

Artículo de investigación

**Permission for the development of a land management plan for a land plot allocation as an administrative service: A theoretical approach for legal practice**

ДОЗВІЛ НА РОЗРОБЛЕННЯ ПРОЕКТУ ЗЕМЛЕУСТРОЮ ДЛЯ ВІДВЕДЕННЯ ЗЕМЕЛЬНОЇ ДІЛЯНКИ ЯК АДМІНІСТРАТИВНА ПОСЛУГА: ТЕОРЕТИЧНИЙ ПІДХІД ДЛЯ СУДОВОЇ ПРАКТИКИ

Permiso para el desarrollo de un plan de gestión de tierras para una asignación de parcelas de tierras como servicio administrativo: Un enfoque teórico para la práctica legal

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**Abstract**

The agrarian sector of any agricultural country is always the most attractive for citizens and business. The free acquisition of a land plot by citizens from territorial communities or the state is, on the one hand, guaranteed by the Constitution of Ukraine, and on the other hand, it is one of the most problematic rights in the conditions of gradual reduction of the respective land allotments. On this basis, the disproportionality between supply and demand gives rise to numerous conflicts between citizens and authorities, which are most often resolved in courts. At the same time, the imperfection of the Ukrainian legislation leads to ambiguous judicial

**Анотація**

Земельний сектор будь-якої аграрної держави є завжди найбільш привабливим для громадян та підприємництва. Безоплатне отримання земельної ділянки громадянами від територіальних громад чи держави є, з одного боку, гарантованим Конституцією України правом, з іншого – одним з найбільш проблемних в умовах поступового зменшення відповідних земельних наділів. На цій основі дисбаланс попиту й пропозиції породжує численні конфлікти між громадянами та владними органами, які найчастіше вирішуються у судовому порядку. При цьому недосконалість

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practice in resolving relevant disputes, which is considered inadmissible, especially for the candidate countries for the European Union membership. The purpose of the article is to substantiate the position, according to which the activity of a governmental authority in granting citizens the permit for the development of a land management plan for a land plot allocation should be recognized as an administrative service. To achieve this goal, the following general legal and branch methods of perception of social phenomena are used: formal and legal method, comparative and legal method, state and legal modelling method, and others. The main results are the construction of an algorithm of normative arguments, which prove that the permit for the development of a land management plan for a land plot allocation is a type of administrative services. The reasons are provided for the necessity to enshrine the list of services in the field of land relations, which have the status of administrative services, in the legislative act, as well as to develop standard provisions for such administrative services.

**Keywords:** Administrative services; administrative justice; land management; land plot allocation; administrative and land law.

українського законодавства призводить до неоднозначної судової практики у вирішенні відповідних спорів, що вважається неприйнятним, особливо для країн кандидатів на членство у Європейському Союзі. Метою статті є аргументування позиції, згідно з якою діяльність органу влади з надання дозволу громадянам на розроблення проекту землеустрою щодо відведення земельної ділянки має визнаватися адміністративною послугою. Для досягнення цієї мети використовувались загально юридичні та галузеві методи пізнання суспільних явищ, зокрема, це: формально-юридичний метод, порівняльно-правовий метод, метод державно-правового моделювання та інші. Основні результати полягають у побудові алгоритму нормативних аргументів, які доводять, що дозвіл на розроблення проекту землеустрою для відведення земельної ділянки є різновидом адміністративних послуг. Аргументується необхідність закріплення в законодавчому акті переліку послуг в сфері земельних відносин, які мають статус адміністративних послуг, а також розроблення типових положень про такі адміністративні послуги.

**Ключові слова:** адміністративні послуги; адміністративне правосуддя; землеустрій; відведення земельної ділянки; адміністративне та земельне право.

## Resumen

El sector agrario de cualquier país agrícola es siempre el más atractivo para los ciudadanos y las empresas. La adquisición gratuita de una parcela de tierra por parte de ciudadanos de comunidades territoriales o del estado está, por un lado, garantizada por la Constitución de Ucrania, y por otro lado, es uno de los derechos más problemáticos en las condiciones de reducción gradual de las asignaciones de tierras respectivas. Sobre esta base, la desproporcionalidad entre la oferta y la demanda da lugar a numerosos conflictos entre ciudadanos y autoridades, que a menudo se resuelven en los tribunales. Al mismo tiempo, la imperfección de la legislación ucraniana lleva a una práctica judicial ambigua en la resolución de disputas relevantes, lo que se considera inadmisibile, especialmente para los países candidatos a la membresía en la Unión Europea. El propósito del artículo es fundamentar la posición, según la cual la actividad de una autoridad gubernamental al otorgar a los ciudadanos el permiso para el desarrollo de un plan de manejo de tierras para una asignación de parcelas debe reconocerse como un servicio administrativo. Para lograr este objetivo, se utilizan los siguientes métodos generales y legales de percepción de fenómenos sociales: método formal y legal, método comparativo y legal, método de modelado estatal y legal, y otros. Los resultados principales son la construcción de un algoritmo de argumentos normativos, que prueban que el permiso para el desarrollo de un plan de manejo de tierras para una asignación de parcelas es un tipo de servicios administrativos. Se proporcionan los motivos para la necesidad de consagrar la lista de servicios en el campo de las relaciones territoriales, que tienen el estado de servicios administrativos, en el acto legislativo, así como para desarrollar disposiciones estándar para dichos servicios administrativos.

**Palabras clave:** Servicios administrativos; justicia administrativa; gestion de tierras; asignación de parcelas de tierra; derecho administrativo y territorial.

## Introduction

The agrarian sector of any agricultural country is always the most attractive for citizens and business. The free acquisition of a land plot by citizens from territorial communities or the state is, on the one hand, guaranteed by the Constitution of Ukraine, and on the other hand, it is one of the most problematic rights in the conditions of gradual reduction of the respective land allotments. On this basis, the growing need for land plots has become an occasion for abuse and unlawful manipulation of land issues by local government officials and other authorized state bodies. The corresponding acute disproportionality between supply and demand gives rise to numerous conflicts between citizens and authorities, who, when trying to resolve them by means of administrative (extrajudicial) procedure, do not come to an objective examination of the case, and therefore often apply to the courts. At the same time, the imperfection of the Ukrainian land legislation in determining the essence of the procedures for granting citizens the permit for the development of a land management plan for a land plot allocation leads to difficulties in forming the legal position of judges in the process of resolving relevant disputes and most often to conflicting arguments and conclusions. In such a situation, an ambiguous jurisprudence in public land disputes is considered unacceptable, especially for Ukraine as a candidate country for European Union membership.

Undoubtedly, the question of clarifying the nature of permitting procedures for granting the permit for the development of a land management plan for a land plot allocation is not new to the legal science. Thus, on the one hand, there are many studies in the field of land law, such as the one by Denys Kovach, who in his thorough work made a theoretical generalization and comprehensively studied the issue of legal regulation of the emergence of land rights by clarifying the theoretical provisions for determining the legal nature of the emergence of land rights, extension of the theory of land law by scientific knowledge about the order of origin of rights to land (ownership and use) in various subjects of land relations, substantiated the proposals that aim at improving the legal regulation of the emergence of land rights (Kovach, 2016); Nataliia Ilkiv has studied separate aspects of legal regulation and determined the prospects of improving the mechanism of free acquisition of land plots by Ukrainian citizens into private ownership as a guarantee of the right of Ukrainian citizens to

their free privatization (Ilkiv, 2019); Anton Kulynych defined the content of the legal regime of land of urban territorial communities and formulated a number of topical proposals for improvement of the land legislation of Ukraine in the part of legal regulation of public relations in the field of management, use and protection of land of urban united territorial communities (Kulynych, 2019); Mykhailo Odariuk, who has thoroughly investigated the essence and legal nature of procedures in land law, determined the place and role of procedures in the land law system, singled out and characterized the features of legal regulation of procedures related to the emergence of land rights, free land privatization, revealed the specifics of the legal regulation of procedures related to the termination of land rights (Odariuk, 2019), etc.

On the other hand, the fundamental works of scholars in the field of administrative law, who have explored various aspects of the institute of administrative services in Ukraine, including in the field of land relations, are equally valuable and thorough. For example, these are the works of Oleksandr Nevmerzhytskyi, who researched the nature and types of administrative services in the field of land relations, studied the problematic aspects faced by the population in the process of obtaining them and the solution of which should be facilitated by the development of legal mechanisms of control over the provision of administrative services in the field of land relations (Nevmerzhytskyi, 2017), Volodymyr Pitatieliev, who made an attempt to formulate and disclose the content of administrative and legal protection of agricultural lands by separating the legal components according to the purpose of protection (property rights of land owners, public interest of the society in the exercise of land use), which is carried out through certain general and specific ways of administrative activity of public administration entities, as well as through the adequate use of administrative responsibility for violation of the legal regime of land (Pitatieliev, 2018), Nataliia Kovalenko, who formed a scientific concept of administrative and legal regimes, including in the field of land relations (Kovalenko, 2017).

However, a detailed analysis of the abovementioned and many other scientific works gives grounds to claim that none of the contemporary works does not contain sufficient, systematic, and substantiated by valid provisions of the legislative acts arguments regarding the administrative and legal nature of the activities of

public administration bodies for granting citizens the permit for the development of a land management plan for a land plot allocation. Therefore, the absence of a normatively substantiated position in the theory, which would serve as a methodological basis for the population and authorities in appropriate relations, including in the resolution of disputes in judicial institutions, proves the relevance and timeliness of this research.

**The purpose of the article** is to prove the position, according to which, the activity of a governmental authority in granting citizens the permit for the development of a land management plan for a land plot allocation should be recognized an administrative service. Achieving this purpose should contribute to the election of this position by public authorities, local self-government bodies and courts in the exercise and protection of citizens' constitutional right to free acquisition of land, including in the resolution of public disputes.

The regulatory legal acts of land and administrative legislation; regulations of local self-government bodies of territorial communities of ten regions of Ukraine on land management issues and provision of administrative services; individual management decisions of local self-government bodies to refuse or grant citizens the permit for the development of a land management plan for a land plot allocation; decisions of administrative courts of various instances on the resolution of public land disputes; state registers became the material of the study.

### **Methodology**

of the research consists of general legal and branch methods of perception of social phenomena, namely: formal and legal method was used to clarify the legal positions of a legislator, expressed in the text of the law, of local self-government bodies, expressed in the provisions of local acts, as well as of judges, expressed in court decisions; comparative and legal method has contributed to the study of a considerable number of similar procedures for the provision of administrative services and procedures for granting citizens the permit for the development of a land management plan for a land plot allocation in order to identify regularities, common and different between them; state and legal modelling method made it possible to determine the future advanced ways and organizational forms of activity of public authorities, including administrative courts, as a

result of studying the institute of administrative services and transfer of its basic features to the procedures of granting the permit for the development of a land management plan for a land plot allocation; situational method allowed to analyze specific situations, investigate situational circumstances that influenced the general state of exercise by citizens of the right to obtain the permit for land plots allocation.

### **Results and discussions**

#### **The Essence and Role of the Procedure of Free Transfer of Land Plots to Citizens**

One of the major national treasures under special state protection is land. Property right to land is guaranteed by Article 14 of the Constitution of Ukraine. This right is acquired and exercised by citizens, legal entities, and the state exclusively in accordance with the law.

The branch legislative act regulating land legal relations is the Land Code of Ukraine of October 12, 2001 no 2768-III (VRU, 2001). In addition, land legislation includes other legal acts adopted in accordance with the Constitution of Ukraine and the mentioned Code.

According to Article 2 of the Land Code of Ukraine, land relations are social relations concerning the possession, use and disposal of land. The subjects of land relations are citizens, legal entities, local self-government bodies and state authorities. The objects of land relations are land within the territory of Ukraine, land plots and rights thereto, including farmland allotments (shares) (VRU, 2001).

According to clause b of part 1 of Article 81 of the Land Code of Ukraine, citizens of Ukraine acquire property rights to land plots on the basis, in particular, of free transfer from state and communal property lands.

According to parts 1-3 of Article 116, of the Land Code of Ukraine, citizens acquire property rights to land plots from state or communal property lands by decisions of the executive authorities or local self-government bodies within the limits of their powers determined by this Code or by auction results.

The acquisition of the right to land by citizens is carried out by transferring the land plots into ownership or use.

Article 121 of the Land Code of Ukraine provides for the norms of free transfer of land plots to citizens (VRU, 2001).

The ground for acquisition of the rights to the land plot is the corresponding decision of the executive authority or local self-government body and their officials, who, in accordance with part 2 of Article 19 of the Constitution of Ukraine, are obliged to act only on the basis, within the powers and in the manner provided by the Constitution and exclusively by the laws of Ukraine (VRU, 1996).

Obviously, the decision is preceded by a special management procedure based on special legislation.

According to Article 118 of the Land Code of Ukraine, the general procedure for free transfer of land plots to citizens provides for the implementation of the following successive stages:

- The first stage is the appeal of the citizens with the request for the permit for the development of a land management plan for a land plot allocation and granting an appropriate permit or a reasoned refusal for granting a permit by the relevant executive authority or local self-government body;
- The second stage is the development of a land management plan for a land plot allocation by the economic entities on the request of citizens;
- The third stage is the approval of a land management plan for a land plot allocation in accordance with the procedure stipulated in Article 186-1 of the Land Code of Ukraine;
- The fourth stage is the approval by the relevant executive body or local self-government body of land management plan for a land plot allocation and transferring it into ownership (VRU, 2001).

As a result of a detailed study of the legal prescriptions governing the implementation of the free privatization of land plots, it can be concluded that all actions of the respective subjects of the land legal procedure are built into a specific system. The essence of this system lies in the fact that one act, which is endowed with a certain legal value, causes the need to carry out the next legally prescribed action. Again, the next action, which is defined by the legislation as

necessary to achieve the result, is closely connected to the previous one, and the consequence of its implementation is, the need to take the next action. Such a series of sequences is kept until the desired result is achieved in the form of public benefits of the land and legal orientation, namely the acquisition of a land plot into ownership.

*Thus, in the context of the requirements of the constitutional norm and the relevant norms of the land codified act, such procedure is, firstly, a statutory procedure, according to which certain actions are consistently carried out; secondly, a “step-by-step instruction” for citizens wishing to obtain ownership of a land plot; thirdly, the manner of action of the relevant state or local self-government body in response to citizens’ appeals on a particular “land issue”.*

#### **Legal Nature of Legal Relations Arising from Granting the Permit for the Development of a Land Management Plan for a Land Plot Allocation**

On the one hand, the analysis of Article 118 of the Land Code of Ukraine and court practice (for example, decisions of the Administrative Cassation Court within the Supreme Court: Resolutions no 814/741/16 of January 31, 2018, no 806/2208/17 of April 11, 2018, no 820/4757/17 of April 11, 2018, no 804/3703/16 of March 14, 2018, etc.) (SC, 2018a: 2018d) gives grounds to argue that the bases of relations, including disputes, in the sphere of exercising the right of citizens to free acquisition of land plots are procedures, the sequence and combination of which contributes to the realization of the fundamental right of a citizen to land ownership, and which, consequently, are only regulated by the norms of land legislation. This is confirmed by the majority.

On the other hand, we have to keep in mind that the major part of the special legislation on the exercise of the basic right of a citizen to land ownership was formed before the adoption of the Law of Ukraine “On Administrative Services” of September 6, 2012 no 5203-VI. This Law defined the legal principles for the exercise of the rights, freedoms and legal interests of individuals and legal entities in the field of administrative services and, accordingly, extended its applicability to the provision of administrative services in the land sector. That is, this special law is intended to be the main institutional legal mediator between society and authorities, as it regulates legal relations in the field of providing

/ receiving administrative services between citizens, stateless persons and economic entities with state authorities and local self-government bodies, their officials who are known to be obliged to act only on the basis, within the powers and in the manner provided by the Constitution and laws of Ukraine.

According to the provisions of Article 1 of Law no 5203-VI, an administrative service is the result of the exercise of power by an entity providing administrative services at the request of a physical or legal person, aimed at acquiring, changing or terminating the rights and /or obligations of such person in accordance with the law; the subject of the appeal is a physical or legal person seeking administrative services; the subject of administrative service is an executive body, another state body, an authority of the Autonomous Republic of Crimea, a local self-government body, their officials, a state registrar, a state registration entity, authorized under the law to provide administrative services (VRU, 2013).

Part 2 of Article 2 of Law no 5203-VI defines an exhaustive list of relations to which this Law does not apply and, accordingly, services in such relations cannot be classified as administrative ones. In particular, these are the relations concerning:

- 1) Exercise of state supervision (control), including state control over compliance with laws on food products, feeds, by-products of animal origin, animal health and welfare;
- 2) Metrological control and supervision;
- 3) Accreditation of conformity assessment bodies;
- 4) Interrogation, pre-trial investigation;
- 5) Law enforcement intelligence operations;
- 6) Legal proceedings, enforcement proceedings;
- 7) Notarial acts;
- 8) Enforcement of sentences;
- 9) Access to public information;
- 10) Exercising of the legislation on protection of economic competition;
- 11) Carrying out activities connected with state secret;
- 12) Acquisition of rights on a competitive basis;
- 13) Acquisition of rights in respect of objects restricted in civil circulation;
- 14) Implementation of state regulation in the fields of energy and utilities;

- 15) Certification of the transmission system operator in accordance with the Law of Ukraine "On Electricity Market" (VRU, 2013).

Therefore, in this list there are no relations in the sphere of free transfer of land to citizens. As a result of using the exclusion method, it can be assumed that the type of investigated relations refers to relations that are connected with the provision of administrative services, i.e. those covered by Law no 5203-VI, in particular Article 2.

Thus, the land legislation gives grounds to include relations in the sphere of free transfer of land plots to citizens to management relations of the permitting type, since the granting of a special permit is provided.

An analysis of the provisions of various acts of the national legislation (in particular, the Law of Ukraine "On the Permit System in the Field of Economic Activity" no 2806-IV (VRU, 2005)), indicates that the permitting documents include: permits, conclusions, decisions, approvals, certificates and other documents in electronic form, etc., which give an entity the right to perform certain actions in the sphere of relations regulated by law.

Approval documents in the field of land relations, on the basis of which citizens acquire property right to land, are the results of exercising authority, aimed at ensuring the acquisition of certain constitutional rights of citizens to land.

Therefore, the system of issuing permits related to the free acquisition of land plots by the citizens into ownership, which is regulated by Article 118 of the Land Code of Ukraine, by all functional and legal features is an integral and extremely important component of the general system of administrative services in our country.

Taking into account the general procedure of enforcement of the right to free land plot acquisition as a process consisting of stages, we consider that obtaining the permit for the development of a land management plan for a land plot allocation or motivated refusal to grant is one of such stages.

**Features characterizing the activity of state and local self-government bodies in granting the permit for the development of a land management plan for a land plot allocation as**

### **an activity for providing administrative services**

The next stage of the study is to identify the activities of public authorities and local self-government bodies in granting the permit for the development of a land management plan for a land plot allocation as an activity for providing administrative services. For this purpose, it is necessary correlate this activity with the features that characterize administrative services.

In general, “administrative services” are a generic term that refers to a very wide range of public relations. Although, in special (thematic) legislation, most actions are not distinguished (not defined) as administrative services, they can be identified as such due to certain features.

It should be noted that there is no legal interpretation of the features of the administrative service in the legislation of Ukraine. Therefore, in the law enforcement process, the position of the Grand Chamber of the Supreme Court (GChSC, 2018), which identifies the following basic features of administrative services, is quite acceptable:

- a) Administrative service is provided at the request of a person;
- b) The provision of administrative services is connected with the provision of conditions for exercising the subjective rights of a particular person;
- c) Administrative services are provided by administrative bodies (state bodies and local self-government bodies) and necessarily through the exercising of powers (one specific administrative service can be received only in the appropriate, as a rule, only one administrative body);
- d) The result of an administrative service in a procedural sense is an administrative act (the decision or action of an administrative body that satisfies a person's request).

Such an administrative act has a specific addressee – the consumer of an administrative service, that is, the person who requested the service.

In addition, we note that certain specificity is acquired by a particular administrative service, based on the branch law, which regulates the appropriate relations regarding the provision of administrative service. After all, in accordance with the provisions of part 2 of Article 3 of Law

no 5203-VI, the provision of administrative services is carried out in accordance with this Law, taking into account the specifics designated by the laws, which regulates public relations in appropriate fields. That is, in our case (in administrative land relations) – these features are interpreted by the rules of land legislation.

Therefore, based on the legal position of the Grand Chamber of the Supreme Court and the most widespread in science position of scholars (Tymoschuk, 2013), let us present the results of our legal comparison of public activities in granting the permit for the development of a land management plan for a land plot allocation and the main features of administrative services.

Firstly, the administrative service is provided only at the request of a physical or legal person. Accordingly, citizens interested in free getting of land plot from state or communal property into ownership, enter a *caveat* to appropriate executive authority or local self-government body (part 6 of Article 118 (VRU, 2001)).

Secondly, the application leads to the specific result aimed at acquiring, changing or terminating a person's rights and/or obligations. At present, this result can be understood as the decision of an individual action (administrative act) that is taken against a particular person and creates, changes or terminates the rights and/or obligations of a person. In land relations, the appropriate executive authority or local self-government body that transfers land plots of state or communal property into ownership in accordance with the authorities *issues the permit* for the development of a land management plan for a land plot allocation or gives motivated *refusal* to grant it (part 6 of Article 118 (VRU, 2001)). In this case, the issue whether the administrative services are refusal (negative) decisions, that is cases when the request of the subject of is denied can be controversial. On the one hand, the entity providing the administrative services performs the necessary set of actions to consider the application of the person and performs his duties. On the other hand, formally, a person does not have any new rights and obligations. That is, the result of the service has not been received, and this is the basis for ambiguous assessment of such a legal situation (refusal in fulfillment a request) concerning its recognition as an administrative service. However, it is obvious that from the point of view of the application acceptance, its consideration, creation of conditions for acceptance of the entities of appealing (service organization), all

these relations are covered by the legislation on administrative services (Tymoschuk, 2013);

Thirdly, the administrative service is the result of exercising power by the administrative service provider. In land relations, while characterizing this feature, it is necessary to point out Article 122 of the Land Code of Ukraine "Powers of executive bodies, of the Verkhovna Rada of the Autonomous Republic of Crimea, of local self-government bodies to transfer of land plots into ownership or use" (VRU, 2001);

- a) Fourthly, the administrative service is provided in accordance with the law: The specific power to provide administrative services should be enshrined only by law;
- b) The same is refers to the procedure, i.e. the procedure of the consideration and resolution of administrative service cases. In land relations, it is typical that the duty (obligation) of the appropriate executive authority or local self-government body as to the granting a permit/refusal for development a land management plan, as well as the procedure of this activity, are enshrined in the Land Code of Ukraine. At the same time, it should be noted the peculiarity that the regulatory requirements for the procedure of granting the permits for the development of a land management plan for a land plot allocation are dispersed at the legal and under the law levels. However, there is unequal practice of local self-government bodies of different territorial communities regarding the development of "local" procedures for the transfer of land rights to citizens. Thus, some local governments understand such a powerful service definitely administrative, and therefore develop and approve appropriate self-government instructions based on the provisions of the Law of Ukraine "On Administrative Services". For example, Ivano-Frankivsk City Council by the decision of December 14, 2018, no 340-22 "On approval of the list of administrative services" defined this activity as an administrative service "Decision on the transfer into ownership, use and lease of land plots, which are in state or communal property. Agreement on sublease of land" (clause 32 of Annex 1) (I-FCC,

2018); similar decisions are made by Globyno City Council of Poltava region of September 29, 2017, no 871 (GCC, 2017), Mykolaiv City Council of May 29, 2018, no 06-XXII-8 (MCC, 2018) and many other bodies developed and approved information and technological cards of providing administrative services for granting the permits for the development of a land management plan for a land plot allocation. At the same time, in this law-making process a lot of other local governments are developing appropriate Land Acquisition Procedures based on land legislation without taking into account the requirements of the Law of Ukraine "On Administrative Services". For example, the Procedure for Acquisition of Land Rights from Communal Ownership in the City of Kyiv is approved by the decision of the Kyiv City Government of April 24, 2017, no 241/2463;

Fifthly, the availability of a subjective right, namely the right to apply for administrative services. This feature correlates with the first feature and is revealed in the content of the part 6 of Article 118 of the Land Code of Ukraine.

Moreover, the features that reveal the legislative characteristic of the concept of administrative service, it is additionally necessary to point out such a feature as commonality (established standard) of the case (procedure). That is, granting the permit/refusal for the development of a land management plan for a land plot allocation into ownership has standardized procedures, clear algorithms of actions of the applying entities (individual) and entities providing administrative services (appropriate executive authorities and local self-government bodies).

In terms of publicity, the feature of the availability of the relevant service in a special state register is equally important. It is known that in order to ensure the formation and implementation of state policy in the field of administrative services, to ensure a uniform law enforcement practice of local self-government bodies and state authorities in providing administrative services, in accordance with the requirements of part 3 of Article 16 of the Law of Ukraine "On Administrative Services", Cabinet of Ministers of Ukraine developed and approved the Procedure for maintaining the Register of administrative services (CMU, 2013).

According to the paragraph 4 of the Resolution no 57 of January 30, 2013, it was established that the Ministry of Economic Development and Trade of Ukraine is responsible for establishing and maintaining the Register; herewith, under the paragraph 11 of the same Resolution responsibility for accuracy, completeness and timeliness of information put to the Register is imposed on the state authorities, authorities of the Autonomous Republic of Crimea and local self-government bodies which submit it (CMU, 2013). At the same time, analysis of the information contained in the Register of Administrative Services of local state administrations and local self-government bodies (in the context of administrative division of Ukraine), as of June 6, 2019, indicates, firstly, absence of relevant data in the register in the context of all local self-government bodies; secondly, the unequal practice of local state administrations and local self-government bodies regarding the submission of appropriate administrative services into the Register (granting the permit for the development of a land management plan for a land plot allocation into ownership). In particular, a lot of competent authorities (for example, the City of Kyiv, territorial communities within each region) did not submit such service to the Register at all; a lot of authorities have provided this service under different names (for example, the Department of Communal Property of Voznesensk City Council of Mykolaiv Region has introduced an administrative service called "Permission to draw up a land development project for the allocation of land for free transfer to the property" (DBDRP, 2019), Bilotserkivka Village Council of Poltava Region called the service "The permit for the development of a land management plan for a land plot allocation and transfer of land into ownership", and the Land Resources Office of Kremenchuk City Council of the same region named it "Decision on granting the permits for the development of a land management plan for a land plot allocation into ownership and use (from communal property lands)" (DBDRP, 2019), etc.

Obviously, this Register is intended to act as a management tool for determining the total number of administrative services, unified approaches to their names, as well as for implementing a policy of deregulation and planning of the division of functions between different authorities (Tymoschuk, 2015). However, our analysis showed that the mentioned purpose of the Register has not been achieved yet.

## Conclusion

The formed algorithm of regulatory basis of the hypothesis shows that permission for development of a land management plan for a land plot allocation is an administrative service. According to this algorithm it is established that this service is characteristic of the first stage of a unified organizational and legal process of free transfer of land plots to the citizens into ownership and provides procedures for citizens to apply to the authorities with a request for the permit for the development of a land management plan for a land plot allocation and grant a permit or a motivated refusal to grant a permit by relevant executive or local government body.

Relations in the area of free transfer of land to citizens in general and relations arising from obtaining (granting) the permit for the development of a land management plan for a land plot allocation, in particular, are regulated by the land legislation and legislation on administrative services and belong to the administrative relations of the approval type. In terms of functional and legal features, the activity of granting the permit for the development of a land management plan for a land plot allocation is a component of the general system of administrative services.

In order to eliminate the unequal practice of local self-government bodies of different territorial communities concerning the development and approval of "local" procedures for free transfer of land ownership rights to citizens, it is considered necessary to enshrine in the legislative act provisions that clearly regulate the list of services in the field of land relations that have the status of administrative services, and to develop standard provisions for such administrative services.

In order to settle disputes concerning granting (obtaining) the permit for the development of a land management plan for a land plot allocation, it is considered appropriate to study this permitting activity of authorized bodies in terms of administrative services, to apply the legislation on administrative services.

The State Register of administrative services of local state administrations and local self-government bodies (in terms of administrative divisions of Ukraine) does not properly fulfil its purpose, which prevents the state authorities, including the courts, from using it in the process of resolving public land disputes, but for citizens

it complicates the process of exercising their constitutional right to receive land for free and use public information resources. Therefore, it is proposed to draw attention of the state body responsible for the functioning of the Register of administrative services (Ministry of Economic Development and Trade of Ukraine), to the need of constant monitoring of data submitted by state and local authorities and carry out regulatory work to unify the registration activities of these entities (in particular, regarding submission of information on administrative services, their names and results of service provision).

Such state of functioning of the Register gives grounds to recommend interested entities (including courts) in the process of resolving relevant public land disputes the following: despite the fact that the scope of competence of all bodies of a certain level and specialization is the same (in our case – the competence with making a decision on granting the permit for the development of a land management plan for a land plot allocation to citizens), in the recognition of this public service as administrative one it is considered advisable not to be guided by information that is contained in this Register, and to be based primarily on the managerial approval nature of the relationship between the citizen and the authorized body in the field of land relations.

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