

MINAKOVA vgeniya Valeriivna,
Associate Professor of the Department of Legal Disciplines
Dnipropetrovsk State
University of Internal Affairs,
PhD of Law Sciences
ARTEMYEVA Kateryna Dmitrivna,
KUC Iryna Ihorivna,
students of the
Dnipropetrovsk State
University of Internal Affairs

PROBLEMS OF EXECUTIVE PROCEEDINGS IN THE ADMINISTRATIVE PROCESS OF UKRAINE

During the past few years, the performance was subject to almost 3.8 million executive documents. For comparison, in 2018, 3.4 million documents were subject to enforcement. The amount of recovery for executive documents subject to execution also increased - 724.6 million in 2019 compared to 609.9 million in 2018 [1]. The low level of execution of court decisions indicates the need for a comprehensive and high-quality restructuring of the entire public administration system in general and the creation of effectively working bodies designed to ensure the rights, freedoms and legitimate interests of individuals through the enforcement of court and administrative-jurisdictional decisions that have entered into force. There are a number of organizational solutions that allow prompt response to the unsatisfactory state of work of the State Executive Service of Ukraine: monetary motivation of employees in the form of interest on the amount of recovery and increased wages, openness in the execution of court decisions, increasing the efficiency of electronic interaction with other authorities, etc. There is a theoretical and legal support for executive proceedings as one of the forms of law enforcement, which will allow to substantiate the deep transformations of the process of execution of court decisions.

The administrative reform carried out in Ukraine, taking into account the social, democratic and legal orientation of Ukraine, the principles of which are enshrined in the Constitution of Ukraine (Part 1, Article 1), must be carried out under the condition of coordination of the activities of all state and municipal bodies both horizontally and vertically, taking into account the requirements of Part 1 of Art. 3 of the Constitution of Ukraine. The specified constitutional norm corresponds to the constitutional guarantees regarding the operation of the principle of the rule of law (Part 1, Article 8) and guaranteeing equality of rights to a person (Article 21) and regarding enshrining in the Constitution of Ukraine the requirement that state authorities and local self-government bodies, their officials are obliged to act only on the basis, within the limits of authority and in the manner provided for by the legislation of Ukraine (Part 2 of Article 19) [2]. According to Art. Art. 55 and 124 of the Constitution of Ukraine, everyone is guaranteed the right to defend their violated rights and freedoms in court.

Court decisions are adopted by courts in the name of Ukraine and are binding on the entire territory of Ukraine. A special form of law enforcement is the application of legal norms (law enforcement). Legal literature contains several definitions of this concept:

- 1) a special form of implementation of the law, which is carried out by state and public organizations within the limits of their competence in the form of power-organizing activity to specify the norm of law;
- 2) power activities of state bodies or other bodies whose powers are delegated by the state and which issue individual acts based on legal norms;
- 3) the form of implementation of the right, which includes the legal and organizational activity of the state to implement legal norms in relation to specific subjects [3].

O. Zaichuk and N. Onishchenko rightly point out that law enforcement can be understood as the authoritative activity of competent state bodies and officials in the preparation and adoption of individual decisions in legal matters on the basis of legal facts and specific legal norms [3].

Let's define the main features of law enforcement:

- this is a legal activity carried out by officials of state or state-authorized bodies;
- this activity has an inherent imperative-authority character, which consists in the fact that in the event of non-execution of acts issued in the process of law enforcement, state coercion measures may be applied;
- such activity always has an active nature and is aimed at the emergence, change or termination of legal relations;
- it is carried out in special procedural forms;
- in any case, this activity must end with the adoption of law-enforcement acts, where individually specified prescriptions are recorded.

The purpose of law enforcement activities is to solve two tasks:

- organization of enforcement of legal norms through coercion to lawful behavior;
- ensuring the reaction of state bodies to violations of legal regulations.

Taking into account the above-mentioned characteristics, purpose, task, definition of the concept of "law enforcement", as well as prescriptions of the norms of Art. Art. 1, 3, 4, 6, 7, 15 of the Law of Ukraine "On State Executive Service", Art. Art. 1, 2, 5, 7, 11, 17, 32, 89, 90 of the Law of Ukraine "On Executive Proceedings", as well as the norms of the Instructions on the Organization of Enforcement of Decisions approved by the Ministry of Justice of Ukraine, it can be undeniably determined that the activities of authorized officials in relation to enforcement is legally enforceable. The substantiation of this conclusion should be carried out through the study of the characteristic features of this legal phenomenon in comparison with the peculiarities of enforcement proceedings.

Compliance with the prescriptions of legal norms is always implemented through legal behavior. It is generally accepted that there are at least two types of legal behavior: lawful and unlawful behavior (offence). The state has always been

and remains the guarantor of the implementation of legal norms. It stimulates lawful behavior and reacts negatively to the act of committing a crime. This negative reaction quite often manifests itself in legal liability, is independent of the will of the offender and has a state-coercive nature. A mandatory condition for the onset of legal liability is its application by authorized state bodies in compliance with the established procedure – proceedings.

E. Hryshko notes that executive proceedings are a procedural form that "... guarantees the enforced implementation of decisions of the court and other jurisdictional bodies, the implementation of their confirmation of the rights and obligations of the subjects of material legal relations, i.e. it is in the executive proceedings that the final protection of the rights of citizens and legal entities" [4]. O. Kaplya, N. Otchak consider enforcement proceedings to be one of the "most complex types of procedural activity in the modern legal process", the meaning of which is to guarantee the actual implementation of the decisions of jurisdictional bodies; completion of the activities of relevant bodies regarding the protection of the subjective rights of citizens and organizations; ensuring the strengthening of legality in the field of material and legal relations; promoting the education of citizens and officials in the spirit of the implementation of the laws of Ukraine [5-6]. V. Yarkov notes: "Executive proceedings are a system of legal actions that collectively create a legal activity that is implemented at the final stage of a judicial or other jurisdictional process and in the sphere of activity of executive authorities." M. Omelchenko, M. Shtefan, S. Shtefan understand by executive proceedings "... regulated by the legislation of Ukraine, in particular by the Law of Ukraine "On Executive Proceedings", other regulatory legal acts issued in accordance with this law, social relations that arise and are implemented in the process of enforcement between the bodies of the state executive service and officials who carry out the enforcement of decisions, resolutions, resolutions of judicial and non-judicial bodies, on the one hand, and between persons who participate in enforcement proceedings and are involved to the implementation of executive actions, on the other hand, on the grounds, in the manner and within the limits established by law" [7]. Yu. Vdovina proposes to understand the activities of executors and other participants in legal relations, which are formed in the process of implementation of executive letters and other executive documents by means of state coercion, under executive proceedings.

The simultaneous presence of the following features is essential for the inclusion of proceedings in the administrative process system:

- 1) recognition of the special nature of individual and specific cases to be resolved through the prism of settled legal relations;
- 2) separate normative consolidation of the procedure for solving the specified cases;
- 3) the presence of stages, successive stages of solving the specified cases.

As for the classification of executive proceedings as administrative proceedings according to the first criterion, it should be noted that the special nature of the enforcement case is determined by legal relations in executive

proceedings, which are a logical continuation of judicial or administrative legal relations at the final stage of their implementation. These legal relations arise, change and disappear at a different, later, period of time, they are regulated by other legal prescriptions, and other methods (usually of an administrative nature) are used to settle them [8].

Therefore, considering the essence of legal relations arising in executive proceedings, we fully support the position of those scientists who believe that legal relations formed during the enforcement of decisions court and other jurisdictional bodies, are administrative and procedural. This position can be substantiated by analyzing the main properties inherent in administrative-procedural relations through the prism of their presence in the studied legal relations.

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МІНАКОВА Євгенія Валеріївна,
доцент кафедри загальноправових дисциплін
Дніпропетровського державного
університету внутрішніх справ,
кандидат юридичних наук
КРАВЧУТА Дарина Андріївна,
здобувач вищої освіти
Дніпропетровського державного
університету внутрішніх справ

АКТУАЛЬНІ ПИТАННЯ ВПРОВАДЖЕННЯ МІЖНАРОДНИХ СТАНДАРТІВ ЗАХИСТУ ПРАВ ЛЮДИНИ

Сьогодні в міжнародному просторі відбувається стрімкий процес інтеграції, що само по собі сприяє зміцненню співпраці між різними країнами світу. Цей процес спрямований на вдосконалення правових систем різних