DOI 10.4467/24497800RAP.19.011.11474
http://www.ejournals.eu/RAP/
ISSN 2449-7800 (online), ISSN 2449-7797 (print), p. 174–187

Andriy Shkolyk[1]

The Current State and Perspectives of Administrative Convergence of Ukraine and EU Member States

1. Introduction

Administrative convergence as a tendency towards a common model of public administration is relevant not only for the EU institutions and governments of EU states. It is crucial for further development of public policy and public administration in the neighbouring states that are not members of the European Union but are members of the Council of Europe, including Ukraine. This assertion is additionally confirmed in the preamble of the Association Agreement between the European Union and its Member States and Ukraine where good governance that is strictly linked to public administration is named among the common values on which the European Union is built and which are shared by Ukraine[2].

Despite the general notion that in the public administration domain there is no *acquis communautaire*, national administrations of EU members are evaluated to expressed criteria of administrative and juridical capacity to put the acquis into practice[3]. In the Ukrainian context, it is important to emphasise that the abovementioned Association Agreement foresees a gradual approximation of Ukrainian legislation with that of the Union as well as its effective implementation. The process of adaptation of Ukraine's legislation to *acquis communautaire* started already in 2004, when the appropriate legislative act was adopted[4]. Thus Ukraine tries to approximate

1 Andriy Shkolyk, Ph.D. in Law, Associate Professor, Ivan Franko National University of Lviv.

2 Association agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (2014). *Official Journal of the European Union*, L 161, p. 1–2135.

3 L. Matei, A. Matei, D.C. Zanoschi, O. Stoian *Comparative Studies on the Administrative Convergence Revealed by national Strategies of Administrative Reform in Some South-Eastern European States*, http://www.balcannet.eu/materiale/researchreportNSPSPA.pdf (accessed 10.7.2019).

4 Act of 18 March, 2004 on the state programme for the adaptation of Ukrainian legislation to the legislation of the European Union *Oficijnyj Visnyk Ukrayiny*, 2004, № 15.

its law to the European Union's standards and this trend marks a change in the previous tradition of basing it on Soviet and Russian examples. A similar process has been experienced by the other Eastern and South-Eastern European states that already are members of the European Union or candidates for the accession. Such approximation of national law and public administrations was voluntary, at least during the pre-accession period, and conditioned by political choices in the abovementioned countries. Ukraine's political choice was also voluntary and based on social and economic attractiveness of the European Union and its legal order. This pro-European choice differs from the previous period of the 'Sovietization of law' in Eastern and Central Europe after the Second World War which 'meant a radical and traumatic legal change by imposition and entailed the disappearance, or at least the undermining, of the national legal features.'[5]

2. Directions of convergence

The administrative convergence of Ukrainian public administration has mostly one direction – towards the administrative systems that have already shown their effectiveness in the member states of the European Union. This notion does not exclude a possibility of the opposite direction, namely using some contemporary administrative solutions present in Ukraine by the EU member states. However, in most cases we observe a one-way convergence of Ukraine to the European Union. To be more precise, there are at least six sources, from which Ukrainian scientists and politicians can draw ideas for further convergence of the country's national public administration:

- administrative systems and law of some EU member states;
- legislative acts (including soft law) of the European Union as a whole;
- case law of the Court of Justice of the European Union (CJEU);
- acts (including soft law) of the Council of Europe;
- case law of the European Court of Human Rights (ECHR);
- legal and administrative doctrine of EU Member States.

As regards the models of public administration and relevant administrative law, Ukraine naturally uses experience of the most prosperous countries in the European Union, particularly the Federal Republic of Germany. For example, the Ukrainian reform of judicial control over public administration and the creation of specialised administrative courts was mainly based on the German model[6]. In turn, the process of decentralisation of the state power that started in Ukraine a couple of years ago and has evidently brought some positive results is leaning towards the French and

5 E.V. Zonca, "Circulation of legal models and transplants", in: *Administrative Law in Balkans*, R. Scarciglia (ed.), 2012, p. 3.

6 Code of administrative justice (proceedings) of Ukraine of 7 July 2005, *Oficijnyj Visnyk Ukrayiny*, 2005, № 32.

Polish experience. However, we have to add that the decentralisation process has not been completed and considerable changes are still needed in many provisions of the Ukrainian Constitution of Ukraine given the parliament's (Verkhovna Rada) unsuccessful attempt to do effect them in 2015.

Legislative acts (including soft law) of the European Union as a whole can also inspire further improvements of Ukrainian public administration as well as administrative law. First of all, the right to good administration that is enshrined in Article 41 of the Charter of Fundamental Rights of the European Union[7] is still known mostly to academics and such an explicitly expressed right can hardly be found in any Ukrainian legislative act. Second, there is the issue of biggest lacuna in national public law, i.e. – absence of a law (code) on administrative procedure, periodically discussed not only in Ukraine but also by the public bodies of the European Union. In recent years, the European Parliament has adopted two special resolutions that were aimed at future regulation on EU level, namely that of 15 January 2013 with recommendations to the Commission on a Law of Administrative Procedure of the European Union and that of 9 June 2016 for an open, efficient and independent European Union administration[8].

The activity of the Court of Justice of the European Union (CJEU), unlike the case law of the European Court on Human Rights, has no direct influence on Ukraine. However, considering the 'development of general principles of Union law by the CJEU since the end of the fifties'[9], the significance of its case law for any European country cannot be unappreciated.

In turn, the political activity of the Council of Europe does have a direct effect on Ukraine which joined its Statute already in 1995. One of the aims of this supranational organisation is to achieve a greater unity between its members[10] that includes administrative convergence. Besides, many acts of the Council of Europe are strictly related to public administration, among them:

7 Charter of Fundamental Rights of the European Union (2000), *Official Journal of the European Communities*, C 364, p. 1–22

8 European Parliament Resolution of 15 January 2013 with recommendations to the Commission on a Law of Administrative Procedure of the European Union (2012/2024(INL)), http://www.europarl.europa.eu/RegData/seance_pleniere/textes_adoptes/definitif/2013/0115/0004/P7_TA(2013)0004_2 (accessed 10.7.2019).

European Parliament Resolution of 9 June 2016 for an open, efficient and independent European Union administration (2016/2610(RSP)), http:/www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2016-0279+0+DOC+XML+V0//EN (accessed 10.7.2019).

9 Rob J.G.M. Widdershoven, "Developing Administrative Law in Europe: Natural Convergence or Imposed Uniformity?", *Review of European Administrative Law* (2014), vol. 7, no 2, p. 6.

10 Recommendation CM/Rec(2007)7 of 20 June 2007 of the Committee of Ministers to member states on good administration, https://wcd.coe.int/ViewDoc.jsp?id=1155877&Site (accessed 10.7.2019).

1) Resolution (77) 31 of the Committee of Ministers on the protection of the individual in relation to the acts of administrative authorities;
2) Recommendation No. R (80) 2 of the Committee of Ministers concerning the exercise of discretionary powers by administrative authorities;
3) Recommendation No. R (84) 15 of the Committee of Ministers relating to public liability;
4) Recommendation No. R (87) 16 of the Committee of Ministers on administrative procedures affecting a large number of persons;
5) Recommendation Rec(2002)2 of the Committee of Ministers on access to official documents;
6) Recommendation Rec(2003)16 of the Committee of Ministers on the execution of administrative and judicial decisions in the field of administrative law;
7) Recommendation CM/Rec(2007)7 of the Committee of Ministers of the Council of Europe to member states on good administration.

Some of these documents have been implemented into Ukrainian legislation, for example, the ideas from the fifth Recommendation were enshrined by the Law of Ukraine 'On access to public information'[11]. However, the convergence to the majority of the abovementioned soft law of the Council of Europe is still expected to be effected.

Meanwhile, the draftsmen of new administrative legislation in Ukraine have to choose between approaches of different countries that one can find in acts of the Council of Europe. For example, firstly, Resolution (77) 31 on the protection of the individual in relation to the acts of administrative authorities has a strong impact of the German legal doctrine and relates mostly to individual administrative acts. In turn, the Appendix to the seventh Recommendation CM/Rec(2007)7 known as the Code of Good Administration foresees rules governing administrative decisions 'which shall mean both regulatory and non-regulatory decisions taken by public authorities when exercising the prerogatives of public power.'[12] Thus, a general act on administrative procedure can regulate in a single piece of law both individual and normative acts and such an approach in continental Europe is supported *inter alia* by the French legal doctrine and recently also legislation[13].

The case law of the European Court of Human Rights should also be considered among sources that stipulate adoption of new administrative

11 Act of 13 January, 2011 on access to public information *Oficijnyj Visnyk Ukrayiny*, 2011, № 10.

12 Recommendation CM/Rec(2007)7 of 20 June 2007 of the Committee of Ministers to member states on good administration, https://wcd.coe.int/ViewDoc.jsp?id=1155877&Site (accessed 10.7.2019).

13 *Code de relations entre le public et l`administration*, Version consolidée au 6 août 2018, http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT 000031366350 (accessed 10.7.2019).

legislation in all countries that joined the Statute of the Council of Europe. For example, in the case Vyerentsov v. Ukraine, the ECHR found violations of Articles 11 and 7 of the Convention for the Protection of Human Rights and Fundamental Freedoms 'which stem from a legislative lacuna concerning freedom of assembly which remained in the Ukrainian legal system for more than two decades.' Moreover, the Court stressed 'that specific reforms in Ukraine's legislation and administrative practice should be urgently implemented in order to bring such legislation and practice into line with the Court's conclusions in the present judgment and to ensure their compliance with the requirements of Articles 7 and 11 of the Convention.'[14] However, even in 2018, an appropriate legislative act regulating the fundamental freedom of peaceful assembly and relations of citizens and public authorities in this context have not yet been adopted by the Ukrainian parliament.

Finally, we should explain how legal and administrative doctrines from different EU Member States predetermine administrative convergence. As it is evidently impossible to cover all the ideas relating to public administration improvements, we shall concentrate on the already mentioned biggest gap in Ukrainian administrative legislation – lack of a general law on administrative procedure and applicable ideas in this area by scholars from EU member states. A similar situation still persists in the entire European Union, where despite the abovementioned resolutions of the European Parliament the EU regulation of general administrative procedure has not been yet adopted.

The international Research Network on EU Administrative Law (ReNEUAL) was set up in 2009 mostly for, but not limited to, the development of administrative procedure doctrine and law and 'addresses the potential and the substantial need for simplification of administrative law, as the body of rules and principles governing the implementation of EU policies by EU institutions and Member States.'[15] In 2014, a cooperative work of ReNEUAL was published titled the Model Rules on EU Administrative Procedure[16]. This document consists of six books, including mainly procedural but also material aspects of public law: administrative rulemaking (procedure of adoption of normative acts of general application by public administration); single case decision-making (procedure of adoption of individual administrative acts); contracts (conclusion of public or administrative contracts); mutual assistance (internal procedures aiming at cooperation of public authorities); administrative information man-

14 Case Vyerentsov v. Ukraine of 11 April, 2013, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-118393%22]} (accessed 10.7.2019).

15 http://www.reneual.eu/ (accessed 10.7.2019)

16 *ReNEUAL Model Rules on EU Administrative Procedure (2014)*, H.C.H. Hofmann, J.-P. Schneider and J. Ziller (eds.), http://www.reneual.eu/images/Home/ReNEUAL-Model_Rules-Compilation_BooksI_VI_2014-09-03.pdf (accessed 10.7.2019).

agement (gathering and transmission of information as a central factor for decision-making of any public body).

The authors of the Model Rules on EU Administrative Procedure represented universities and research institutes from England, Germany, Italy, Luxembourg, the Netherlands, Poland and France. Such international cooperation provided for an exchange of views between administrative and legal scholars and certainly contributed to administrative convergence, though such representation confirmed bigger influence of scientists from Western European countries (with the only exception of Poland). In any case, the Model Rules on EU Administrative Procedure may be used not only for a future EU regulation but also by Member States 'as guidance when they are implementing Union law in accordance with their national procedural law.'[17] We would like to add that besides EU Member States, also neighbouring European countries may and should use provisions from this document in their respective legislation and administrative practice.

Combining the first and the last from the listed sources for convergence--administrative systems, public law and the administrative and legal doctrine of some EU Member States and taking into consideration a variety of administrative models, further research shall focus on the criteria of better choice for any state. In other words, which national experience will be more relevant in the specific case of a public administration reform in Ukraine? There exists a variety of national administrative models even in the European Union, not to mention countries that belong to common law and other systems. Consequently, a choice of better model should be based on different criteria and such political choice will lead in the end to proper results in individual countries and in concrete socio-economic conditions. In our opinion, any European state striving to improve its public administration is supposed to weigh such criteria before choosing any foreign experience:

1) understandable and stable administrative models that evidently became one of the reasons of national prosperity; however, excessively complicated models of even developed countries overburdened by historical and traditional solutions can hardly be converged in other national circumstances. In this context, the French experience might be seen as less attractive than German.
2) deliberate success of any country as regards a certain direction of public administration shall also be analysed and used, for example, the Estonian experience in e-governance.
3) significant experience in public administration reforms of states that had similar circumstances in the public sector a couple of decades ago but changed their administrative system dramatically; here, the Polish

17 *Ibidem*, p. 29.

example might be seen as appropriate at least for other post-communist countries like Ukraine.

At the same time, national traditions of public administration must be considered carefully. Moreover, level and influence of negative factors such as bureaucracy, nepotism, and corruption as well as resistance of public officials to any reform should be evaluated. A simple literal translation of administrative legislation from developed countries of the European Union and its formal adoption in developing countries can hardly lead to effective public administration. In different cultural circumstances, any piece of legislation may remain just a good intention while administrative practice of implementation will be substantially distinctive. Thus, draftsmen of new public law in Ukraine (and other Eastern European countries) have to modify administrative models with proved effectiveness in developed EU member states, taking into consideration the social context of the country that tries to converge its public administration to western examples. Besides, we have to keep in mind that Ukraine and other Eastern European countries have experienced decades of functioning under Soviet law and its legacy cannot disappear in a month, a year or even a decade. In these countries, study of law and administration was mostly based on the notion of positivism and a change to the rule of law may be understandably seen as a traumatic process for many, not only law practitioners and public administrators but, rather surprisingly, for academics. On the other hand, a long road to administrative convergence that includes many reforms is the only way to implement common European standards of good administration. The existing variety of administrative models will never disappear completely but it can be substantially reduced and so lead better understanding as well as better relations between representatives of different nations.

3. State of Ukrainian administrative convergence

Understandably, legal analysis of internal administrative convergence in the European Union will be performed better by scholars from its member states, so we shall concentrate on the convergence of Ukraine – as one of the neighbouring countries – to the EU standards of good administration. In our opinion, all previous attempts of public administration reforms in Ukraine have been to a certain extent related to its administrative convergence. Already in 1998, the objective specified in the Concept for the Administrative Reform in Ukraine was to create such an administrative system that would ensure Ukraine's becoming a 'civilised European country[18]. Over the following twenty years, many necessary steps have been made

18 Decree of the President of Ukraine of 22 July 1998 on measures for the implementatation of the concept of the administrative reform in Ukraine, Oficijnyj Visnyk Ukrayiny, 1999, nº 21.

towards approximating Ukrainian legislation and administrative practice to European standards, though this process is still far from completion.

In this context, we shall list substantial elements of the public administration reform in Ukraine that have been implemented (at least in law) during these twenty years and finally highlight the areas that still need to be converged to European standards of good governance, including good administration.

1) Division of public policy and administration. Taking into consideration that in Soviet times division of powers had not existed, the very idea of differentiation between policy formation and its implementation by administrative bodies was hardly supported by Ukrainian scientists and politicians, especially at the beginning of the reform effort. However, at the level of central (national) public administration such differentiation was provided in 2006–2011, when acts on the 'Cabinet of Ministers of Ukraine' and the 'central organs of the executive power' where adopted. At the same time, at the level of local government, the demarcation line between politics and administration is still blurred. This is strictly related to the persistent delay of a comprehensive local government reform and relevant changes to constitutional and administrative legislation.
2) Transparency of public administration. As already mentioned, this European principle of good administration was partly effected with the adoption of the act on access to public information in 2011 and the quite significant administrative practice of its implementation.
3) Service-oriented public administration. The adoption of a rather innovative act on administrative services in 2012[19] was later supplemented by the creation of one-stop administrative offices, initially in big cities and later – throughout Ukrainian regions (*oblast*s) and districts (*rayon*s). This part of administrative reform was definitely inspired by similar experiences of EU member states.
4) Human resources development in public administration. Numerous political documents were dedicated to the public service reform in Ukraine and one of them was even titled accordingly: A concept for the adaptation of the state service institution to the European Union's standards[20]. However, the amended act on the state service that enshrined almost all contemporary principles and rules of the civil service was passed by Verkhovna Rada only in 2015[21]. Meanwhile, as a complementary legislative act on the local government service is still expected to become law, the legal regulation of public officials in local government bodies is

19 Act of 6 September 2012 on administrative services, *Oficijnyj Visnyk Ukrayiny*, 2012, nº 76.

20 Decree of the President of Ukraine of 5 March 2004 on the concept of the adaptation of the state service to the European Union's standards*, Oficijnyj Visnyk Ukrayiny*, 2004, nº 10.

21 Act of 10 December 2015 on state service, *Oficijnyj Visnyk Ukrayiny*, 2016, nº 3.

partly outdated. Still, the adoption of new legislation for the civil service is a necessary step that must be added by changes in the mentality of public officials as well as individuals who interact with them. Otherwise even good laws will not be properly implemented and can remain good intentions only.

5) Decentralisation of public power. The 1996 Constitution of Ukraine contains a rather controversial provision that the territorial structure of Ukraine shall be based on the principles of the combination of centralisation and decentralisation in the exercise of the state power (Article 132). However, in recent years the European principle of decentralisation has prevailed in the Ukrainian internal policy and public administration despite the unsuccessful attempt to amend the Constitution by the relevant legal norms in 2015. In particular, essential changes took part in the very important direction of financial decentralisation and voluntary association of local territorial communities. Of course, this decentralisation reform needs to be supported by changes to the provisions of the Ukrainian Constitution as well as by new legislative acts on local government.

This last point can be called one of the main gaps in Ukrainian public law related to public administration. We have to add that a comprehensive reform of the administrative system on regional and local levels must begin with changes of the administrative-territorial structure. Such a reform was carried out successfully in Poland in the 1990s, but until now no Ukrainian politician has had the courage and ability to effect similar processes in Ukraine despite recommendations of numerous national and foreign experts.

The second major gap of Ukrainian public law is the absence of a general act on administrative procedure as well as a law on normative acts that are also passed by authorised administrative bodies. Thus, the decision-making process in public administration is still regulated by different kinds of regulations (by-laws) or be sector-specific legislation in some administrative areas. It means that the European standards of good administration might be found in Ukrainian legislation but they are scattered in sector-specific and other types of legislation and as a consequence many principles and rules are not equally provided in different administrative areas. We have to add, however, that since 2005 administrative courts have been authorised to check administrative decisions for whether they meet the requirements that correspond to the majority of the principles of good administration. Nevertheless, this provision of the Code of Administrative Proceedings of was formulated for use by judges of administrative courts and is hardly known to many public administrators.

Consequently, European principles and rules of good administration should be enshrined in a general act on administrative procedure and such

an approach is based on relevant procedural law of many EU members states. The Ukrainian parliament tried to pass the respective law on administrative procedure (in the first draft as the administrative-procedural code) at least three times (in 2004, 2008 and 2012) but all those attempts failed. In 2018, legislative works were resumed by the Ministry of Justice and will hopefully come to fruition in the parliament.

To sum up, Ukraine gradually converges its public administration to the European Union standards, though this process could and should be much faster. According to the SIGMA monitoring report on the performance of Ukraine in 2017 in approaching the Principles of Public Administration for the EU candidate countries and potential candidates, 'overall, Ukraine has already made considerable progress in reforming some areas of its public administration.' At the same time, the Ukrainian Government's capability for aligning national legislation with the European Union acquis was valued 1 out of 5[22], so very low. The creation by the Cabinet of Ministers of a specialised body, the Government Office for European and Euro-Atlantic Integration, in October 2017 confirms the political understanding that more considerable efforts should be applied in this direction in the realm of public policy and administration.

In this context, it is worth reminding that the Soviet legacy in Ukrainian society and public administration has not disappeared completely and some political forces still want a return of the previous times and administrative system. In practice, it means that the usual resistance of bureaucracy to administrative reforms that might be monitored in any country is much higher in post-communist Ukraine and efforts of public sector reformers have to be much stronger to overcome such resistance. Thus, the future final stage of the Ukrainian administrative reform needs substantive political will and support in society. The completion of the public administration reform is necessary for Ukraine and only after it can the country fully belong to the European administrative space.

4. Beneficiaries of Ukrainian administrative convergence and its perspectives

Another issue of administrative convergence relates to its beneficiaries, in other words: who and why is mainly interested in the process? On the Ukrainian side, generally the whole country and its people can finally get higher living standards as a result of changes in public policy administration in the European direction. Citizens would receive more understandable 'rules of the game' in their contacts with public administration bodies and

22 SIGMA Baseline measurement report *The Principles of Public Administration. Ukraine, June 2018*, http://www.association4u.com.ua/index.php/en/2-uncategorised/248-sigma-baseline-measurement-report-principles-of-public-administration-2018 (accessed 10.7.2019).

the behaviour of officials would become more predictable, transparent and service-oriented. On the other hand, the Ukrainian administrative system would be more efficient and effective.

In our opinion, the European Union and its member states are also interested in Ukraine's administrative convergence. Having a stable neighbouring country that plays the same or a similar game would allow EU businesses to feel better in the new emerging market. Moreover, for any traveller from the EU to Ukraine or vice versa administrative convergence will mean a better understanding of the basic rules at border crossing points, in public places, etc.

On the other hand, as Ukraine's perspective of becoming a EU member state is remote and fuzzy, its administrative convergence to the EU standards is mostly voluntary. The imposed uniformity of administrative systems prescribed by European hard and soft law cannot be used as basic formula in the Ukrainian case. As a result, in the nearest future Ukraine will probably not be obliged to apply EU regulations and to transpose EU directives to national law. The European Union can obviously demand some improvements of public administration and relevant national legislation when it provides financial assistance to Ukrainian reforms. Nevertheless, final decisions to converge the administrative system and its functioning to the EU standards belong to Ukrainian politicians and people.

Thus, the public administration reform in Ukraine is supposed to be continued or even accelerated. This process must include both rulemaking, i.e. adopting new administrative legislation, and its implementation by public officials.

As regards rulemaking, we should stress the necessity of adopting:

- changes to the Constitution of Ukraine concerning decentralisation, legislative acts on the new administrative-territorial structure and on local government bodies;
- a law on normative acts that can be adopted by the central government and local government bodies;
- an amended law on civil service in local government bodies;
- a general law (code) on the administrative procedure.

As to the implementation of the above-listed legislative acts, we consider it extremely important that *vacatio legis* of at least a year be foreseen for the procedural laws (on normative and administrative acts). During this period, intensive training for public officials of central and local government bodies should be provided. Besides, related by-laws (regulations) of the executive branch also must be brought into compliance with the new legislative acts. Otherwise the new procedural law will not achieve its purposes and public officials will continue their previous administrative practice based on internal instructions and decisions of their superiors.

On the other hand, we shall not overestimate the role of new legislation in any public administration reform. Public officials who do not respect ethical standards in their work should leave the civil service and those replacing them should be selected by the relevant selection panels more carefully, taking into account their possible will and ability to pursue public interest.

5. Conclusions

The administrative convergence of Ukraine and EU member states is mostly a movement in one direction, namely that of the Ukrainian national public administration seeking to conform to the European standards of good administration. Many of such standards have already been implemented into Ukrainian legislation and administrative practice. The new laws have been adopted on civil service, access to public information, data protection and partly the decentralisation of public administration. However, the completion of the decentralisation requires substantial changes to the Constitution of Ukraine quite apart from subsequent organisational reforms. A model for such an administrative reform is still being discussed and mostly French and Polish experiences are taken into consideration. Meanwhile, the key law regulating public administration activities, the act on general administrative procedure, is being refined and will hopefully be adopted by the end of this year.

Bibliography

Act of 13 January 2011 on access to public information, *Oficijnyj Visnyk Ukrayiny*, 2011, nº 10.

Act of 18 March 2004 on the state programme for the adaptation of Ukrainian legislation to the legislation of the European Union, *Oficijnyj Visnyk Ukrayiny*, 2004, nº 15.

Act of 10 December 2015 on the state service, *Oficijnyj Visnyk Ukrayiny*, 2016, nº 3.

Act of 6 September 2012 on administrative services, *Oficijnyj Visnyk Ukrayiny*, 2012, nº 76.

Association agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part. *Official Journal of the European Union*, 2014, L 161, p. 1–2135.

Case Vyerentsov v. Ukraine of the European Court on Human Rights of 11 April, 2013, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-118393%22]} (accessed 21.9.2018).

Charter of Fundamental Rights of the European Union (2000), *Official Journal of the European Communities*, C 364, p. 1–22.

Code de relations entre le public et l'administration.Version consolidée au 6 août 2018, http://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000031366350 (accessed 29.8.2018).

Code of administrative justice (proceedings) of Ukraine of 7 July 2005, *Oficijnyj Visnyk Ukrayiny*, 2005, nº 32.

Decree of the President of Ukraine of 22 July 1998 on measures for the implementation of the concept of the administrative reform in Ukraine, *Oficijnyj Visnyk Ukrayiny*, 1999, nº 21.

Decree of the President of Ukraine of 5 March 2004 on the concept for the adaptation of the state service to the European Union's standards, *Oficijnyj Visnyk Ukrayiny*, 2004, nº 10.

European Parliament Resolution of 15 January 2013 with recommendations to the Commission on a Law of Administrative Procedure of the European Union (2012/2024(INL)).

European Parliament Resolution of 9 June 2016 for an open, efficient and independent European Union administration (2016/2610(RSP)), http://www.europarl.europa.eu/RegData/seance_pleniere/textes_adoptes/definitif/2013/0115/0004/P7_TA(2013)0004_2 (accessed 29.8.2018).

Matei L., Matei A., Zanoschi D.-C., Stoian O. *Comparative Studies on the Administrative Convergence Revealed by national Strategies of Administrative Reform in Some South-Eastern European States*, http://www.balcannet.eu/materiale/researchreportNSPSPA.pdf (accessed 29.8.2018).

Recommendation CM/Rec(2007)7 of 20 June 2007 of the Committee of Ministers to member states on good administration, https://wcd.coe.int/ViewDoc.jsp?id=1155877&Site (accessed 29.8.2018).

ReNEUAL Model Rules on EU Administrative Procedure, Hofmann H., Schneider J.-P., Ziller J. (eds.), http://www.reneual.eu/images/Home/ReNEUAL-Model_Rules-Compilation_BooksI_VI_2014-09-03.pdf (accessed 29.8.2018).

SIGMA Baseline measurement report *The Principles of Public Administration. Ukraine, June 2018*, http://www.association4u.com.ua/index.php/en/2-uncategorised/248-sigma-baseline-measurement-report-principles-of-public-administration-2018 (accessed 30.9.2018).

Widdershoven R., "Developing Administrative Law in Europe: Natural Convergence or Imposed Uniformity?", *Review of European Administrative Law 2014*, vol. 7, nº 2.

Zonca E., "Circulation of legal models and transplants", in: *Administrative Law in Balkans*, R. Scarciglia (ed.), Trieste 2012.

Abstract

Administrative convergence is one of the key directions for further development of public policy and public administration in countries that are not members of the European Union but are members of the Council of Europe, including Ukraine. In the preamble of the Association Agreement between the European Union and its Member States and Ukraine, which entered into force on 1 September 2017, good governance is named among the common values which shared by the European Union and Ukraine. Consequently, the convergence of Ukrainian national public administration to the European standards is logic conclusion. Many of such standards have already been im-

plemented into Ukrainian legislation and administrative practice. New laws have been adopted on civil service, access to public information, data protection and, partly, the decentralisation of public administration. However, the completion of the decentralisation requires substantial changes to the Constitution of Ukraine apart from subsequent organisational reforms. A model of such administrative reform is still being discussed and mostly French and Polish experiences are taken into consideration. Meanwhile, the key law regulating public administration activities – on administrative procedure – is being refined and will be hopefully adopted by the end of this year.

Keywords: public administration, convergence, good governance, decentralisation, administrative procedure

Stan i perspektywy konwergencji administracyjnej Ukrainy i państw członkowskich UE

Streszczenie

Konwergencja administracyjna stanowi jeden z kluczowych kierunków dalszego rozwoju polityki oraz administracji publicznej w państwach niebędących członkami Unii Europejskiej, lecz należących do Rady Europy, w tym na Ukrainie. W preambule umowy stowarzyszeniowej pomiędzy Unią Europejską i jej państwami członkowskimi oraz Ukrainą, która weszła w życie 1 września 2017 r., wśród wartości współdzielonych przez Unię Europejską i Ukrainę wymienia się dobre rządzenie. Logiczną konsekwencją takich działań jest zbliżenie ukraińskiej krajowej administracji publicznej do standardów europejskich. Wiele z tych standardów wprowadzono już do ukraińskiego prawa i praktyki administracyjnej. Przyjęto nowe ustawy o służbie cywilnej, dostępie do informacji publicznej, ochronie danych oraz, częściowo, decentralizacji administracji publicznej. Poza kolejnymi reformami organizacyjnymi zakończenie wysiłków decentralizacyjnych wymaga jednak dokonania znacznych zmian w ukraińskiej konstytucji. Model takiej reformy administracyjnej jest nadal omawiany, a pod uwagę bierze się głównie model francuski i polski. Jednocześnie dopracowywana jest kluczowa ustawa regulująca działalność administracji publicznej – kodeks postępowania administracyjnego, który może zostać przyjęty do końca bieżącego roku.

Słowa kluczowe: administracja publiczna, konwergencja, dobre rządzenie, decentralizacja, postępowanie administracyjne