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PRAKTYKA STOSOWANIA PRZEZ SĄDY ADMINISTRACYJNE PRZEPISÓW W SPRAWACH DOTYCZĄCYCH ODWOŁYWANIA SIĘ OD ORZECZEŃ, CZYNNOŚCI LUB ZANIECHANIA PAŃSTWOWEJ SŁUŻBY WYKONAWCZEJ

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Adnotacja. Artykuł poświęcono badaniu administracyjno-prawnego zabezpieczenia egzekucji orzeczeń sądowych przez pryzmat praktyki stosowania przez sądy administracyjne przepisów w sprawach dotyczących odwoływania się od orzeczeń, czynności lub bezczynności państwowej służby wykonawczej. Reformy zachodzące w społeczeństwie ukraińskim spowodowały aktywną aktywność ludzi, a ludzie starają się brać bezpośredni udział w rozwiązywaniu problemów dotyczących ich wspólnych interesów, w szczególności w zakresie wykonywania orzeczeń sądowych. Jednak pomimo znaczenia takich praw politycznych obowiązujące przepisy nadal nie zapewniają odpowiedniej ochrony praw obywateli do sprawiedliwego postępowania sądowego i egzekwowania orzeczeń sądowych. Przepisy te są często ograniczone lub nawet naruszane. Konieczne jest przeprowadzenie kompleksowego badania kolejności wykonywania orzeczeń sądowych jako odmiany orzeczenia sądowego; dalszy rozwój wykonalności teorii orzeczeń sądowych we współczesnych procedurach administracyjnych; uwzględnienie najnowszych osiągnięć nauki, prawo postępowania administracyjnego wymaga przeglądu; zrozumienie istoty i treści stosunku prawnego na etapie wykonania decyzji; bierne wykonywanie przez Ukrainę czynności sądowych doprowadziło do praktyki Europejskiego Trybunału Praw Człowieka, która określa trzy główne aspekty przymusowego wykonania orzeczeń: jeśli orzeczenie sądu oznacza prawo do przymusowego wykonania orzeczenia sądu, jest ono iluzoryczne i skuteczne; przy szczegółowym ustalaniu gwarancji

proceduralnych, świadczonych przez strony do rzetelnego procesu sądowego, nie zapewni to ochronę wykonania orzeczenia; każde wykonanie orzeczenia powinno być traktowane jako część „procesu sądowego".

Słowa kluczowe: wykonanie, postępowanie egzekucyjne, postanowienie sądu, realizacja postanowienia, wykonanie orzeczeń, jurysdykcja.

PRACTICE OF APPLICATION BY ADMINISTRATIVE COURTS OF LEGISLATION IN CASES OF APPEALS OF DECISIONS, ACTIONS OR INACTION OF STATE EXECUTOR

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Abstract. The article is devoted to the study of administrative and legal support of enforcement of court decisions, through the prism of the practice of application by administrative courts of legislation in cases of appeal against decisions, actions or inaction of the state executive service. The reforms taking place in Ukrainian society have prompted people to be active, and people seek to be directly involved in addressing issues of common interest, in particular the enforcement of court rulings. However, despite the importance of such political rights, existing laws still do not adequately protect the rights of citizens to a fair trial and enforcement. These provisions are often limited or even violated. It is necessary to conduct a comprehensive study of the order of execution of court decisions as a kind of court decision; further development of the expediency of the theory of judicial decision in modern administrative procedures; taking into account the latest achievements of science, administrative and procedural legislation needs to be revised; understand the essence and content of legal relations at the stage of execution of decisions; Ukraine's passive enforcement has led to the case law of the European Court of Human Rights, which defines three main aspects of enforcement: if a court decision indicates the right to enforce a court decision, it is illusory and effective; with a detailed definition of the procedural guarantees provided by the parties for a fair trial, this will not ensure the protection of the execution of the judgment; any enforcement of a judgment should be considered as part of a "trial".

Key words: execution, enforcement proceedings, court decision, execution of the decision, execution of decisions, jurisdiction.

ПРАКТИКА ЗАСТОСУВАННЯ АДМІНІСТРАТИВНИМИ СУДАМИ ЗАКОНОДАВСТВА У СПРАВАХ З ПРИВОДУ ОСКАРЖЕННЯ РІШЕНЬ, ДІЙ ЧИ БЕЗДІЯЛЬНОСТІ ДЕРЖАВНОЇ ВИКОНАВЧОЇ СЛУЖБИ

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Анотація. Стаття присвячена дослідженню адміністративно-правового забезпечення примусового виконання судових рішень через призму практики застосування адміністративними судами законодавства у справах із приводу оскарження рішень, дій чи бездіяльності державної виконавчої служби. Реформи, що відбуваються в українському суспільстві, викликали активну діяльність людей, і люди прагнуть брати безпосередню участь у вирішенні питань, що стосуються їхніх спільних інтересів, зокрема щодо виконання судових ухвал. Однак, незважаючи на важливість таких політичних прав, чинні закони все ще не забезпечують належним чином захист прав громадян на справедливий судовий розгляд і виконання судових рішень. Ці положення часто обмежуються або навіть порушуються. Необхідно провести всебічне дослідження порядку виконання судових рішень як різновиду судового рішення; подальший розвиток доцільності теорії судового рішення в сучасних адміністративних процедурах; урахування останніх досягнень науки, адміністративно-процесуальне законодавство потребує перегляду; зрозуміти суть і зміст правовідносин на стадії виконання рішень; пасивне виконання Україною судових дій призвело до практики Європейського суду з прав людини, яка визначає три основні аспекти примусового виконання судових рішень: якщо рішення суду вказує на право примусового виконання рішення суду, воно є ілюзорним і дієвим; при детальному визначенні процесуальних гарантій, що надаються сторонами для справедливого судового розгляду, це не забезпечить захист виконання судового рішення; будь-яке виконання судового рішення має розглядатися як частина «судового розгляду».

Ключові слова: виконання, виконавче провадження, ухвала суду, реалізація ухвали, виконання рішень, юрисдикція.

Topicality. At the same time, it should be noted that although the activity of citizens in exercising the right to protection of their rights in the judiciary has increased, which is a manifestation of democracy in our country, national legislation only partially provides for the protection of citizens. However, for countries with a democratic form of government, it is common practice to determine the basis for ensuring the right to a trial and the right to enforce judgments in each case through the intervention of judicial mechanisms. In addition, Ukraine currently has a strong tendency for the judiciary not to take timely and impartial decisions and law enforcement measures, taking into account the mechanism of law enforcement cooperation, applying national and international law, which leads to the fact that citizens are usually more. Many places seek protection from the European Court of Human Rights. Therefore, the author draws attention to the importance of laws and regulations that effectively apply the mechanism of judicial decisions, as this issue has become a tradition throughout the period of independence.

Formulation of the problem. Ukraine stands out in the context of Eastern Europe with numerous protests that have led to changes in the country's government on a global scale, as well as regional assemblies that affect the country's social, political and economic conditions.

Therefore, we focus on pressing and thematic issues related to court appeals against decisions, actions or omissions of state executors or other officials in the execution of court decisions. These questions have repeatedly confused scientists and attracted their attention, including: B.B. Bukach, O.V. Vaskovskaya, T.I. Good, M.M. Denisova, O.S. Denisova, O.Yu. Drozd, V.V. Zarosilo, O.V. Kolisnyk, P.O. Kuybida, M.I. Logvinenko, S.M. Mishchenko and others.

At the same time, it should be noted that during the execution of court decisions, courts consider the decisions of state executors or other officials, complaints about actions or omissions and the number of lawsuits related to the implementation of civil rights are important and complex administrative courts.

The institute of administrative and legal support of enforcement of court decisions is regulated by such normative legal acts as the Constitution of Ukraine, the Criminal Code of Ukraine, the Civil Procedure Code of Ukraine, the Law of Ukraine "On Enforcement Proceedings", the Law of Ukraine "On State Guarantees".

As Ukraine's justice is entirely governed by the courts, human rights enforcement depends largely on the status of enforcement of judgments.

It should be noted that the courts, when considering cases of appeals against actions or omissions of the State Executive Service of Ukraine (hereinafter – ICE of Ukraine), must be guided by the Constitution of Ukraine, Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms (Rome, November 4, 1950), ratified by the Law of Ukraine of July 17, 1997 N 475/97-VR), international treaties, the binding nature of which was approved by the Verkhovna Rada of Ukraine Convention for the Protection of Human Rights and Fundamental Freedoms, 1950, the Code of Administrative Procedure of Ukraine (Code of Administrative Procedure of Ukraine, 2014) (hereinafter – CAS of Ukraine), the laws of Ukraine of March 24, 1998 N 202/98-VR "On the State Enforcement Service" (Code of Administrative Procedure of Ukraine, 2014), of April 21, 1999 N 606-XIV "On Enforcement Proceedings" (On Enforcement Proceedings, 2016) (as amended by the Law of Ukraine of November 4, 2010 N 2677-VI), as well as other legal acts governing the enforcement of judgments and the application of the case law of the European Court of Human Rights (hereinafter – the ECtHR).

According to the first part of Article 181 of the Code of Administrative Procedure of Ukraine (Code of Administrative Procedure of Ukraine, 2014) (hereinafter – CAS of Ukraine), participants in law enforcement proceedings (except for state executors) and persons involved in law enforcement actions, if they believe that the decision is against the government, have the right report The court filed an application. Inaction or inaction of other officials of the state executive body or state administration violated their rights, freedoms or interests, and the law does not provide for other procedures for appealing against decisions, actions or inaction of such persons.

Therefore, the court to determine jurisdiction must proceed from the following facts: the jurisdiction of the administrative court includes all administrative documents related to the implementation of administrative documents Part 2 of Art. 17 of the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings, 2016), except when the legislation provides for a different appeal procedure.

Law of Ukraine "On Enforcement Proceedings" in Part 4 of Art. 82 (On Enforcement Proceedings, 2016) stipulates that a decision made by a state executor or other official of the state administration on the execution of a decision, action or omission of a court may be subject to consideration by the court that issued the agreement against the parties. Law enforcement documents, other participants in the law enforcement process and persons involved in law enforcement actions shall be submitted to the relevant administrative court in accordance with the procedure established by law.

Thus, the criterion for determining the jurisdiction of the court to appeal the decision of the appeal against the action or inaction of the national executive body to enforce the court decision is the jurisdiction of the court that issued the writ of execution and the plaintiff as a party to the enforcement proceedings.

According to Article 8 of the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings, 2016), the parties in the enforcement process are debt collectors and debtors. At the same time, the court must take into account the parties who may appeal the decisions, actions or omissions of other state executors or other officials of the state administration, and must include their representatives in accordance with the law or the contract.

Thus, the jurisdiction of administrative courts includes all cases involving appeals against decisions, actions or omissions of public administrative departments in the enforcement of judgments on the basis of administrative documents issued by courts of all jurisdictions, as well as those issued by ordinary courts and commercial courts. Except for administrative documents. Courts or their representatives of the parties involved in the relevant enforcement proceedings.

Cases in which actions or omissions of decisions of the state executor or other officials of the state administration are appealed against decisions of other bodies (officials) are cases of administrative jurisdiction, regardless of the object of appeal to the court (Part 5 of Article 82 of the Law of Ukraine "On enforcement proceedings") (On Enforcement Proceedings, 2016).

Article 33 of the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings, 2016) provides that certain public enforcement procedures for the recovery of funds from the debtor must be combined into a consolidated enforcement procedure.

The court must keep in mind that, in accordance with the provisions of this article, some public enforcement proceedings are combined into a consolidated enforcement procedure, which is used only to recover funds and only from one debtor.

In addition, courts must take into account all cases related to decisions, actions or omissions of the state administration that are taken (obligations, recognition) for unified enforcement procedures, and these cases combine enforcement procedures to ensure the enforcement of courts of different jurisdictions. The verdict or decisions of other institutions (officials) belong to the jurisdiction of the administrative court, even if there is no enforcement procedure to enforce the decision of the administrative court in a joint enforcement procedure.

The jurisdiction of the court is to determine cases related to the decision, action or inaction of the state executor or other officials of the state administrative administration during the execution of the court decision in a specific law enforcement procedure. These cases are combined (combined) into a joint enforcement proceeding. The procedure, or merger into enforcement proceedings, must be determined in accordance with the provisions of Part 4 c. 82 of the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings, 2016), in which enforcement proceedings must be combined when the decision is enforced by a court in one jurisdiction.

In addition, the jurisdiction of the administrative court includes cases in which the claims of the executor to the participants of the law enforcement process (except for the executor and the executor) are appealed against the decision, action or inaction of the executor or other officials of the state administration. Their representatives) or related staff before performing administrative actions. The jurisdiction of the administrative court includes disputes arising from appeals against decisions, actions or omissions of state executors or other officials of the state administrative administration, adopted (committed, accepted) during the execution of the order of notarization.

The court must take into account that the decision of the state executor to collect the enforcement fee and fine falls under the following two types of liability: non-independent execution of the decision and non-execution of the decision without good reason to force the debtor to take certain actions. Enforcement fees are sanctions against property liability imposed on the debtor for non-compliance with the decision in time for independent execution of the decision. In order to collect the enforcement fee, the executor has adopted a resolution, and in case of non-compliance, the resolution will be implemented in accordance with the procedures provided by the Law of Ukraine "On Enforcement Proceedings".

The decision of the national executor to impose a fine on the debtor, and not independent enforcement, is the basis for its execution.

According to paragraph 7, part 2 of Article 17 of the Law of Ukraine "On Enforcement Proceedings" 4, the resolution of the national executor on the collection of enforcement fees, enforcement costs and fines is an executive document. If the enforcement procedure has been completed and the enforcement fee, enforcement fee or fine or penalty has not been collected, the relevant decision will be allocated to a separate procedure and will be enforced in the general order.

Therefore, it should be borne in mind that the jurisdiction of the administrative court extends to appeals against decisions of state executors on the collection of enforcement fees, fees associated with the organization, as well as enforcement actions and fines for enforcement during enforcement proceedings. In all law enforcement documents, regardless of which body (including the court of which jurisdiction) is issued. In addition, the jurisdiction of the administrative court includes the execution (obligation, recognition) of the executor's decision, when the executor collects the enforcement fee, decisions on costs associated with the organization, decisions of the state administrative service, lawsuit or no appeal, enforcement actions and fines apply. as executive documents in separate executive procedures.

In accordance with Part 5 of Article 83 of the Law of Ukraine "On Enforcement Proceedings" 4 cancel the resolution or other procedural documents (part thereof) adopted by the state executor, the action of the state executor is invalid, and the decision of the state executor – the decision of the head directly subordinate to the state executor. The arithmetic error of the executive head and the decision of the responsible person of the higher level body of the national executive administration regarding the determined illegal act may be appealed within ten days from the date of its issuance, including in court. The jurisdiction of such cases is determined taking into account the provisions of Part 1 of Art. 181 CAS of Ukraine2 and part 4. Part 5 of Art. 82 of the Law of Ukraine "On Enforcement Proceedings" 4, as the above acts are issued in a specific enforcement proceedings.

The court must take into account that in accordance with Part 4 of Art. 82 of the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings, 2016), the jurisdiction of the administrative court includes the execution of the decision, action or inaction of administrative cases of the state. Confiscation of property, etc., except in the case of a petition filed by the parties to the enforcement proceedings.

Determining the substantive and territorial jurisdiction of the case related to the decision, action or inaction of the state administration, the court must take into account paragraph 5 of Part 1 of Art. 18 CAS of Ukraine (Code of Administrative

Procedure of Ukraine, 2014) and Part 6 of Art. 181 CAS of Ukraine (Code of Administrative Procedure of Ukraine, 2014) on decisions, actions or omissions of the state executor or other officials of the state administrative administration in order to implement court decisions in the circumstances specified in paragraphs 1–4 of Part 1 of Art. 18 of this Code (Code of Administrative Procedure of Ukraine, 2014), local ordinary courts consider them as administrative. The court in which the body issues a writ of execution, regardless of the status of the plaintiff in the law enforcement process.

In other cases – cases concerning decisions, actions or omissions of administrative documents issued by these courts by other officials of the national executive body or state administrative administration, except as provided for in paragraphs 1–4 of the first part of Article 18 of the Criminal Procedure Code of Ukraine (Code of Administrative Procedure of Ukraine, 2014). For the parties to the law enforcement process in Ukraine, there should be local ordinary courts as administrative courts that will issue enforcement orders.

Cases claimed by participants in other enforcement proceedings or persons involved in enforcement actions during the execution of such enforcement documents are subject to the jurisdiction of the district administrative courts. In accordance with the provisions of Art. 19 CAS of Ukraine (Code of Administrative Procedure of Ukraine, 2014) determined the territorial jurisdiction of such cases.

Taking into account the provisions of Part 4 of Art. 82 of the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings, 2016), when an appeal is filed against the decision, action or inaction of the state administrative body to implement the decision of the regional administrative court, such cases are in the territory under the jurisdiction of the district administrative court.

The court must take into account that the provisions of Part 2 of Art. 19 CAS of Ukraine2 determine the jurisdiction of the case against the decision, action or inaction of the state administration or other officials of the state administration to ensure the implementation of the jurisdiction of commercial courts, as well as decisions of ordinary courts (except for decisions and decisions of other institutions).

The court should keep in mind that all administrative cases concerning appeals against decisions, actions or omissions of the Agency of the State Administrative Service in law enforcement actions must be considered in accordance with Article 181 of the Criminal Procedure Code of Ukraine (Code of Administrative Procedure of Ukraine, 2014). Appeals against other decisions, actions or omissions of these institutions will be considered in accordance with the general rules of the CAS of Ukraine. This should be understood as such that administrative cases involving appeals against other decisions, actions or omissions of the State Administrative Service, which have nothing to do with enforcement actions, do not require consideration of such cases as provided in Article 181 of the Criminal Procedure Code of Ukraine (Code of Administrative Procedure of Ukraine, 2014) including reduction of time of consideration of administrative case by 10 days.

In case of appeal against the decision, action or inaction of another official of the state administration or state administration, the defendant is the relevant body of state administration (Article 181 of the CAS of Ukraine) (Code of Administrative Procedure of Ukraine, 2014). Such public administration institutions are:

• State Enforcement Service of Ukraine, which includes the Department of Enforcement of Decisions.

• Department of the State Executive Service of the Main Department of Justice of the Ministry of Justice of Ukraine in the Autonomous Republic of Crimea, main departments of justice in oblasts, cities of Kyiv and Sevastopol, which include enforcement departments.

• District, district in cities, city (cities of regional significance), city-district, inter-district departments of the state executive service of the relevant departments of justice.

Therefore, the court should keep in mind that in this case due to the structural units of the state executive service: the Department of Enforcement of Decisions of the State Enforcement Service of Ukraine, Enforcement of Decisions of the State Enforcement Service of the Main Department of Justice of the Ministry of Justice of Ukraine in the Autonomous Republic of Crimea. of Justice in oblasts, cities of Kyiv and Sevastopol – not defined by the Ukrainian legislation, namely, the Law of Ukraine "On the State Executive Service", which excludes their possibility to participate as defendants in such cases.

Therefore, the court should keep in mind that in this case, thanks to the structural unit (not defined as an independent body of state administration), the Decree of the President of Ukraine of April 6, 2011 № 385/2011 approved the Regulation on the State Executive Service of Ukraine, in accordance with paragraph 1 which the State Executive Service of Ukraine is the central executive body, whose activities are directed and coordinated by the Cabinet of Ministers of Ukraine through the Minister of Justice of Ukraine, is part of the executive branch and ensures the implementation of state policy in the field of enforcement of courts and other bodies (officials) to the laws (On the State Executive Service, 1998).

Thus, the administrative court of first instance consists of three judges. The Administrative Court of First Instance considers the case of appeals against decisions, actions or omissions of the Internal Affairs Ministry of Ukraine to enforce court decisions and decisions of other agencies (officials). Except for the circumstances provided for in Part 2 of Art. 24 CAS of Ukraine (Code of Administrative Procedure of Ukraine, 2014), cases where the defendant is another body of state administration, will be considered and resolved separately.

The court should note that the Main Department of Justice of the Ministry of Justice of Ukraine in the Autonomous Republic of Crimea, the main departments of justice in the regions, cities of Kyiv and Sevastopol, the main judicial ministries include law enforcement agencies. The Law of Ukraine "On the State Enforcement Service" states that these institutions may be relevant defendants in appeals, including decisions, actions or omissions made during law enforcement proceedings.

According to Art. 181 CAS of Ukraine (Code of Administrative Procedure of Ukraine, 2014), in case of appeal against decisions, actions or omissions of state executors or other officials of the state administration, the plaintiff may participate in law enforcement proceedings (except for state executors) and individuals. Participating in law enforcement actions, actions or omissions of state executors or officials of other state administrative units, violating their rights, freedoms or interests.

Article 7 of the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings, 2016) defines the participants in law enforcement proceedings and persons involved in law enforcement operations.

In accordance with the provisions of this article, the participants in enforcement proceedings are state executors, parties, party representatives, prosecutors, experts, experts, translators, as well as objects of appraisal activity – legal entities.

In these cases, the prosecutor may not only file a lawsuit as a participant in the law enforcement process, but may also be prosecuted when he acts on behalf of a citizen or country to open a law enforcement process on the basis of his application, paragraph 2 of Article 19 enforcement proceedings 4, but the court also has representatives of the parties to the enforcement proceedings. In addition, in the event of a rejection of a prosecutor's protest or evasion of a national administrative case, the prosecutor may apply to the court to declare such conduct illegal. Witnesses, police officers, guardians and other institutions are among those involved in law enforcement. And agencies are carried out in the manner prescribed by the Law of Ukraine "On Enforcement Proceedings".

The court must keep in mind that Article 188 of the Code of Ukraine on Administrative Offenses (On the State Executive Service, 1998) provides for liability for failure to comply with the legislative requirements of the state executor, especially the liability under Part 1 of Art. 90. of the Law of Ukraine "On Enforcement Proceedings". Such cases are under the jurisdiction of district, city, city or city courts (judges).

According to the Law of Ukraine "On Judicial Fees", the court pays an appeal against a court decision, action or omission against public administration officials. When making such claims, a court fee is usually paid.

CAS of Ukraine in Part 2 of Article 181 (Code of Administrative Procedure of Ukraine, 2014) provides for a special period of recourse to the courts.

Thus, a decision, action or omission of a state executor or other official of a state administrative administration may be appealed and filed within ten days from the date when the person learns or should have known about the violation of his rights, freedoms or interests. It was decided to postpone the action for three days.

In case of violation of this paragraph, the court applies the provisions of Article 100 of the Criminal Procedure Code of Ukraine, according to which, if the court does not consider an administrative claim filed after the statutory period, on the basis of a court application. The claims and the attached materials did not find grounds to appeal to the administrative court.

The court shall notify the defendant of the filing of the claim by courier, telephone, fax, e-mail or other technical means on the second day after the filing of the claim. Within one day from the date of receipt of such notice, the defendant is obliged to receive in court a copy of the statement of claim and the documents attached to it.

Administrative cases concerning decisions, actions or omissions of state executors or other officials of the state administration are resolved by courts in accordance with Part 5 of Art. 181 CAS of Ukraine (Code of Administrative Procedure of Ukraine, 2014), within ten days after the start of the proceedings. These disputes arise from the procedures of the state administrative service. In other cases, such disputes will be considered within the period specified in Part 1 of Article 122 of the Criminal Procedure Code of Ukraine (Code of Administrative Procedure of Ukraine, 2014).

Considering the case of appeals against the actions of the state executor on the confiscation of the debtor's property, the court must take into account the requirements for confiscation (description) of property under Art. 181 CAS of Ukraine (Code of Administrative Procedure of Ukraine, 2014).

Having verified the legality of the actions of the state executor to assess the debtor's property, the court must verify whether these actions comply with the provisions of Art. 58 of the Law of Ukraine "On Enforcement Proceedings" (On Enforcement Proceedings, 2016).

Therefore, the court must take into account that in view of these legal requirements, the executive body has the right to return executive documents in order to enforce the decision of the administrative court to recover pensions from pension and public authorities in case the state executor performs all possible actions, aimed at implementing the decision.

In our opinion, the creation of the Unified Register of Persons who have appealed against the enforcement of court decisions in the ECtHR can serve as a kind of clue as to why such decisions can be appealed. In addition, such a register will be an integrated search engine, through which authorized entities with special access will be able to view the case materials and problematic issues complained to the ECtHR, which will significantly increase the efficiency of not only the ICE of Ukraine, but and the entire judicial system in Ukraine.

As a result, it should be noted that compliance with the right of citizens to appeal against actions or omissions or decisions of the Internal Affairs Ministry of Ukraine is of particular importance in connection with the ongoing reform of national legislation and the implementation of European standards in Ukraine.

The legislator provides citizens with a unique opportunity to defend their legal rights and obligations under the Constitution of Ukraine by filing lawsuits against illegal law enforcement agencies and enforcement of court decisions over which the Internal Affairs Ministry of Ukraine exercises control.

Conclusions. However, it should be emphasized that such a possibility, or rather the law, should be applied only in accordance with the current legislation, namely the CAS of Ukraine and the Law of Ukraine "On Enforcement Proceedings".

It is not only national legislation that enables citizens to assert their violated rights. It is very important to take into account the practice of the ECtHR. Due to the implementation of foreign experience, in particular the decisions of the European Court of Human Rights on citizens' complaints about illegal activities of the Internal Affairs Ministry of Ukraine, it is possible not only to ensure the rights and freedoms of citizens, but also to reduce the percentage of illegal activities of law enforcement agencies.

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ADMINISTRACYJNY CHARAKTER OCENY KWALIFIKACJI SĘDZIÓW NA UKRAINIE

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Adnotacja. Celem artykułu jest, aby na podstawie obowiązujących przepisów prawa w zakresie działalności sędziów na Ukrainie, stanowiska praktyków i naukowców w dziedzinie prawa administracyjnego, statystycznej działalności organów administracji sędziowskiej, określić i przeanalizować administracyjny charakter oceny kwalifikacji sędziów na Ukrainie. Artykuł ujawnia istotę oceny kwalifikacji sędziów na Ukrainie. Stwierdzono, że administracyjny charakter oceny kwalifikacji sędziów na Ukrainie wyraża się poprzez zadania i zasady oceny kwalifikacji, ustawowo gwarantowane kryteria sędziego (kandydata), status prawny podmiotów administracji sędziowskiej oraz procedury i narzędzia oceny kwalifikacji. Ogólny administracyjny charakter oceny kwalifikacji sędziów na Ukrainie polega na ustanowieniu i realizacji publicznego procesu prawnego weryfikacji sędziego (kandydata) kryteriów uczciwości, kompetencji i etyki zawodowej, przeprowadzanych przez władze jednostek samorządu sędziowskiego z zachowaniem warunków procedury prawnej i metodologii organizacyjnej.

Słowa kluczowe: stosunki administracyjno-prawne, świętobliwość, ocena kwalifikacji, komisja, kształcenie, profesjonalizm, procedury, sędzia, sądownictwo.

ADMINISTRATIVE NATURE OF QUALIFICATION EVALUATION OF JUDGES IN UKRAINE

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Abstract. The purpose of the article is to determine and analyze the administrative nature of qualification assessment of judges in Ukraine on the basis of current legislation in the field of judges in Ukraine, the position of practitioners and scholars of administrative law, statistical activities of judicial authorities. The article reveals the essence of qualification assessment of judges in Ukraine. It is concluded that the administrative nature of qualification assessment of judges in Ukraine is expressed through the tasks and principles of qualification assessment, legally guaranteed criteria for a judge (candidate), the legal status of judicial governance and procedures and tools for qualification assessment. The general administrative nature of the qualification assessment of judges in Ukraine is to establish and implement a public-law process of vetting a judge (candidate) on the criteria of integrity, competence and professional ethics, conducted by the judiciary in compliance with legal procedure and organizational methodology.

Key words: administrative and legal relations, integrity, qualification assessment, commission, training, professionalism, procedures, judge, judiciary.