

АДМІНІСТРАТИВНЕ ПРАВО В УМОВАХ ВОЄННОГО СТАНУ

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CHARACTERISTICS OF PUBLIC ADMINISTRATION IN THE PROVISION OF POSTAL SERVICES DURING MARTIAL LAW AND UKRAINE'S EUROPEAN INTEGRATION POLICY

ABSTRACT. In the context of the full-scale war initiated by the Russian Federation against Ukraine, and amidst a significant increase in internal and external migration, ensuring the proper functioning of the postal mechanism has become an urgent challenge for the state. The legal significance of this issue has been amplified due to the ongoing local self-government reform in Ukraine. This reform is founded on principles such as equal access of residents from various territorial communities to public services, decentralization of power, and the systemic digital transformation of local self-government bodies. However, despite ongoing reforms in the administrative-territorial structure, local self-government, and the sphere of electronic public services in Ukraine, the domain of postal services has seen only marginal improvements. Nonetheless, enhancing Ukrainian legislation regarding the legal regulation and administration of postal services is one of the focal points of negotiations for Ukraine's potential membership in the European Union.

The purpose of this article is to analyze the state of development within Ukraine's postal service sector and examine the mechanisms of its public administration and self-regulation. It seeks to identify the features of their application, particularly in the context of military aggression from the Russian Federation, and to provide recommendations to state bodies and postal operators for their enhancement.

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This article scrutinizes the state of Ukraine's postal service and its mechanisms of state regulation and self-regulation. It identifies key features of their application, including in the face of Russian aggression, such as democratic principles, alignment with international and European legislation, market liberalization, and the minimization of regulatory influence. The necessity of balancing the democratic nature of state regulation mechanisms with clear procedures for state supervision (control) to ensure compliance with legislation in postal service provision, reporting, and monitoring of service quality, has been underscored.

In the conclusions drawn from the study, individual recommendations to state bodies and postal operators are formulated. These recommendations aim to improve their activities and the mechanisms of legal regulation of public relations in this area, enhance inter-operator interaction, including collaboration between appointed and private operators. The necessity of developing a strategy for the development of postal communication and the advisability of creating an association of postal operators are also emphasized.

KEYWORDS: public administration; postal service; designated postal operator; universal postal services; regulatory body in the field of postal services.

With Ukraine's foreign policy favoring European integration and its aim to join the single European digital market, there arises the challenge of enhancing existing mechanisms and devising new ones for state regulation in the postal services sector. These mechanisms need to align closely with European legislation, consider global trends, accommodate the socio-economic characteristics of Ukraine, and address the specifics of its martial law situation.

Analysis of recent research and publications reveals several key findings in the field of postal services¹. In the study focuses on the market of postal services, identifying the criteria of speed, convenience, and accessibility for the delivery of goods. The strengths and weaknesses of the three leading national postal operators – JSC “Ukrposhta”, LLC “Nova Poshta”, and LLC “Trading House ‘Mist Express’” – are analyzed. Moreover, strategic directions for enhancing their competitiveness are outlined². Examines the functioning and competitive landscape of the Ukrainian postal services market, along with potential development pathways³. Delves into global trends within postal services, highlighting the significant revenue growth in postal parcels, express deliveries, and financial services. The study asserts that the conventional model of offering financial services through postal banks has become outdated due to processes such as corporatization, privatization, and licensing. These services are now integrated into larger financial and banking groups or handled by postal services as agency functions⁴. Characterizes the positive aspects and advantages of Ukrainian postal service enterprises employing modern information and communication technologies (ICT). The study evaluates their functionality, ICT utilization, collaboration with users, and expansion of

¹ Кушнір О, Кріль О, ‘Дослідження конкурентного середовища операторів поштового зв’язку’ (2021) 32 Економіка та суспільство. <https://doi.org/10.32782/2524-0072/2021-32-38>.

² Горбаль Н, Шаровський Я, Ярошенко В, ‘Конкурентна ситуація на ринку поштового зв’язку України’ (2019) 5 Бізнес Інформ 123–8. <https://doi.org/10.32983/2222-4459-2019-5-123-128>.

³ Блінов А, ‘Вижили не всі: що відбувається з поштовими банками у світі’ (*Економічна правда*, 16.06.2020) <<https://www.epravda.com.ua/publications/2020/06/16/661788>> (дата звернення: 10.12.2023).

⁴ Формування позитивного іміджу підприємств поштового зв’язку з використанням інформаційно-комунікаційних технологій <<https://op.edu.ua/sites/default/files/publicFiles/studolympconf/sonce.pdf>> (дата звернення: 10.12.2023).

service offerings. Lastly⁵, analyzes the state of the postal service market in Ukraine, identifies primary challenges – including the alignment of European directives with national legislation – and suggests priority steps to address them.

The pressing issue of enhancing the efficiency and effectiveness of state regulation in the provision of postal services remains largely unresolved. This includes the improvement of organizational and legal mechanisms, their seamless integration with market mechanisms of self-regulation and self-organization, and the consideration of martial law and European integration requirements for the national postal sector's entry into the internal European market. The importance of addressing these challenges has become increasingly significant, particularly in light of the EU decision granting Ukraine candidate status for European Union membership.

The purpose of the article is to conduct a comprehensive analysis of the development status of Ukraine's postal service sector and its mechanisms of public administration and self-regulation. This analysis aims to identify their application features, particularly in the context of Russian Federation military aggression. Based on the findings, the article seeks to provide substantiated recommendations to state bodies and postal operators for improving their operations.

According to the State Statistics Service, the share of postal and courier services in the total volume of services in Ukraine has remained unchanged in recent years and barely exceeds one percent⁶.

However, it's important to note that this indicator may not accurately reflect the true state of affairs in the field, as it more likely indicates shortcomings in accounting for the services provided.

Figure 1 illustrates the dynamics of the postal and courier services market's development. Among the more than 200 registered postal operators (further referred to as OPP), JSC "Ukrposhta", LLC "Nova Poshta", JSC "Mist Express", and LLC "DELIVERY" have exerted the greatest influence in the field. Notably, one of the primary tasks of JSC Ukrposhta as the designated operator is to ensure the provision of universal services to users. These services include the delivery of pensions, state aid, compensations, subsidies, and other types of social benefits in cash, particularly financial assistance to refugees (*Fig. 1*).

The postal service sector suffered significant financial, infrastructural, and human losses as a result of the war with the Russian Federation but managed to maintain its stability and constancy. For instance, the aforementioned postal operators (OPPs) alone incurred total losses amounting to UAH 294 million, with over 3,060 properties being destroyed or damaged. These and other losses within Ukraine's postal sector contributed to a decline in its rating positions in international indices.

According to the latest research conducted by the Universal Postal Union (UPU) on the Integrated Index for Postal Development (2IPD), Ukraine has consistently

⁵ Інтеграція в рамках асоціації: динаміка виконання угоди між Україною та ЄС: аналітичний звіт (вид п'яте, доповнене, В Мовчан, І Коссе ред, 2023) <http://www.ier.com.ua/files/Projects/2023/Report_Integration_2023_ua.pdf> (дата звернення: 10.12.2023).

⁶ Data Bank (Derzhstat) <<https://stat.gov.ua/en>> (accessed: 10.12.2023).

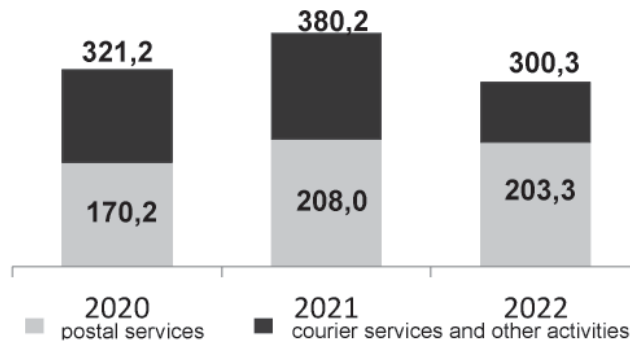


Fig. 1. Market of postal services and courier activities

dropped in international rankings. Among 172 UPU member countries, Ukraine's ranking declined from 37 place in 2019 to 30 in 2020, further dropping to 33 in 2021, 38 in 2022, and 48 in 2023 (Fig. 2)⁷.

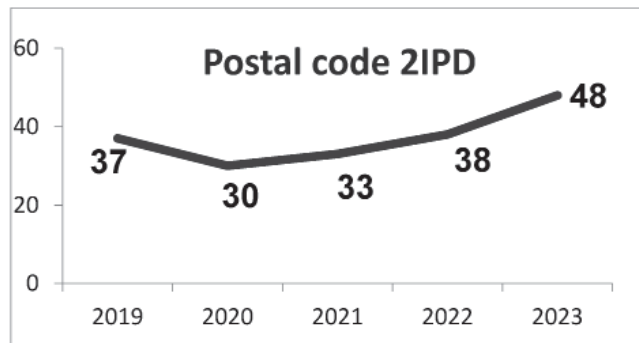


Fig. 2. Rating of Ukraine by the Comprehensive Postal Service Development Index

This index provides a comprehensive assessment of countries' postal performance, ranging from 0 to 100, across four dimensions of postal development: reliability, coverage, relevance, and sustainability. It not only demonstrates the relative performance of postal operators worldwide but also emphasizes the promotion of postal development and optimization of postal infrastructure efficiency. Thus, it serves as a unique tool for policymakers, regulators, postal operators, and other stakeholders in understanding the role of postal services in the era of e-commerce.

The negative trend of Ukraine's decline in international rankings according to the 2IPD Index from 2021 to 2023 highlights the need to analyze the main factors influencing its postal sector. Among these factors, the primary issue is undoubtedly the Russian aggression against Ukraine and its consequences for the postal sector of the economy. There is a pressing need to mitigate negative factors

⁷ Integrated Index for Postal Development (2IPD) <<https://www.upu.int/en/universal-postal-union/activities/research-publications/integrated-index-for-postal-development>> (accessed: 10.12.2023).

while reinforcing positive influences through the formulation of appropriate state regulatory policies and mechanisms for their implementation. At the core of these policies should be a human-centric approach, prioritizing the high-quality provision of individuals' needs.

The successful implementation of such policies should entail the rational integration and application of instruments of public administration (regulation) and market mechanisms of self-organization, self-regulation, and self-development. It requires strategic foresight in anticipating future developments and timely, adequate responses to them. Additionally, it necessitates maximum involvement of business entities and users of postal services in policy formation and implementation, along with the effective utilization of resources.

Today, one of the most crucial and pressing issues in the field of postal services in Ukraine, which each of the national postal operators (OPPs) primarily addresses independently, utilizing mechanisms of self-regulation and self-development, is to ensure the sustainability and stability of their infrastructure under martial law. Given its significance for citizens, society, and the state, the postal infrastructure has been deliberately targeted by the Russian Federation, with ongoing attempts to destroy it.

In contrast to private postal operators, the designated operator, JSC Ukrposhta, has received international technical assistance to maintain and reconstruct its postal infrastructure damaged as a result of hostilities in Ukraine during 2022 and 2023. This assistance came particularly through the Universal Postal Union (UPU) project funded by the Solidarity Emergency Fund, thanks to contributions from Canada, Italy, Japan, Panama, Slovakia, and Switzerland.

Furthermore, as a result of appeals from the Universal Postal Union (UPU) and the Group of European Postal Regulators (ERGP), several measures were taken to alleviate the burden on sending parcels to Ukraine. Specifically:

12 postal operators (Australia, Denmark, Sweden, Estonia, Finland, France, Germany, Ireland, Japan, Luxembourg, Norway, Portugal, and Slovenia) waived fees for delivering postal items to Ukraine.

15 postal operators (Austria, Armenia, Cyprus, Czech Republic, Estonia, Georgia, Gibraltar, Guernsey, Hungary, Ireland, Jersey, Norway, Poland, Slovakia, and Slovenia) provided free delivery of parcels to Ukraine.

These initiatives underscore international efforts to support Ukraine's postal infrastructure and ensure the continued flow of essential items, including medicines and humanitarian aid, to the country.

Under martial law, Ukrainian OPPs have initiated various additional services aimed at providing assistance to their business partners, clients, volunteers, and the Armed Forces of Ukraine. These services include:

- Providing premises of representative offices and trucks free of charge for volunteers.

- Transporting goods for volunteers, charitable foundations, international organizations, small and medium-sized businesses, and individuals who have been evacuated to the western regions of Ukraine and abroad.

– Financing equipment at the request of government organizations, providing humanitarian aid, and sending it to the most affected regions.

– Accommodating displaced persons from the temporarily occupied territories and delivering food and medicine to the occupied territories, among other services.

At the same time, it is deemed advisable within the framework of self-organization and self-regulation to establish an association of OPPs. Such an association would serve to integrate, lobby, and advocate for the collective interests of businesses before the state. It could draw upon the previous experience of the Ukrainian Association of Direct Marketing⁸. Whose members included Nova Poshta LLC, Meest Express LLC, Euroindex, OTTO-Posyltorg, Poshtorg Catalog, Univest Marketing, Unimail Ukraine, and others. This association also conducted studies on the quality of postal services in Ukraine.

In Ukraine, a legislative framework for the public administration of postal services has been established, primarily comprising the laws of Ukraine “On Postal Services”⁹ and “On the National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum and Provision of Postal Services”¹⁰, along with several by-laws developed in accordance with the requirements of Directive 97/67/EC of the European Parliament and of the Council, “On common rules for the development of the internal market for Community postal services and for the improvement of the quality of service”¹¹, dated December 15, 1997. This new legislation clearly delineates the basic principles, tasks, and functions of actors in the postal services sector. It regulates relations between state authorities and local governments, postal operators, and users of their services, aiming to promote the development of the sector and enhance service quality.

Thus, according to the Law “On Postal Services”, the Ministry of Infrastructure is responsible for formulating and implementing state policy in the provision of postal services. The National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum, and Provision of Postal Services (hereinafter referred to as the Regulator) is tasked with ensuring the efficiency of the postal services market’s functioning. Additionally, according to the Regulator promotes the opening of new markets, integrates Ukrainian markets into the European Union, fosters competition, and ensures non-discriminatory access for users to postal services. The NCEC maintains the Unified State Register of Postal Operators (EDRP), establishes pricing policies, regulates tariffs for three universal postal services, monitors service quality, and supervises compliance with postal services legislation. It also defines procedures for submission and receipt of reports and information from postal operators necessary for exercising its powers.

⁸ Ukrainian Association of Direct Marketing <<http://www.uadm.com.ua/en>> (accessed: 10.12.2023).

⁹ Про поштовий зв’язок: Закон України від 3 листопада 2022 р. № 2722-IX <<https://zakon.rada.gov.ua/laws/show/2722-20#Text>> (дата звернення: 10.12.2023).

¹⁰ Про Національну комісію, що здійснює державне регулювання у сферах електронних комунікацій, радіочастотного спектра та надання послуг поштового зв’язку: Закон України від 16 грудня 2021 р. № 1971-IX <<https://zakon.rada.gov.ua/laws/show/1971-20#Text>> (дата звернення: 10.12.2023).

¹¹ Directive 97/67/EC of the European Parliament and of the Council of 15 December 1997 on common rules for the development of the internal market of Community postal services and the improvement of quality of service <<https://eur-lex.europa.eu/eli/dir/1997/67/oj>> (accessed: 10.12.2023).

By decision of the Ministry of Infrastructure, JSC Ukrposhta is designated as the sole provider of universal postal services in Ukraine.

Only tariffs for services such as internal simple and registered letters without declared value (recommended) weighing up to 50 grams and postal cards are subject to state regulation. All other postal services, including universal services, are independently set by postal operators.

An important aspect of state regulation involves changes in price (tariffs) for regulated services during the legal regime of martial law and within six months from its termination or cancellation. The regulation process is simplified, allowing the designated operator to propose price adjustments based on the actual inflation index from the previous year, provided there is confirmation of the actual and/or planned unprofitability of providing these services without the need for extensive documentation submission.

The National Commission for the State Regulation of Electronic Communications, Radio Frequency Spectrum, and Provision of Postal Services conducts state supervision (control) over the postal services market in accordance with Article 9 of the Law of Ukraine “On Postal Services”, as outlined in the Law of Ukraine “On the Basic Principles of State Supervision (Control) in the Field of Economic Activity”¹². However, the effect of this law is limited solely to appeals from individuals regarding violations of their legal rights, as it does not provide for a corresponding appeal from legal entities.

The features of national legislation in the field of public administration of postal services include its democratic nature, focus on international and European legislation, and the liberalization of the service market, aiming to minimize regulatory influence. These features encompass:

- Balancing the interests of society, Operational Postal Providers (OPPs), service users, and the state.
- Introducing the notification principle regarding the maintenance (inclusion, exclusion) of OPPs from the Unified State Register of Postal Operators.
- Significantly reducing the list of regulated marginal tariffs for universal services by the Regulator.
- Expanding the scope of postal services to include courier services and services for sending parcels weighing up to 30 kg.
- Emphasizing openness, transparency, impartiality, and non-discrimination in public administration mechanisms.

The democratic quality of these mechanisms should be balanced by clear mechanisms of state supervision (control) over compliance with legislation in the field of postal services, reporting, monitoring the quality of postal services, and other related aspects.

However, this set of legislative acts and their content need clarification to fully harmonize with the provisions of Directive 97/67/EU of the European Parliament and of the Council of the European Union. Moreover, it is essential to fulfill

¹² Про основні засади державного нагляду (контролю) у сфері господарської діяльності: Закон України від 5 травня 2007 р. № 877-V <<https://zakon.rada.gov.ua/laws/show/877-16#Text>> (дата звернення: 10.12.2023).

Ukraine's international obligations, particularly regarding the implementation of the provisions of Regulation (EU) 2018/644 of the European Parliament and of the Council on cross-border parcel delivery services into national legislation by December 31, 2024¹³. Additionally, Commission Implementing Regulation (EU) 2018/1263 establishes a form for the submission of information by parcel delivery service providers¹⁴.

Furthermore, this set of regulations should incorporate concepts, strategies, and programs reflecting the strategic vision of the state's political leadership concerning the development of postal services in the medium and long term. These initiatives should be in alignment and interconnected with other national and international strategic and conceptual documents, including the new Comprehensive Strategy for Postal Reform of the Universal Postal Union (UPU, 2023)¹⁵.

Ukraine has experience in developing such documents; however, many have lost their relevance due to their antiquity. For instance, the Concept of the State Target Economic Program for the Development of Postal Services for 2009–2013¹⁶ and the Concept of Communications Development of Ukraine until 2010¹⁷ are outdated. Similarly, the Strategy for the Implementation of the Provisions of the European Union Directives in the Field of Postal and Courier Services (“Road Map”)¹⁸ is considered complete following the adoption of the Law “On Postal”.

The National Economic Strategy for the period up to 2030¹⁹ outlines key conclusions regarding the nature of the postal services market, the role of the National Postal Operator JSC “Ukrposhta”, identifies challenges and barriers to achieving strategic goals, and proposes ways to address them. It also sets “target indicators – 2030” for strategic goal 3, “Ensuring high-quality and competitive postal services for citizens and businesses”. These indicators include ensuring the availability of 100 percent of all addresses in the Unified Electronic Register and increasing the use of postal services for the purchase of goods (up to 15 billion US

¹³ Regulation (EU) 2018/644 of the European Parliament and of the Council of 18 April 2018 on cross-border parcel delivery services <<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018R0644>> (accessed: 10.12.2023).

¹⁴ Commission Implementing Regulation (EU) 2018/1263 of 20 September 2018 establishing the forms for the submission of information by parcel delivery service providers pursuant to Regulation (EU) 2018/644 of the European Parliament and of the Council <http://data.europa.eu/eli/reg_impl/2018/1263/oj> (accessed: 10.12.2023).

¹⁵ Мінінфраструктури: IV Конгрес Всесвітнього поштового союзу виступив на підтримку України та її поштового сектору (05 жовтня 2023) <<https://www.kmu.gov.ua/news/mininfrastruktury-iv-konhresvsesvitnoho-poshtovoho-soiuzu-vystupuv-na-pidtrymku-ukrainy-ta-ii-poshtovoho-sektoru>> (дата звернення: 10.12.2023).

¹⁶ Про схвалення Концепції Державної цільової економічної програми розвитку поштового зв'язку на 2009–2013 роки: розпорядження Кабінету Міністрів України від 14 січня 2009 р. № 35-п <<https://zakon.rada.gov.ua/rada/show/35-2009-%D1%80#Text>> (дата звернення: 10.12.2023).

¹⁷ Про Концепцію розвитку зв'язку України до 2010 року: постанова Кабінету Міністрів України від 9 грудня 1999 р. № 2238 <<https://zakon.rada.gov.ua/rada/show/2238-99-%D0%BF#Text>> (дата звернення: 10.12.2023).

¹⁸ Про схвалення Стратегії імплементації положень директив Європейського Союзу у сфері послуг поштового зв'язку та кур'єрських послуг (“дорожньої карти”): розпорядження Кабінету Міністрів України від 14 лютого 2018 р. № 104-р <<https://zakon.rada.gov.ua/rada/show/104-2018-%D1%80#Text>> (дата звернення: 10.12.2023).

¹⁹ Про затвердження Національної економічної стратегії на період до 2030 року: постанова Кабінету Міністрів України від 3 березня 2021 р. № 179 <<https://zakon.rada.gov.ua/rada/show/179-2021-%D0%BF#Text>> (дата звернення: 10.12.2023).

dollars). However, these indicators do not fully reflect the real state of the postal services market in Ukraine and thus require significant revision in our opinion.

The planned achievement of these “target indicators-2030” also fails to address the challenges and barriers identified in the National Economic Strategy, particularly concerning legislative and infrastructural support:

- Legally unregulated definition of the status of a postal operator, leading to ambiguity in identifying a business entity as a postal operator and uncertainty regarding the application of postal legislation.

- Presence of obstacles to healthy competition in the market, such as distortion caused by requirements imposed on the national operator to maintain infrastructure for letter, newspaper, and pension delivery in rural areas without timely tariff compensation for losses or Public Service Obligation (PSO).

- Inadequate condition of sorting infrastructure.

- Lack of investment.

- Obsolescence of postal operators’ transport facilities and entrenched corruption.

- Inadequate condition of logistics infrastructure, among other issues.

Thus, the problem of the unresolved legislative determination of the status of OPPs has led to a dynamic increase in the number of operators who mistakenly identify themselves as OPPs. These operators unreasonably register themselves in the Unified State Register of Enterprises and Organizations of Ukraine under the notification principle. However, in reality, they do not qualify as OPPs. This situation creates risks for corruption, smuggling, the functioning of the “gray” market, and also leads to the avoidance of submitting reports and information upon request.

Under martial law in Ukraine, this problem has become even more acute. With the dynamic growth of the number of Operational Postal Providers (OPPs) in the Unified State Register of Postal Services, there is a significant decrease in the number of reports from them, coupled with an increase in user complaints about the quality of their postal services. The main factors contributing to these processes include the non-mandatory reporting of OPPs in accordance with the Law “On Protection of the Interests of Reporting Entities during Martial Law or State of War”²⁰, and a ban on inspections during martial law as per the Government’s decision “On the Termination of Measures of State Supervision (Control) and State Market Surveillance under Martial Law”²¹. Exceptions are situations that pose a threat to human rights, legitimate interests, ensuring the security of the state, as well as the fulfillment of Ukraine’s international obligations. In such cases, the Regulator may carry out unscheduled measures of state supervision (control) based on decisions from the Ministry of Infrastructure.

²⁰ Про захист інтересів суб’єктів подання звітності та інших документів у період дії воєнного стану або стану війни: Закон України від 3 березня 2022 р. № 2115-IX <<https://zakon.rada.gov.ua/rada/show/2115-20#Text>> (дата звернення: 10.12.2023).

²¹ Про припинення заходів державного нагляду (контролю) і державного ринкового нагляду в умовах воєнного стану: постанова Кабінету Міністрів України від 13 березня 2022 р. № 303 <<https://zakon.rada.gov.ua/rada/show/303-2022-%D0%BF#Text>> (дата звернення: 10.12.2023).

These problems complicate both the formulation of a robust state regulatory policy in this area and an adequate and prompt response from the Regulator regarding the quality of postal services provided by OPPs.

Figure 3 illustrates the dynamics of changes in the number of Operational Postal Providers (OPPs) and reports from them over the years, reflecting trends of rapid growth in the number of registered postal operators and a simultaneous decrease in reports from them. While the first trend could be perceived as a positive factor in the development of competition in the postal services market and the absence of barriers, the second trend highlights significant concerns. It underscores issues related to the unresolved determination of the status of a postal operator and the lack of effective mechanisms for monitoring and state supervision (control) in this area.

Figure 4 depicts the trend of increasing user complaints about the quality of postal services over the past three years.

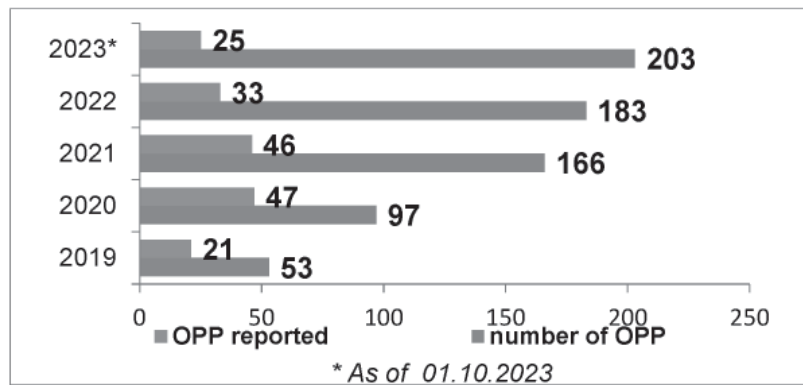


Fig. 3. Number of OPPs in the Register and their reporting

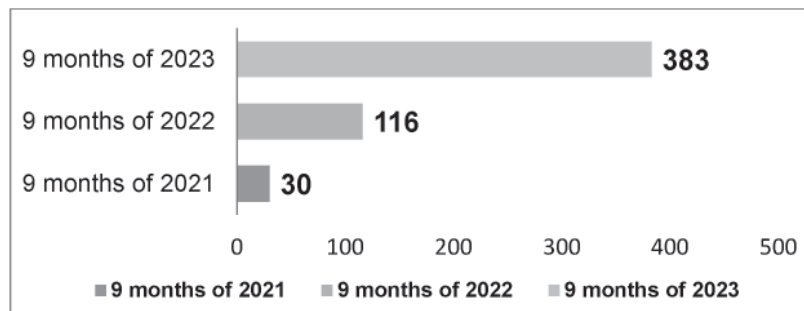


Fig. 4. Number of user complaints about the quality of postal services

The Law “On Postal Communication” defines the concept of a “postal operator” as “a business entity that operates on the territory of Ukraine and

provides postal services in accordance with the procedure established by law”. It also defines “postal services” as the activity of a postal operator involving the receipt, processing, transportation, and delivery of postal items, including courier services, aimed at fulfilling users’ orders for postal orders to meet their needs. Therefore, Ukrainian business entities are classified as postal operators if they engage in activities on the territory of Ukraine to provide any of the listed postal services or their combination and are registered on a notification basis in the Unified State Register of Postal Services.

According to the legislation²², the exclusion of any postal operator from this Register is possible in the following cases:

- Notification of the Operational Postal Provider (OPP) about the termination of activities in the field of providing postal services, submitted to the Regulator.
- Failure of the OPP to submit, within the period specified in Article 14 of this Law, a notice confirming the information entered in the Unified State Register of Postal Services.
- Based on information from the Unified State Register of Legal Entities, Individual Entrepreneurs, and Public Organizations about the termination of a legal entity or the cessation of entrepreneurial activity of an individual entrepreneur.

At the same time, the legislation does not define the liability of postal operators for failure to provide reports or information in a timely manner, or for late submission, to the Regulator. The legislation only provides for unscheduled measures of state supervision (control) in case of failure to correct reporting errors within the established period. However, there is no further specification of the consequences for the “violator” based on the results of the audit, including the possible exclusion from the Register.

During peacetime, the grounds for conducting unscheduled inspections are defined in Article 6 of the Law of Ukraine “On the Basic Principles of State Supervision (Control) in the Field of Economic Activity”.

For the efficient and effective fulfillment of the Regulator’s mission, as defined in the Law²³, the Regulator must ensure a balance of interests among users, the state, and business entities operating in the fields of electronic communications, radio frequency spectrum, and provision of postal services. This includes ensuring the security of electronic communications, developing competition, and integrating Ukrainian markets into these spheres with the markets of the European Union.

To achieve these objectives, the Regulator must have access to high-quality and up-to-date information. In the context of the dynamic development of the information sphere²⁴, such information support should be based on automated exchanges using the national system of interaction of state electronic information resources. Furthermore, deepening collaboration between the national regulator in the field of postal services, the Universal Postal Union, and national regulators

²² Про затвердження Порядку та форми ведення єдиного державного реєстру операторів поштового зв’язку: постанова Національної комісії, що здійснює державне регулювання у сферах електронних комунікацій, радіочастотного спектра та надання послуг поштового зв’язку від 19 квітня 2023 р. № 138 <<https://zakon.rada.gov.ua/laws/show/z0816-23#Text>> (дата звернення: 10.12.2023).

²³ Про Національну комісію, що здійснює державне регулювання у сферах електронних комунікацій, радіочастотного спектра та надання послуг поштового зв’язку (н 10).

²⁴ Заярний О, ‘Інформаційна сфера як об’єкт адміністративно-правової охорони: деякі доктринальні та нормативні аспекти’ (2016) 23 Журнал східноєвропейського права 18–23.

of European Union member states, as well as other strategic partners of Ukraine in foreign policy, is relevant.

CONCLUSIONS. The study reveals that current public administration in the field of postal services in Ukraine is oriented towards international and European legislation, liberalization of the service market, and minimizing regulatory impact.

Given the ongoing war against Ukraine and the state of digital transformations across various spheres of public life, there is a need to balance the democratic qualities of public administration mechanisms with clear procedures for state supervision (control) over compliance with legislation in the field of postal services, reporting, and monitoring the quality of postal services. Otherwise, there is a risk of a dynamic increase in the number of operators who mistakenly identify themselves as Operational Postal Providers (OPPs) and are registered in the Unified State Register of Enterprises and Registers, although they do not meet the criteria.

– Improvement of the legal framework of public administration in the field of providing postal services should prioritize the following areas:

– Implementing Regulation (EU) 2018/644 of the European Parliament and of the Council on cross-border parcel delivery services and Commission Implementing Regulation (EU) 2018/1263 into national legislation.

– Elaborating a draft national strategy for the development of the postal service sector.

– Simplifying procedures for conducting unscheduled inspections under martial law.

– Clarifying the criteria for classifying business entities as postal operators.

Strengthening the responsibility of postal operators for non-provision, untimely provision, provision of incomplete, and false reports and information.

There is a demonstrated need to strengthen inter-operator interaction, including the designated operator with private operators, and to establish the Association of Postal Operators. Furthermore, the role of organizing tax reporting and mechanisms of self-regulation and self-organization in ensuring the sustainability and stability of the postal infrastructure under martial law is highlighted.

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ОСОБЛИВОСТІ ПУБЛІЧНОГО АДМІНІСТРУВАННЯ У СФЕРІ НАДАННЯ ПОСЛУГ ПОШТОВОГО ЗВ'ЯЗКУ В УМОВАХ ВОЄННОГО СТАНУ ТА ЄВРОІНТЕГРАЦІЙНА ПОЛІТИКА УКРАЇНИ

АНОТАЦІЯ. В умовах широкомасштабної війни Російської Федерації проти України, істотного зростання внутрішньої і зовнішньої міграції актуальною проблемою для держави є забезпечення належного функціонування механізму поштового зв'язку. Юридичне значення цієї проблеми посилюється у зв'язку з проведенням в Україні реформи місцевого самоврядування, заснованої на засадах рівної доступності жителів різних територіальних громад до публічних послуг, децентралізації влади, системної цифрової трансформації органів місцевого самоврядування. Водночас, проведені в Україні реформи адміністративно-територіального устрою, місцевого самоврядування, сфери електронних публічних послуг лише незначною мірою охопили сферу поштового зв'язку. Проте удосконалення законодавства України у цій сфері правового регулювання і механізму публічного адміністрування послуг поштового зв'язку є одним із напрямів переговорного процесу про набуття Україною статусу держави – члена Європейського Союзу.

Метою статті є аналіз стану розвитку сфери поштового зв'язку України та механізмів її публічного адміністрування та саморегулювання, визначення особливостей їх застосування, зокрема і в умовах воєнної агресії Російської Федерації, за результатами якого обґрунтувати рекомендації державним органам та операторам поштового зв'язку щодо їх удосконалення.

У статті проведено аналіз стану сфери поштового зв'язку України та механізмів її державного регулювання та саморегулювання, визначено особливості їх застосування, зокрема і в умовах воєнної агресії Російської Федерації, основними з яких є демократичність, спрямованість на міжнародне та європейське законодавство, лібералізацію ринку послуг, мінімізацію регуляторного впливу. Доведено необхідність збалансування демократичних якостей механізмів державного регулювання чіткими процедурами державного нагляду (контролю) за дотриманням законодавства у сфері надання послуг поштового зв'язку, звітності та моніторингу якості надання послуг поштового зв'язку.

У висновках, за результатами проведеного дослідження сформульовано окремі рекомендації державним органам та операторам поштового зв'язку, які спрямовані на удосконалення їхньої діяльності та механізму правового регулювання суспільних відносин у цій сфері загалом, посилення міжоператорської взаємодії, зокрема й призначеного оператора з приватними операторами. Обґрунтовано необхідність розроблення стратегії розвитку сфери поштового зв'язку та доцільність створення асоціації операторів поштового зв'язку.

Ключові слова: публічне адміністрування; сфера поштового зв'язку; призначений оператор поштового зв'язку; універсальні послуги поштового зв'язку; регуляторний орган у сфері надання послуг поштового зв'язку.