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## Experience of administrative and legal support for control and supervision

### Досвід адміністративно-правового забезпечення контрольно-наглядової діяльності

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#### Abstract

The aim of this article is to analyse the experience of the EU countries regarding the administrative and legal support for control and supervision in the context of Ukraine's accession to the EU. The main methods of research in the article are methods of structural construction, analytical substantiation, and logical construction. The development and implementation of a new public administration policy was determined in the article as one of the most important vectors for the modernization of public administration. It reduces the relativity and number of points of contact between companies and the state. On the other hand, the European Community establishes a model of the number of regulatory bodies, and the conditions for Ukraine's accession to the EU require bringing their objectives in line with European standards. When the optimization of the system

#### Анотація

Метою даної статті є аналіз досвіду країн Європейського Союзу щодо адміністративно-правового забезпечення контрольно-наглядової діяльності в умовах входження України до ЄС. Основними методами дослідження в статті визначені методи структурної побудови, аналітичного обґрунтування та логічної побудови. В статті одним із найважливіших векторів модернізації державного управління визначена розробка та впровадження нової політики державного управління, яка зменшує релятивність та кількість точок дотику між компаніями та державою, а з іншого боку – Європейське співтовариство встановлює модель кількості регуляторних органів, а умови входження України до ЄС вимагає приведення їх завдань у відповідність до європейських стандартів. Водночас, коли оптимізація системи

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of control and supervisory institutions is imperfect, it is fundamentally important to make a balanced acceptable decision and to avoid an imbalance in the work of state control and supervisory bodies. Based on the conducted research, a list of measures to reduce control and regulatory activities in the context of Ukraine's accession to the EU was made. At the same time, regulatory bodies are the most important guarantors of the success and sustainable development of the entire country. This determines the relevance of the research and substantiates the need to analyse the experience of the EU countries regarding administrative and legal mechanisms of supervision and control. Prospects for further research are the analysis of the effectiveness of the proposed measures, and determining a range of interested persons in order to improve the administrative and legal support for control and supervision.

**Keywords:** control, supervision, administration, provision, analysis.

## Introduction

In the context of Ukraine's accession to the European Union, studying the experience of administrative and legal support in order to reduce control and supervisory pressure is relevant. Civilized and mutually beneficial relations with other countries can be developed through the creation and improvement of national laws, as well as administrative rules regulating control and supervision.

Since the independence of Ukraine, state authorities and local self-government bodies have developed and implemented a set of measures to ensure compliance with the legislation and state policy. However, the general level and quality of regulatory and legal support for control and supervision does not meet the needs of society and the state. In this regard, problems have accumulated during the period of Ukraine's accession to the EU, which require the fastest possible development and implementation of new forms and methods of administrative and legal regulation. Therefore, some parts of the laws of Ukraine have exhausted their regulatory legal resource and require a functional and meaningful revision. Cadastral management is not permanently organized to ensure effective control. The weak enforcement of legislation is one of the most urgent problems in this area, which has led to enormous corruption and bribery, abuses of power and lack of professionalism in this area. This significantly

контрольно-наглядових установ є недосконалою, принципово важливим є виважене та наукове прийнятне рішення та уникнення дисбалансу в роботі органів державного контролю та нагляду. В результаті проведеного дослідження сформований перелік заходів щодо зменшення контрольно-регуляторної діяльності в умовах входження України до ЄС. При цьому, контролюючі органи є і залишається найважливішим гарантом успіху та сталого розвитку всієї країни. Це зумовлює актуальність дослідження та обґрунтовує необхідність аналізу досвіду країн ЄС щодо адміністративно-правових механізмів нагляду та контролю. Перспективами подальших досліджень є аналіз ефективності запропонованих заходів та визначення кола зацікавлених осіб щодо удосконалення адміністративно-правового забезпечення контрольно-наглядової діяльності.

**Ключові слова:** контроль, нагляд, адміністрування, забезпечення, аналіз.

limits the subjects' capabilities and increases the distrust of the population in the governing bodies.

A large number of unsolved problems in this area indicates that the system of administrative and legal control and supervision requires improvement and strengthening of its role, which necessitates the development of control and supervision.

The aim of this article is to analyse the experience of the EU countries regarding the administrative and legal support for the control and supervision in the context of Ukraine's accession to the EU.

The aim involved the fulfilment of the following research objectives:

- study conceptual framework of control and supervision in Ukraine;
- analyse the state of the legislative framework regarding administrative and legal support;
- describe the administrative and legal framework for the support of the entities engaged in control and supervision;
- determine theoretico-methodological and practical proposals for improving the administrative and legal support for supervision.

The subject of the research is social relations between interested parties in the course of control and supervision. The object of the research is the principles, methods and mechanisms of administrative and legal support for control and supervision.

### Literature review

The concepts of supervision and control are similar to ensure legality. Analysis of the most important scientific methods that distinguish between supervision and control, or vice versa, their identification confirms that control in the broad sense of supervision and inspection is a prerequisite, sub-function or stage of control. The use of the term “control and supervision” is explained by assigning control powers to the vast majority of subjects.

Hoerudin and Maolani (2019) defined the concept of control and supervision and emphasized the need to achieve optimality. It was determined that the positive impact of control and supervision can increase the efficiency and effectiveness of the government in public services with the benefit of the public. Rączka and Chłudziński (2021) emphasize that it is necessary to distinguish between the concepts of control and supervision in the field of public administration.

At the same time, control and supervision must be supported by administrative and legal principles. A significant part of the above-mentioned and other problems have accumulated because of the lack of research. The studies on modern domestic and foreign administrative law focus on the issue of administrative law in different spheres. Syrett and Alder (2021) consider constitutional and administrative rights in public administration. Rosenbloom (2022), Rosenbloom et al., (2022) provided a deeper definition of administrative and legal support in public administration. Kokhanovskaya et al., (2019) conducted a similar study. Panagiotopoulos et al., (2019) explored the concept of administrative law in the field of digitization. Ellickson et al., (2020) study the issue of legal security of land relations. Exploring the genesis of the institution of administrative responsibility in the legal system of Ukraine, Goncharuk et al., (2020) observed the development of a new subject composition of officials who have the right to impose administrative fines and introduce subjects engaged in control and supervision. Mulligan and Bamberger (2019) examines administrative law in the field of education. So, the issues of

administrative law are considered separately for each field of application. There is a need to develop a comprehensive approach to administrative and legal support for control and supervision.

Fisher and Shapiro (2020), Androniceanu (2021) considered the implementation of state policy at the administrative level. Research results show that ministries have made progress in ensuring administrative transparency. They are useful and interesting to both academia and ministries to help them identify ways of increasing transparency for better democratic governance.

Despite the large number of studies on specific issues related to the organization and carrying out control and supervision in Ukraine, this issue has not yet been fully studied, which determines its importance for a deep scientific understanding. The primary task is to improve and develop the existing systems of administrative and legal control and supervision of public relations in Ukraine.

### Methods

The methodological framework of the research are general and special methods of modern scientific knowledge, the application of which is determined by a systematic approach to the issues in a single socially meaningful and legal form. The main conceptual tools were developed using logical semantics. The comparative law was used to describe the concepts and signs of control and supervision in the field of real estate, analyse its administrative and legal framework, and study the field of legal regulation of real estate.

The main methods are the general and special methods of scientific knowledge. Their application is determined by a systemic approach that allows to investigate the issues of social units and their legal form. The general scientific dialectics was applied to observe the development and interrelationships of legal phenomena and processes for identifying the main trends and directions of development in order to improve the legal support of control and supervision. The methods of analysis and synthesis, deduction and induction were used to study theoretical and practical issues of the process of legal regulation. A historical and legal approach, the development of scientific opinion regarding the control and supervision, and the emergence of a subject system of state control is considered. A systemic structural approach made it possible to determine the internal structure of

the systems of control and regulatory bodies, as well as identify gaps in institutional and regulatory support. The distribution of roles, responsibilities, control and management was considered using a functional legal approach. The conceptual framework was deepened with the help of a logical semantic approach, in particular, the essence of such concepts as “control and supervision”, “administrative and legal support”, and the difference between the corresponding terms. A comparative law approach is used to analyse national laws governing the practice of control and supervision for ensuring compliance with relevant international agreements and conventions, as well as foreign laws. Recommendations for improving the current legislation were developed using modelling and forecasting methods, as well as formal methods. Conclusions and propositions are based on the requirements of formal logic for coherence, consistency and validity of judgments. The novelty of the work is an in-depth study of the organizational and legal foundations of state control and monitoring. As a result of the conducted research, the general trends of the development of a separate complex of legal regimes were determined, and new conceptual directions for the improvement of legislation were developed.

The empirical basis of the research is the statistics collected by control and supervisory bodies from management and other law enforcement practices.

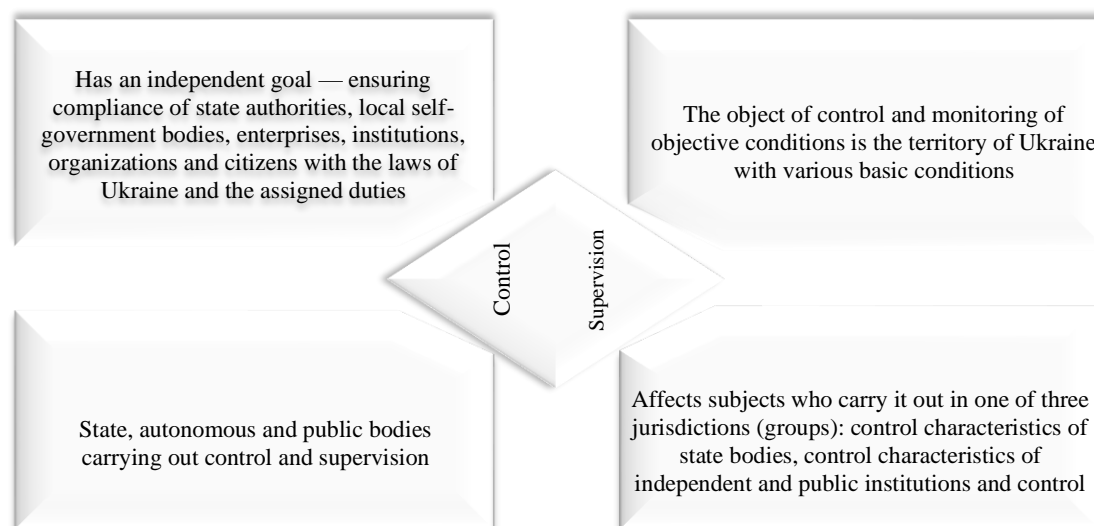
The theoretical basis is formed by the studies of specialists in general political and legal theory, entrepreneurship, management, state, civil, economic and other legal sciences. The articles

and conclusions are based on regulatory acts, laws and the Constitution of Ukraine, which determine the basic principles of administrative and legal support for control and supervision in Ukraine. The basis of the research is an overview of industry practices of control and supervision, analytical articles, political and legal news, reference publications, material statistics on these matters, and relations with countries. Personal experience of administrative and executive work is also used.

## Results

Control and supervision are defined in forms that occur at all stages of the administrative process, extend to all its parties and are the main elements of norms of behaviour in the legal sphere. In general, public administration and society are governed by a large number of state, independent and public institutions with various supervisory and control powers. It is possible to oppose the bureaucratization of public administration mechanisms, and, if necessary, oppose official government institutions with the help of the active influence of the public on the course of all processes in society, in particular in the field of control and supervision, through the development of non-government institutions.

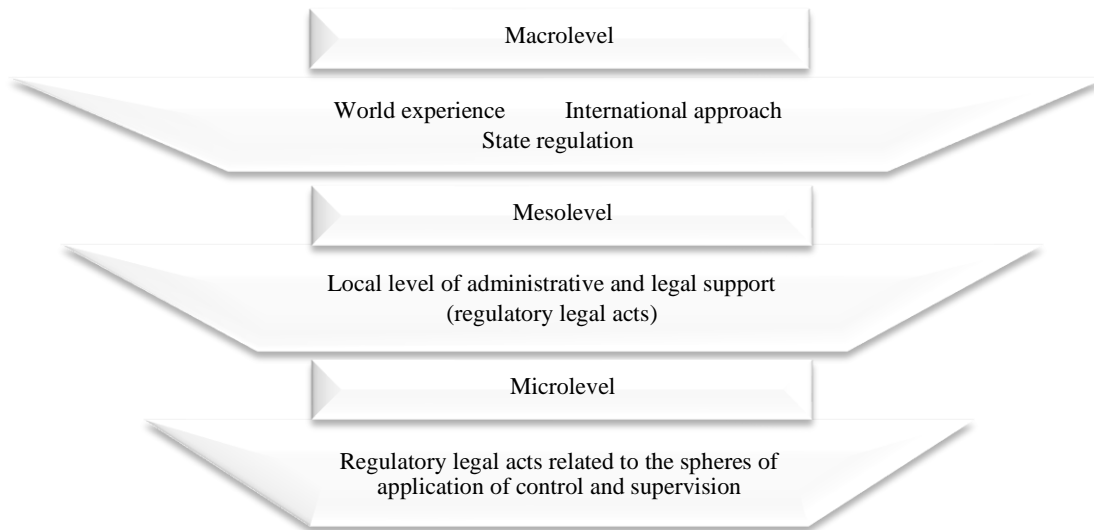
Control and supervision are taken by the state, territorial communities and competent government bodies in different control and supervision areas in order to ensure compliance with the legislation by state authorities and local self-government bodies. National laws regulate the activities of government institutions, enterprises, organizations and individuals. Figure 1 presents the features of control and supervision.



*Figure 1.* Special features of control and supervision in Ukraine (developed by the author)

The principles of regulatory activity form the main ideas, provisions and requirements that must guide all issues related to the type, form, direction and method of regulatory work. The analysis of regulatory legal practice and academic literature on the definition and consolidation of supervision principles makes it possible to divide the principles of supervision and control into two groups: general principles and specific principles. The general principles of control and supervision arising from the principles of public administration include

legality, information, freedom, humanitarianism, justice, equality before the law, public participation in public administration. Specific principles of control and supervision related to the state and public relations are studies, design, system, objectivity, production, complexity, justice, efficiency, officiality, interaction. So, control and supervision can be divided into three main levels: state level, independent control and supervision at the local level, and public control and supervision (Figure 2).



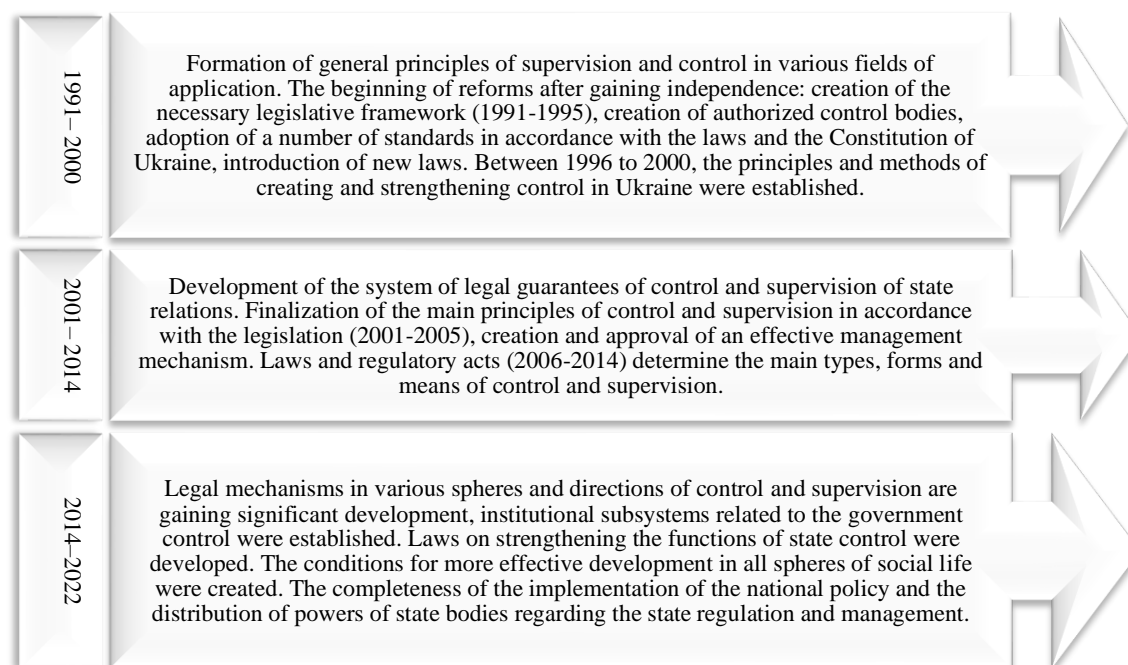
**Figure 2.** Levels of control and supervision (generalized by the author)

The effectiveness of control and supervision at each level of management is aimed at ensuring compliance with the legislation of Ukraine by state authorities, territorial communities, enterprises, institutions, organizations and citizens. Their effectiveness depends on optimal administrative and legal support at each level of the hierarchy of control and supervision. The Ukraine's accession to the European Union arose a need to make changes and additions to the regulatory legal acts, in particular with the aim of clarifying the material system of state control and supervision.

The formation of administrative and legal support for control and supervision has gone through several stages and is currently in the reformation stage (Figure 3).

The necessary regulatory and legal framework for proper control and supervision of state relations has been created throughout the territory of Ukraine, the necessary national target plans and improvement of activities have been approved. However, it should be noted that the development of the legal framework of control

and supervision in Ukraine is significantly hampered by a number of factors, in particular, the strengthened control and supervision, as well as regulatory and legislative acts. Analysis of the current legislation, which regulates control and supervision in Ukraine, shows that it is necessary to make changes to the current legislation in order to solve the problems. The conditions for joining the European Union require the improvement of legislation in terms of reducing control. The institutionalization and unification of regulatory behaviour related to the management and control of state relations is planned at this stage. This is the main direction of improvement of state laws and regulatory acts in the field of state relations at all levels. Improvement of the legislative framework and strengthening of measures of administrative responsibility, legal limitation of powers of government bodies and citizens regarding resource management and control over relations, improvement of unified implementation of control procedures. In Ukraine, national legislation and regulations on control and supervision should be brought into line with international legislation.



**Figure 3.** Stages of development of administrative and legal support for control and supervision (generalized by the author)

For this purpose, the necessary priority task is the analysis of the world experience of administrative and legal support for control and

supervision. Table 1 presents the characteristics of the administrative and legal support in the leading countries of the world.

**Table 1.**

*International experience of administrative and legal support for control and supervision (author's own development)*

Country	Main law	Legislation at the state level	Regulatory and legal support at the local level	Peculiarities
United States	The US Constitution	State bodies are endowed with special powers of higher executive bodies	Regulatory acts of 50 municipal systems	State bodies have the right to exercise state control
Republic of Lithuania	Constitution of the Republic of Lithuania	Law on Local Communities	European Charter of Local Self-Government	A detailed list of competencies. All activities are divided into state and independent functions.
Germany	Constitution of Germany	Legislation passed by the Central Government and the relevant state bodies	Regulatory acts approved by the Ministry of Internal Affairs of the federal land	It is based on the Basic Law with the provision of full responsibility and independence to local communities.
Poland	Constitution of Poland	Laws and by-laws of the Supreme Chamber	Enforcement of laws at the state level	Control is divided into external and internal. The local level of law enforcement is ensured by the fear of sanctions. The prefect performs the functions of supervision and control over the local authorities, that is, it exercises administrative vigilance and leaves the independence of local communities.
France	Constitution of France	National Gendarmerie of France. State and administrative institutions	Enforcement of laws approved at the state level	Enforcement of laws approved at the state level

European local self-government bodies have undergone major changes that enabled them to better cooperate with each other on policies and related programmes. Later, the conceptual framework of activities had to be further modified to reflect internationalization, especially because of the accession of countries to the EU. These reforms can be divided into four types: regulation of the number of units, organizational reforms, financial reforms, functional and procedural reforms. As part of the first wave of reform, the number of self-governing units, especially municipalities, was reduced through mergers. An operational substantiation was used as a starting point: it was assumed that large groups and administrative units were needed to effectively deliver services on the ground to avoid overhead and benefit from economies of scale. Thanks to consolidation, new forms of local institutions, such as service circles, parish committees, and self-government, were reduced, and in other places significantly increased.

Based on the principles of democracy and decentralization, local self-government bodies are empowered to independently resolve all issues of local importance, promote the optimal combination of local and national interests, and carry out the most effective socio-economic activities of the regions. Therefore, local self-government should be considered as an integral part of civil society and an indicator of democracy. As we saw on the example of the EU member states, local self-government is one of the most important institutions in the social structure of local self-government. As regards city self-government, problems related to the life of citizens should be considered and solved first of all.

Current administrative and legal norms have their own peculiarities. The organization of administrative law provides for a set of measures aimed at the organization and rationalization of national administrative systems to ensure regulatory influence by creating legal and economic conditions for the stable functioning of all types of assets in terms of ownership, use and transfer. The body representing the state is entrusted with a number of tasks in the field of regulation, where the functions of supervision and control are one of the most important means of ensuring legality. It is emphasized that the creation of an adequate administrative and legal system of regulation is a reliable means of ensuring the achievement of the goals and objectives set by the state and creates the

necessary basis for achieving the overall stability of the country's economy and society.

Management functions are mainly carried out with the help of administrative and legal means of politics. Unlike other methods of management (social, psychological, economic, informational), the method of administrative law is based on authority, order and responsibility. The main form of implementation and use of administrative law management methods is an orderly and operative intervention in the management process with the aim of coordinating the efforts of its participants to fulfil the assigned tasks.

From the perspective of improving the principles and norms of supervision, it is based on a positive perception of time, adopting relevant foreign experience, and its emphasis on the current realistic needs. The peculiarities of regulation are partly determined by the peculiarities of their legal systems (Roman-Germanic, Anglo-American). Attention is drawn to the principles of regulation of registered works, the relevant state supervisory and control bodies, the limits of intervention of these bodies in the production activities of controlled objects (as a rule, only in cases of prevention and termination), the possibility of applying laws on the rational use of resources, European and world standards of quality and safety, as well as consulting on organization and structures.

There is a need for further systematization of laws in this area through the adoption of a special Law of Ukraine. A study of the problems of supervision and control was conducted, inconsistencies and shortcomings in the work of local self-government bodies were identified, he amendments to the current laws were proposed to solve the identified problems. Summarizing foreign experience, we can conclude that in Ukraine it is necessary to clearly define the list of state bodies and officials who have the right to organize effective control and supervision of the work of state bodies and local self-government officials. The main tasks can be defined as carrying out control and supervision in the field of local self-government, limitation of powers of subjects of supervision, standardization of supervisory and control procedures in the public sphere, introduction of principles and methods of unification of state administration at the regional and local levels.

## Discussion

For Ukraine, the trend of globalization and integration of state development poses an urgent strategic task of reforming control and supervision and bringing them in line with those current in the EU. Khadzhyradieva et al., (2020) studied in detail the directions of reforming control and supervision in the context of accession to the EU. The lack of resources for the implementation of certain reforms at the current stage was also noted. Onyango (2020) and Halligan (2020) conducted a similar study in this area. At the same time, the practical implementation of measures proposed in these studies is limited by public distrust of authorities.

Two groups of characteristics of control and supervision can be distinguished: general, characterizing it as a general activity, and specific, characterizing this activity as a legal phenomenon. The peculiarities of control and supervision are determined depending on their legal nature: the nature of powers, intentionality, type of organization regulated by law, enabling independent actions of the subject to entrust control and supervision to a lower entity. These features are discussed in Aman et al., (2020), Rosenbloom (2022), Kuhlmann and Wollmann (2019). Administrative and legal support permeates all aspects of social life under the influence of law and is regulated by law to ensure its effectiveness. Van Helden and Reichard (2019) study the efficiency issues. At the same time, the adaptation of the proposed approach to the instable external environment requires the study of additional approaches and directions.

The activity of the state control and supervisory bodies is highly specialized (Cobbe, 2019, Topolia, 2022; Pleskach, 2020; Dombrovan & Izbash, 2022) and involves the relevant tasks: compliance with land legislation, quality- and safety-related issues. The financial, legal regulatory integration measures should be implemented, amendments to regulatory acts should be introduced in order to increase the efficiency of competent control and supervisory institutions. The authors note internal vertical and horizontal connections between the said state bodies, as well as connections of national control and supervision bodies with the general system of control bodies. So, control and supervision are at different levels, and are divided into different types depending on the part of public life.

Programmes that provide various administrative services, mainly in industries and types of

activity, remain unregulated. Analysing the current state of the legislation on administrative and legal support in Ukraine, one can notice a number of shortcomings that lead to a significant decrease in the effectiveness of their practical application.

Measures ensuring the effectiveness of administrative responsibility for offences in the field of relations of the country include identifying and excluding inconsistencies in current laws from the list of violations on the territory of the country.

## Conclusions

The effectiveness of supervision and control is important for the development of the economy as a whole, both in terms of the actual results of supervision and the set social goals. It is determined by a number of social, economic, and legal criteria.

The article defines that the level of legal foundations of control and supervision is one of the main indicators of the effectiveness of control measures. Therefore, the quality of reform largely depends on the success of improving the quality of administrative and legal support. The laws that regulate control measures in this area accurately define and establish the legal status of the main objects, clearly regulate the form and method of control in the field of relations with the state. Systematization, division into appropriate stages and legal provisions of the type of independent and state control in Ukraine, creation of legal guarantees of the legality of control measures.

In the field of modern legal frameworks, it was determined that the institutional structure of state control is characterized by the lack of clarity in determining the powers of the controlling body. This leads to the duplication of tasks in the relevant ministries and departments, such as the Ministry for Regional Development, Building and Housing of Ukraine, the Ministry of Agrarian Policy and Food of Ukraine, Ministry of Ecology and Natural Resources of Ukraine. The need for further improvement of control and supervision, clarification of roles, powers and duties of administrative bodies at all levels and individual supervisory officials is emphasized. This mission requires the reduction of existing supervisory and regulatory bodies and the centralization of supervision in this area, appointment of a single supervisory agency, avoiding the duplication of supervisory functions between jurisdictions and executive authorities.



The main task of ensuring the effectiveness of supervision and control is the cessation of illegal activities and the improvement of law enforcement measures. The main task is to strengthen responsibility and establish effective mechanisms to prevent abuse. It is necessary to clearly define the legal obligations and main characteristics of legal entities as independent subjects of legal relations in order to increase the effectiveness of control. Increasing the effectiveness of control in this area can also contribute to taking measures to prevent and eliminate violations in state relations.

As an integral part of the general process of democratization of public administration in Ukraine, the optimization of the management system also requires its mandatory decentralization. Therefore, it is necessary to develop and implement mechanisms to ensure the decentralization of the industry in order to ensure sustainability in the long term and its effective use by turning local communities into full owners. Based on the decentralization principle, it seems necessary to drastically reduce the number of management bodies outside the territory of control. So, the improvement of monitoring and control appears to be directly related to the redistribution of control between government institutions and local self-government bodies, as well as full self-government. It is currently necessary to develop and adopt the relevant legal documents containing the conditions of autonomy and public control in the sphere of state relations as soon as possible.

The practical significance of the results obtained in the article can be determined as follows: the results are the basis for the further development of theoretical and legal issues of control and supervision of relations in the country, the definition and clarification of laws and regulatory acts which will improve the effectiveness of control and supervision.

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