spheres of life [3].

Moreover, to regulate this issue we should refer to two legislative acts that regulate and determine the status and objectives of local public authorities.

So, the Law of Ukraine “On local government in Ukraine” determines that the local government in Ukraine is the right guaranteed by the state and the real ability of a territorial community - residents of a village or a voluntary association of rural community of several villages, towns, cities - independently or under the responsibility of local authorities or the officials of local authorities to solve the issues of local importance. [6]

Local government, in turn, is carried out by territorial communities of villages, towns and cities, both directly and through village, town and city councils and their executive bodies, as well as through district and regional councils that represent common interests of territorial communities of villages, towns, cities [2].

Along with the Law of Ukraine “On local government in Ukraine”, there is the Law of Ukraine “On local state administrations”, which notes that the Executive power in regions and districts, cities of Kyiv and Sevastopol is exercised by local state administrations. A local state administration is a local executive authority and is included into the system of executive authorities.

A local state administration within their authority exercises executive power on the territory of corresponding administrative-territorial unit and also implements the authority delegated to it by the relevant council [7].

Based on the above mentioned it can be determined that the system of local bodies of

public authority consists of two elements: local governments and local state administrations; the legal status, objectives and functions of which are governed by two Laws of Ukraine, and it complicates the practical interpretation of the local public authorities as a whole category.

Analyzing the legislation and researches, it can be stated that the normative acts of local public authorities – are legal acts of local law-making. They operate on the territory of corresponding administrative-territorial unit. These acts establish the rules governing local relationships and do not have a specific, personalized recipient.

There is no doubt that normative legal acts of local public authorities, being a kind of normative acts, have the same characteristics and qualities as all normative-legal acts. Along with this, they have its own characteristics.

It should be noted that the features and characteristics of a normative-legal act of the local public authority can be considered in many aspects as the opinion of scholars regarding the definition of the legal act is not uniform.

For example, the legal encyclopedia defines a legal act as a formal, written document adopted by the authorized body of the state and it establishes, modifies, suspends or defines a certain rule of law. These acts are interconnected in hierarchy, subordination, which determines the legal effect of the document. A normative-legal act includes laws and regulations. A normative-legal act reflects the will of the authorized legal subject, and it is obligatory to follow, has a fixed documentary form, is provided in the performance by government, including through compulsory means [12].

Ukrainian legislator O. F. Skakun, based a broad approach of understanding the concept of “legal act”, and indicates such features:

- 1) expresses the will (the will expression) of the authorized entity, its powerful orders;
- 2) it is formal, and is compulsory to fulfill;
- 3) aims at regulating social relations;
- 4) establishes law and specific relationships;
- 5) may be an act-document, the content of which is fixed in the established documentary form

and act-action by which there is a legal outcome (establishment of legal norms, their application); 6) is a legal fact which entails certain legal consequences [8, p. 312].

M. V. Teslenko outlines such common features of legal acts, with the help of which it can be defined their role and place in the legal system: 1) a legal act is a written document of a certain kind that has a special form of expression of the information contained therein; 2) the official nature of the legal act is its publication on behalf of the authorized state body; 3) the adoption of acts is allowed strictly within the competence of bodies; 4) a legal act should target orientation, because social interests are expressed in a concentrated form; 5) a legal act is designed for regulation of social relations; 6) a legal act has a certain structure; 7) a legal act is obligatory [9, p. 242-243].

Taking into consideration the above mentioned, it should be highlighted the main features of legal acts of local public authorities:

1) a written form and a definite structure.

2) universal validity. That is, the published legal act is compulsory to fulfill by a particular group of people or a particular subject to whom it is addressed.

3) the adoption of public power by the constituent entities within the normative competence. All regulatory acts adopted by local public authorities shall only be adopted by authorized agents; it is clearly spelled out in the legislation of Ukraine, as well as relevant regulatory and legal acts of local public authorities, first of all by the Statute of the territorial community.

4) Versatility. Normative legal act of local public authorities is a universal instrument for regulating various relations, which is interdisciplinary and comprehensive. This is manifested in the fact that normative legal acts of local public authorities are a source of many branches of law (constitutional, financial, economic, land, administrative, etc.)

5) Officiality. The officiality is confirmed by the use of the national emblem on the letterhead and a stamp, along with the national symbols it is also acceptable to use of local symbols (e.g. coat of arms of the cities, villages).

6) Target orientation and strong-willed character. A normative-legal act issued by the local public authorities, has primarily the interest of local character due to the interest of the individual territorial communities, the main functional goal of local public authorities – to solve the problems of local value.

7) a special subject of regulation is a local issue. Local issues cover a broad range of management areas, but they are directly related to the life of the local community, the local orientation and the solution of specific problems of citizens (the approval of the local budget, municipal property management, organization of improvement, etc.). The key power of the local public authorities is the competence in financial matters. The main financial legal act is the local budget, which has a special status and is a means of ensuring the implementation of other legal acts.

8) Local character of the territorial coverage. Addressees of legal acts of local public authorities are citizens who reside or stay for a certain time on the territory of the administrative-territorial unit, also the enterprise, institution or organization located within. Locality creates the closeness of the subject of enactment and the addressee of a normative legal act. On the one hand, everyone here is more likely to be elected or appointed in the law-making body; on the other hand, citizens have great opportunities of participation in the regulatory process and influence on decision-making. Taking into consideration the above mentioned features of a normative legal act of the local public authority and the fact that legal acts are actions, we can define a regulatory legal act of the local public authority as the action that establishes, modifies or repeals legal norms, or changes the scope of the legal rules governing local relationships.

Along with the features that are characteristic for the normative legal acts of local public authorities, legal properties compliment to their characteristic. The need to point out the legal properties of normative legal acts of the local public authority is connected to the determination of their essential characteristics.

According to the general rule, these properties include: the legal force of acts, their

volitional property, authoritative and subordinate characteristics.

Legal force of legal acts is the establishment, change and cancellation of legal norms or the change of their scope, as well as the establishment, modification or termination of specific legal relationship.

In the characteristic of the elements of the legal nature of acts an important place is occupied by the question of legal force, that is, their property, which expresses the ratio, the comparison of some acts with the others, their place in the system of regulations. The necessity of legal regulation of a wide and diverse range of public relations, constant changes in these relationships, needs to improve scientific and legal validity of the acts, to ensure consistency and coherence on all levels, the timeliness of their adoption. In terms of building a legal state such requirements, naturally, increase [5].

Legal force is a property, common for every act, regardless of the subject, which adopted it, and the nature of the requirements contained therein. The presence of the legal force in legal acts is the condition of its life, and the loss of legal force means the termination of the act. In this sense, the legal force is the absolute property of the act. At the same time, if we are talking about the ratio of acts, the legal effect is not a meaningful characteristic, and reflects the hierarchy of legal acts. In other words, the comparison of acts indicates the difference or the degree of their legal force, the priority of some acts over others. "The rule of law is inconceivable with equal legal force to all acts," said P. Nedbaylo [4, p.19].

Normative legal acts of local public authorities are endowed with a certain strong-willed property. Speaking of power-willed nature of normative acts of representative bodies of local self-government; their source is precisely the legal nature of local government,

which acts in the first place, as a public power subsystem and forms of implementation for local governments.

Since the local public authorities can be performed by the territorial community or through representative bodies, it can be stated that the will of the territorial community will be expressed in the normative acts of representative bodies, directly or indirectly. So representative bodies of local self-government express the will of a territorial community, give it a compulsory nature and realize it in their interest. Through the representative bodies of local self-government the citizens exercise power at the local level, exercise their right to participate in management of local affairs through their representatives [2].

We cannot but agree with C. Timofeev that "the basis of a democratic society should be not the process of expressing the will of majority, that is a victory and not the perception of the point of view of others, but the reaching an understanding, an agreement, taking on the responsibility and the installation of procedures of interaction. The adoption of clear for citizens socially equitable solutions and possibilities for monitoring their implementation "[10].

### **Conclusions**

Basing on the above mentioned it can be concluded that the regulation of local public authority has the following features: written form, compulsory for all actions, the adoption of the act by the authorized subject of local public authorities, has a local interest. These features define: legal force, strong-willed sign of the legal act, authoritative and subordinate nature.

Therefore, a regulatory act of the local public authority – a written, officially act adopted by an authorized body of local importance, the act aimed to regulate the relationship of a local character.

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