

ABSTRACT&REFERENCES

DOI: 10.15587/2523-4153.2020.207873

LEGAL BASES STATUS QUO CHILDREN WHO WERE UNAFFICIENTLY CARRIED OUT OF UKRAINE

p. 4-10

Olena Dashkovska, Doctor of Law, Professor, Department of Theory and Philosophy of Law, Yaroslav Mudryi National Law University, Pushkinska str., 77, Kharkiv, Ukraine, 61024

E-mail: dashkovskaolena@gmail.com

ORCID: <http://orcid.org/0000-0003-0145-850X>

Olha Yavor, Doctor of Law, Professor, Department of Civil Law No. 2, Yaroslav Mudryi National Law University, Pushkinska str., 77, Kharkiv, Ukraine, 61024

E-mail: yaroslava2527@gmail.com

ORCID: <http://orcid.org/0000-0002-5461-6498>

The article is devoted to analysis of international law and norms of the operating civil legislation of Ukraine, which regulates the order of removal of a child from the country of permanent residence. The content of the principle of the best interests of a child identified a number of issues, which in practice can lead to the adoption of unreasonable decisions to return a child from abroad.

Separately stated that the child should grow up in conditions of care and responsible parenting in an atmosphere of love, moral and material security; juvenile children, except when there are exceptional circumstances, should not part with their parents.

The article analyzes the issues that arise, when the court is considering the cases of “the return of the children”, when some courts mistakenly determine the jurisdiction of the following categories of cases, not paying attention to the fact that the court may consider the case both at the location of the defendant and the child, and at the location of the Ministry or its territorial bodies (alternative jurisdiction).

The attention is paid to the fact that an important issue in the consideration of this category of cases about the return of a child is too long, in accordance with international law. These things are subject to quick consideration, in practice, there is a violation of the reasonable time of proceedings.

Ukraine became party to the Convention on the civil aspects of international child abduction, has made a commitment to take all necessary measures to join the international cooperation mechanism that allows to solve questions of the organization in an orderly and rapid return of illegally removed or retained children, who have suffered from the consequences of wrongful conduct of one of parents or other family members, actions, which vi-

olated the rights of parents regarding child care, because the immediate return of the child allows to protect his/her rights and to prevent the infliction of moral harm and suffering

Keywords: *rights of a child, illegal export of a child, principle of ensuring the best interests of a child, mechanism for the return of children*

References

1. Konvencija pro civilno-pravovi aspekti mizhnarodnogo vikradennia ditei. 25.10.1980 (1980). Available at: http://zakon2.rada.gov.ua/laws/show/995_188
2. Stefanchuk, M. O. (2017). Zakhyst subiektyvnykh tsyvilnykh prav ditei v umovakh zbroinykh konfliktiv cherez pryzmu adaptatsii zakonodavstva Ukrainy do standartiv YeS (problemy priorytetiv ta terminolohii). Naukovyi visnyk UzhNU. Seriya «Pravo», 1 (45), 101–105.
3. Maksymovych, L. B. (2005). O prave rebenka vi-razhat svoje mnenye. Problemi hrazhdanskoho, semeinoho y zhylyshchnoho zakonodatelstva. Moscow: Horodets, 58–70.
4. Tripulskyi, H. Ya. (2007). Protsesualni osoblyvosti rozghliadu sporiv, yaki zviazani z vynyknenniam, zdiisnenniam ta zminoiu osobystykh nemainovykh pravovidnosyn mizh batkamy ta ditmy. Odessa, 227.
5. Valuieva, N. O., Kravchuk, M. O., Poliakova, K. A. (2015). Pytannia vrakhuvannia dumky dytyny pid chas vyrishennia pytan, shcho stosuiutsia yii zhyttia. Visnyk AMSU. Seriya: “Pravo”, 1 (14), 91–94.
6. Krasytyska, L. V. (2011). Pravo dytyny vilno vyslovliuvaty vlasni pohliady ta dumky z usikh pytan, shcho yii stosuiutsia. Universytetski naukovy zapysky, 4, 80–86.
7. Krestovska, N. M. (2014). Prava dytyny pid chas zbroinoho konfliktu: suchasni ukrainski realii. Derzhavnyi suverenitet, natsionalna bezpeka i svitovyi pravoporядok v istoriko-pravovomu vymiri. Berehove, 150–157.
8. Yavor, O. A. (2004). Do problemy osobystykh nemainovykh prav dytyny. Visnyk Khmelnytskoho instytutu rehionalnogo upravlinnia ta prava, 4, 68–74.
9. Pohribnyi, S. O. (2009). Mekhanizm ta pryntsypy rehuliuвання dohovirnykh vidnosyn u tsyvilnomu pravi Ukrainy. Kyiv, 412.
10. Zavorodnii, V. A., Pshenychna, H. Ye. (2013). Konstytutsiinyi oboviazok batkiv utrymuvaty ditei do yikh povnolittia: stan naukovykh doslidzhen. Pravo i suspilstvo, 6, 20–23.
11. Kohm, L. M. (2008). Tracing the Foundations of the Best Interest of the Child Standard in American Jurisprudence. Journal of Law and Family Studies, 10 (2), 40. doi: <http://doi.org/10.2139/ssrn.1957143>

12. Volynka, K. H. (2000). Zabezpechennia prav i svobod osoby v Ukraini: teoretychni i praktychni aspekty. *Pravo Ukrainy*, 11, 30–33.

13. Deklaratsiia prav dytyny Pryiniata rezoliutsiieiu 1386 (XIV) Heneralnoi Asamblei OON. 20.11.1959 (1959). Available at: https://zakon.rada.gov.ua/laws/show/995_384#Text

14. Konventsiiia OON pro prava dytyny. 20.11.1989 (1998). Available at: http://zakon3.rada.gov.ua/laws/show/995_021/print

15. Yevtushenko, O. (2015). Spimi pytannia vyvezennia abo povernennia ditei maiut vyrishuvatysia lyshe u pravovomu poli. *Yurydychna hazeta*, 10-11 (456-457). Available at: <https://yur-gazeta.com/interview/spirni-pitannya-vivezennya-abo-povernennya-ditei-mayut-virishuvatysia-lyshe-u-pravovomu-poli.html>

16. Mizhnarodna konventsiiia pro zakhyst usikh osib vid nasylnytskykh znyknen. Shchodo pryednannia do Konventsii iz zaiavamy dyv: *Zakon No. 525-VIII*. 17.06.2015. Available at: https://zakon.rada.gov.ua/laws/show/995_154#Text

17. Pro okhoronu dytynstva (2001). *Zakon Ukrainy No. 2402-III*. 26.04.2001. *Vidomosti Verkhovnoi Rady Ukrainy (VVR)*, 30, 142. Available at: <https://zakon.rada.gov.ua/laws/show/2402-14#Text>

18. Pavlenko, Yu. (2013). Z bezpravnoho ne vyroste vilnyi. *Narodnii Deputat*, 93. Available at: <http://nardep-journal.com/article/2013/93/Uriy-Pavlenko-Z-BEZPRAVNO-GO-NE-VIROSTE-VILNIY>

19. Zaichuk, O. V. et. al.; Zaichuk, O. V., Onishchenko, N. M. (Eds.) (2008). *Teoriia derzhavy i prava*. Akademichnyi kurs. Kyiv: Yurinkom Inter, 688.

20. Konventsiiia pro likvidatsiiu vsikh form dyskryminatsii shchodo zhinok 1979 r. (2014). *Osnovni mizhnarodni dohovory z prav liudyny*. New York, Zheneva: Orhanizatsiia Obiednanykh Natsii, 107–114. Available at: https://zakon.rada.gov.ua/laws/show/995_207#Text

21. Kabanov, V. L. (2019). *Realizaciia principa nailuchshego obespecheniia interesov rebenka v mezhdunarodnom prave*. Moscow, 407.

22. Zastosuvannia konventsii pro tsyvilno-pravovi aspekty mizhnarodnoho vykradennia ditei. Available at: https://minjust.gov.ua/m/str_28838

23. Informatsiinyi lyst. Vyshchyi spetsializovanyi sud Ukrainy z rozghliadu tsyvilnykh i kryminalnykh sprav. Pro praktyku rozghliadu sudamy tsyvilnykh sprav iz zastosuvanniam Konventsii pro tsyvilno-pravovi aspekty mizhnarodnoho vykradennia ditei 25.10.1980 (Haazka konventsiiia). Available at: https://zib.com.ua/ua/113728-vs-su_uzagalniv_praktiku_schodo_konvencii_pro_vikradennya_dit.html

24. Kabanov, V. L. (2016). *Realizaciia obshepriznanogo mezhdunarodnopravovogo principa, obespechivaiuschego nailuchshie interesy rebenka: universalnye i regionalnye aspekty*. Moscow: RUDN, 227.

DOI: 10.15587/2523-4153.2020.198457

PROTECTION OF HUMAN'S DIGNITY IN THE LEGAL SYSTEM OF THE EUROPEAN UNION (SPECIFICATION OF SEPARATE RIGHTS)

p. 11-18

Mykhailo Marchenko, Postgraduate Student, Department of Theory of State and Law, Koretsky Institute of State and Law of National Academy of Sciences of Ukraine, Trokhsiviatytska str., 4, Kyiv, Ukraine, 01001
Email: m.marrche@gmail.com

The article is devoted to fundamental freedoms such as the right to respect for human dignity and the right to health protection in the legal framework of the European Union.

Respect for the human being as the unique bio-psychosocial value, recognition and ensuring his/her rights and freedoms, dignity and honor, in particular by providing an access to minimal social benefits which can enable an adequate living standard as well as guaranteeing by a government of its country the protection against encroachments on above mentioned legal categories, these are the unswerving standards on which is based the legal ideology of the developed European countries.

The effectiveness of a certain inherent human right is defined by real results which can be achieved by the implementation of legal rules. A government should carry out legal and organizational arrangements in order to accomplish desirable results.

Obviously, the democratic legal framework should protect human's right and freedoms, reproduce and implement the principles of the rule of law, ensure a «quality» of a law on the level of national law. All above mentioned should be done because a legal framework should implement legal provisions on the idea that a human is the highest social value.

The quality of the European legal framework is in the protection of the values, common to whole mankind, cultural heritage, both at the level of primary and secondary legal rules as well as at the level of constitutional legislation.

The major task of the legal framework is creation, implementation and realization of the clearly-defined and stable legal ground for the full range of social relationships and its dynamics

Keywords: *democratic state, constitution, legal act, fundamental freedoms, human rights, dignity, the right to life, health protection, quality of life, environment, primary law*

References

1. Onishchenko, N. (2018). Svoboda, hidnist ta rivnist liudyny kriz yevropeyskyi fokus. *Materialy mizhnarodnoho naukovopraktychnoho seminaru prysviachenoho pamiaty L. Yuzkova*, 72–74.

2. Onishchenko, N. (2018). Development of the national legal system in the context of sivil society. *ScienceRise: Juridical Science*, 3(5), 4–9. doi: <http://doi.org/10.15587/2523-4153.2018.143106>
3. Shevchuk, S. (2018). Liudska hidnist u systemi konstytutsiinykh tsinnostei. *Materialy mizhnarodnoho nauko-vo-praktychnoho seminaru prysviachenoho pamiaty L. Yuzkova*, 15–22.
4. Chernenko, Z. S. (2014). Porivnialnyi analiz zakriplennia prava na okhoronu zdorovia v konstytutsiakh krain Yevropeiskoho Soiuzu. *Yevropeiski perspektyvy*, 10, 161–166.
5. Kresin, O. V. (2017). Stanovlennia teoretychnykh zasad porivnialno-pravovykh doslidzhen u druhii polovyni XVIII – pershii tretyni XIX stolittia: komparatyvna kontseptualizatsiia. Kyiv: Instytut derzhavy i prava im. V. M. Koretskoho NAN Ukrainy; Vydavnytstvo «Lohos», 680.
6. Parkhomenko, N. M. (2008). Dzhherela prava: problemy teorii ta metodolohii. Kyiv: TOV «Vydavnytstvo «Yurydychna dumka», 336.
7. Leshchenko, V. V., Radysh, Ya. F. (2014). Prava liudyny na zhyttia ta okhoronu zdorovia – metodolohichna osnova derzhavnoho upravlinnia zdorovookhoronnoiu sferoiu: vstup do problem. *Derzhavne upravlinnia: teoriia ta praktyka*, 1, 104–117. Available at: <http://academy.gov.ua/ej/ej19/PDF/14.pdf>
8. Kovbasiuk, Yu. V., Kniaziev, V. M., Rozputenko, I. V. et. al. (Eds.) (2011). *Entsyklopediia derzhavnoho upravlinnia*. Vol. 1: Teoriia derzhavnoho upravlinnia. Kyiv: NADU, 748.
9. Pravo na zdorovia u normatyvnykh aktakh yevropeiskoho soiuzu. 2016. Available at: https://ukrainepravo.com/international_law/european_union_law/pravo-na-zdorov-ya-u-normatyvnykh-aktakh-evropeys%60kogo-soyuzu/
10. Nazarko, Yu. V. (2018). Harantii realizatsii prava na okhoronu zdorovia Ukraini ta krainakh Yevropeiskoho Soiuzu. *Yurydychnyi chasopys Natsionalnoi akademii vnu-trishnikh sprav*, 1, 405–418.
11. Druzenko, H. (Ed.) (2010). *Konstytutsiini akty Yevropeiskoho Soiuzu (v redaktsii Lisabonskoho dohovoru)*. Kyiv: «K.I.S.», 536.
12. Khartiia osnovnykh prav Yevropeiskoho Soiuzu. 07.12.2000. No. 994_524 (2000). Available at: https://zakon.rada.gov.ua/laws/show/994_524
13. Konstytutsiia Respubliki Bolgarii. Available at: http://lib.rada.gov.ua/static/LIBRARY/catalog/law/bgr_constitut.html
14. Konstytutsiia Korolevstva Ispanii. Available at: <https://legalns.com/download/books/cons/spain.pdf>
15. Konstytutsiia Latviiskoi Respubliki (2016). Available at: <https://www.president.lv/ru/latviiskaya-respublika/konstituciya-latvii>
16. Legal NS. Available at: <https://legalns.com>
17. Shapoval, V. M. (2018). Konstytutsiia Frantsuzkoi Respubliki (z peredmovoii Volodymyra Shapovala). Kyiv: Moskalenko O.M., 56. Available at: https://pravo.org.ua/img/books/files/1522085069fr_const_final.pdf
18. Konstytutsiia Irlandii (1937). Available at: http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/ireland/irelnd-r.htm
19. Konstytutsiia krain svitu. Available at: <http://nbu-viap.gov.ua/asambleya/constitutions.php>
20. Konstytutsiia Khorvatii (Respubliki Khorvatiia). Available at: <https://legalns.com/download/books/cons/croatia.pdf>
21. Shapoval, V. M. (2018). Konstytutsiia Italiiskoi Respubliki (z peredmovoii Volodymyra Shapovala). Kyiv: Moskalenko O.M., 62. Available at: https://pravo.org.ua/img/books/files/1532528829const_italy.pdf
22. Konstytutsiia Italii. Available at: <https://worldconstitutions.ru/?p=148>
23. Konstytutsiia Vengerskoi Respubliki. Available at: <https://legalns.com/download/books/cons/hungary.pdf>
24. Konstytutsiia Slovenii. Available at: http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/slovenia/sloven-r.htm
25. Konstytutsiia Finliandii. Available at: <https://www.finlex.fi/fi/laki/kaannokset/1999/ru19990731.pdf>
26. Constitution of the Slovak Republic. Available at: <http://www.slovak-republic.org/constitution/>
27. Konstytutsiia Shvecii. Available at: <https://worldconstitutions.ru/?p=161>
28. Konstytutsiia Estonskoi Respubliki. 1992. Available at: http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/estonia/estoni-r.htm
29. Konstytutsiia Litovskoi Respubliki (1992). Available at: https://www.lrs.lt/home/Konstitucija/Konstitucija_RU.htm
30. Konstytutsiia Liuksemburga. Available at: <https://worldconstitutions.ru/?p=146>
31. Konstytutsiia Maltii. Available at: <https://worldconstitutions.ru/?p=145>
32. Konstytutsiia Portugalskoi Respubliki (1976). Available at: http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/portugal/portug-r.htm
33. Konstytutsiia Respubliki Kipr (1960). Available at: http://www.concourt.am/armenian/legal_resources/world_constitutions/constit/cypros/cyprus-r.htm
34. Konstytutsiia Niderlandov. Available at: <https://worldconstitutions.ru/?p=143>
35. Abashidze, A. Kh., Kliskas, A. A. (2013). Zashchita prav i svobod cheloveka v sootvetstvi s mezhdunarodno-pravovymi standartami v usloviakh novykh realii globaliziruiushhegosia mira. *Vestnik Rossiiskogo universiteta družby narodov. Seriya: Iuridicheskie nauki*, 2, 251–255. Available at: <https://cyberleninka.ru/article/n/zaschita-prav-i-svobod-cheloveka-v-sootvetstvi-s-mezhdunarodno-pravovymi-standartami-v-usloviyah-novykh-realii-globaliziruyushhegosya/viewer>
36. Osnovnoi zakon Federativnoi Respubliki Germanii (1949). Available at: https://www.1000dokumente.de/?c=dokument_de&dokument=0014_gru&l=ru&object=translation

37. Konstituciia Rumynii. Available at: <https://legalns.com/download/books/cons/romania.pdf>

38. Konstytutsyia Avstrii. Available at: <https://world-constitutions.ru/?p=160>

39. Semihina, T. (2012). Okhorona zdorovia u hlobalnomu ta yevropeiskomu poriadku dennomu. Politychnyi menedzhment, 1-2, 112–120.

DOI: 10.15587/2523-4153.2020.200169

THE CONSTITUTIONAL FOUNDATIONS OF JUDICIARY IN UKRAINE

p. 19-23

Elvira Khanaeva, Postgraduate Student, Department of Civil, Labor and Business Law, Institute of State and Law V. M. Koretsky National Academy of Sciences of Ukraine, Trokhsiviatytska str., 4, Kyiv, Ukraine, 01601

E-mail: Elvira.khanaeva22@gmail.com

ORCID: <http://orcid.org/0000-0002-1708-0022>

The article is devoted to the constitutional foundations of judiciary in Ukraine. According to article 6 of the Constitution of Ukraine, state power in Ukraine is divided into three main branches – legislative, executive and justice. For each of these branches there is a corresponding system of foundations and principles that determine their essence and specific features of organization and functioning of the mechanism of the state. They play a key role for the judiciary in Ukraine. Appropriate due to the main objective of the national judiciary – a provision of the capacity for each person to exercise their right to a fair trial, based on the rule of law.

Considering the issues, it is first necessary to pay attention to the essence of the concepts “foundations” and “principle” as constitutional categories. It should be noted, that these concepts have the same meaning for the expression of fundamental ideas and leadership directions of the organization and functioning of all basic constitutional legal institutions in Ukraine. The concept of the constitutional foundations of justice in Ukraine, given the position on the advisability of securing the appropriate category in the position of art.129 of the Constitution of Ukraine, which is a basic norm in the system of foundations and principles of the judicial branch of power and its legal effect on the reflection, is refined in laws and procedural codes.

Now the issue of the constitutional foundations of justice in Ukraine and their impact on the judiciary is considered in a significant amount of research in the field of science of constitutional law of Ukraine. The corresponding trend and the relevance of the question of the constitutional principles of justice are due to the constant development of constitutionalism and the pro-

cess of reform of the judiciary in Ukraine. However, it must be concluded, that the constitutional foundations of judiciary, which are presented in art.129 of the Constitution of Ukraine is the basis of the foundations and principles of justice in Ukraine, which determine the organization and functioning of judiciary at the constitutional level, and are also constitutional guarantees of protection of rights and interests of people in court proceedings

Keywords: *the constitutional foundations of the judiciary in Ukraine, the constitutional foundations and principles, judiciary, judicial power in Ukraine*

References

1. Konstytutsiia Ukrainy (1996). Zakon No. 254к/96-BP. 28.06.1996. Available at: <https://zakon.rada.gov.ua/laws/show/254к/96-BP>
2. Kolodii, A. M. (1998). Pryntsypy prava Ukrainy. Kyiv: Yurinkom Inter, 208.
3. Skrypniuk, O. V. (2010). Konstytutsiine pravo Ukrainy. Kyiv: In Yure, 672.
4. Horodovenko, V. V. (2012). Pryntsypy sudovoi vlady. Kharkiv: Vydavnytstvo «Pravo», 447.
5. Militsianov, R. V. (2014). Pravova pryroda konstytutsiinykh zasad sudochynstva. Visnyk Kharkivskoho natsionalnoho universytetu imeni V. N. Karazina. Seriiia «Pravo», 1137 (18), 69–72.
6. Nestor, Ya. V. (2018). Konstytutsiini pryntsypy zdiisnennia sudochynstva v Ukraini. Kyiv, 225.
7. Nechyporuk, S. V. (2010). Konstytutsiini zasady orhanizatsii ta funktsionuvannia sudovoi vlady v Ukraini (pytannia teorii ta praktyky). Chernivtsi, 225.
8. Bilodid, I. K. (Ed.) (1970–1980). Akademichnyi tlumachnyi slovnyk ukrainskoi movy u 11 tomakh. Kyiv: Naukova dumka. Available at: <http://sum.in.ua>
9. Shynkaruk, V. I. (2002). Filosofskyi entsyklopedychnyi slovnyk. Kyiv: vyd. «Arbis», 751.
10. Pro Konstytutsiyni Sud Ukrainy (2017). Zakon Ukrainy No. 2136-VIII. 13.07.2017. Available at: <https://zakon.rada.gov.ua/laws/show/2136-19>
11. Pro sudoustrii ta status suddiv Ukrainy (2010). Zakon Ukrainy No. 2453-VI. 07.07.2010. Available at: <https://zakon.rada.gov.ua/laws/show/2453-17>
12. Kodeks administratyvnoho sudochynstva Ukrainy (2005). Zakon Ukrainy No. 2747-VI. 06.07.2005. Available at: <https://zakon.rada.gov.ua/laws/show/2747-15>
13. Tsyvilnyi protsesualnyi kodeks (2004). Zakon Ukrainy No. 1618-IV. 18.03.2004. Available at: <https://zakon.rada.gov.ua/laws/show/1618-15>
14. Hospodarskyi protsesualnyi kodeks (1991). Zakon Ukrainy No. 1798-XII. 06.11.1991. Available at: <https://zakon.rada.gov.ua/laws/show/1798-12>
15. Kryminalnyi protsesualnyi kodeks (2012). Zakon Ukrainy No. 4651-VI. 13.04.2012. Available at: <https://zakon.rada.gov.ua/laws/show/4651-17>

DOI: 10.15587/2523-4153.2020.208016

VIDEO CONFERENCING IN COURT PROCEEDINGS BY EUROPEAN UNION LEGISLATION LEGAL REGULATION

p. 24-28

Ganna Ozernyuk, PhD, Associate Professor, Lawyer, International Relations and Law Department, Odessa National Polytechnic University, Shevchenka ave., 1, Odessa, Ukraine, 65044

The scientific article is devoted to the videoconferencing in court proceedings by international law and the law of some European Union countries. The videoconferencing definition, the right to justice protection on the main international legal sources about the trial regulation and human rights to justice protection bases are studied, the procedural stages of court hearings by videoconference are analyzed.

Carrying out comparative legal research at our country present stage legal transformation and development, especially related to the emergence of new, modern legal relations, is primarily due to the need to receive international and foreign experience and, consequently, improve current national legislation.

It has been established, that the latest technologies introduction in the judicial process at the national and international levels has both advantages and disadvantages and is closely related to the protection and implementation of the right to justice. Normative legal acts about the right to justice consolidation are primary regarding the right of participants in court proceedings to participate in it by videoconference.

The attractive side of conducting court hearings online includes: the availability of litigation for all participants, regardless of their location, saving time and money, compliance with legal requirements for the duration of litigation, and so on.

Despite the general legal consolidation of the possibility of holding videoconferences in Ukraine and the EU, the procedural features of the rights and obligations of participants in such proceedings remain unclear, as well as unspecified issues regarding the application of different types of technical equipment depending on the conditions of video calls, the possibility of holding meetings outside the court in emergency conditions, etc.

Keywords: videoconference, litigation, law of the EU countries, European law, international law

References

1. Syzonenko, A. (2003). Videozviazok yak zasib provedennia slidchykh dii za mezhamy Ukrainy. *Pravo Ukrainy*, 3, 96–99.
2. Smyrnov, M. I. (2005). Osoblyvosti nadannia vzaiemnoi pravovoi dopomohy u kryminalnykh spravakh z vykorystanniam metodu videokonferentszviazku. *Kyiv*, 268.

3. Zadyraka, N. Yu., Solodova, K. Yu. (2013). Zaprovdzhennia rezhymu video konferentsii v administrativnomu sudochynstvi: problemy ta perspektyvy. *Forum prava*, 1, 318–322.

4. Chernychenko, I. V. (2014). Perspektyvy vdoskonalennia videokonferentsii u kryminalnomu provadzhenni Ukrainy. *Visnyk Chernivetskoho fakultetu Natsionalnoho universytetu «Odeska yurydychna akademiia»*, 1, 196–205.

5. Zub, O. Yu. (2014). Videokonferentsiia yak zasib sproshchennia tsyvilnoho sudochynstva. *Visnyk Kharkivskoho natsionalnoho universytetu imeni V. N. Karazina No. 1106. Serii «PRAVO»*, 1, 219–222.

6. Storony u spravi mozhut uziaty uchast u sudovomu zasidanni, ne vykhodiachy z kvartyry. *Merezha pravovoho rozvytku*. Available at: <https://ldn.org.ua/event/storony-u-spravi-mozhut-uziaty-uchast-u-sudovomu-zasidanni-ne-vykhodiachy-z-kvartyry/>

7. Chernychenko, I. (2014). Poniattia ta protsesualno-pravova sut videokonferentsii u kryminalnomu provadzhenni Ukrainy. *Visnyk Lvivskoho universytetu. Serii yurydychna*, 59, 365–369.

8. Good Practices for the Protection of Witnesses in Criminal Proceedings Involving Organized Crime (2008). UNODC, 37.

9. Vseobschaia deklaraciia prav cheloveka 1948 g. (2000). *Mezhdunarodnye dokumenty po pravam cheloveka*. Kharkiv: RIF «Arsin, LTD», 6–12.

10. Mizhnarodnyi pakt pro hromadianski i politychni prava 1966 r.: Ratyfik. Ukazom Prezydii Verkhov. Rady URSR # 2148-VIII vid 19.10.73 r. (2000). *Mezhdunarodnye dokumenty po pravam cheloveka*. Kharkiv: RIF «Arsin, LTD», 64–85.

11. Konventsiia pro zakhyst prav liudyny ta osnovopolozhnykh svobod 1950 roku (1998). *Ofitsiyni visnyk Ukrainy*, 13, 270–302.

12. Konventsiia pro likvidatsiiu vsikh form rasovoi dyskryminatsii vid 07.03.1996 r. (1969). *Vedomosti Verkhovnogo Soveta SSSR*, 25, 128–148.

13. Konventsiia pro prava dytyny 1989 r. (1990). *Vedomosti Sezda narodnykh deputatov SSSR i Verkhovnogo Soveta SSSR*, 45, 955.

14. Omelianenko, H. M. (2002). Provdzhennia u spravakh pro zlochyny nepovnolitnikh yak dyferentsiatsiia kryminalno-protsesualnoi formy. *Kyiv: Atika*, 75–102.

15. Cherkes, M. Yu., Pohribnyi, S. A. (Eds.) (2002). *Konventsiia pro status bizhentsiv vid 14.12.1950 r. Pravova rehlamentatsiia statusu bizhentsiv i osib, yaki shukaiut prytluku*. Odesa: Latstar, 119–139.

16. Bohunov, V. (2012). Videokonferentsii dozvoliat uchasykam protsesu ekonomyty chas i hroshi. *Zakon i biznes*, 35 (1074). Available at: http://zib.com.ua/ua/11349-vid-eokonferentsii_dozvoliat_uchasnykam_sudovih_zasidan_ekonom.html

17. Hariievska, M. B. (2015). Videokonferentsiia v tsyvilnomu protsesi. *Pryvatne pravo i pidpriemnytstvo*, 14, 59–62. Available at: http://univer.km.ua/statti/7.hariievska_

m.b._videokonferentsiya_v_tsyvilnomu_protsezi_problemni_pytannya.pdf

18. Note by the Secretariat. The technical and legal obstacles to the use of videoconferencing. Item 6 of the provisional agenda* International cooperation with particular emphasis on extradition, mutual legal assistance and international cooperation for the purpose of confiscation, and the establishment and strengthening of central authorities CTOC/COP/2010/CRP.2 P.4 Fifth session. Vienna, 2010.

19. Kravcova, T., Kornienko, M. (2020). Sudebnye zasedaniia v rezhime videokonferencii. Ukrainskii iurist, 4-5. Available at: https://www.asterslaw.com/ru/press_center/publications/court_hearings_via_videocovideoconf_in_ukraine/

DOI: 10.15587/2523-4153.2020.199930

RULEMAKING OF THE NATIONAL AGENCY OF UKRAINE FOR THE IDENTIFICATION, SEARCH AND MANAGEMENT OF ASSETS OBTAINED FROM CORRUPTION AND OTHER CRIMES: CONSTITUTIONAL AND LEGAL ASPECT

p. 29-33

Oleksiy Shevchuk, Postgraduate Student, Department of Constitutional Law and Local Self-Government, Koretsky Institute of State and Law of National Academy of Sciences of Ukraine, Trokhsviatytska str., 4, Kyiv, Ukraine, 01001

E-mail: shevchuk_barristers@ukr.net

ORCID: <http://orcid.org/0000-0002-6930-6214>

The article analyzes the legal nature and constitutional status of the legal acts of the National Agency of Ukraine for finding, tracing and management of assets, derived from corruption and other crimes (abbr. – Asset Recovery and Management Agency or ARMA) as a central executive body with special status. The features of the central executive bodies with a special status as an integral component of the executive branch and the state mechanism as a whole are considered. It has been established, that the special status is determined primarily by the special social role of this category of central executive bodies. The place and role of the National Agency of Ukraine for finding, tracing and management of assets, derived from corruption and other crimes in the system of executive authorities is determined. It has been established, that this body occupies an intermediate place between law enforcement agencies, engaged in the fight against corruption, and organized crime, as well as other government bodies. It is this circumstance that is the reason for the existence of a rule-making function in this body. In particular, this concerns the right of the ARMA to issue by-laws - an order – on matters, referred by law to its jurisdiction. The main problems on the implementation of the legislative function of this authority and ways to solve them are determined. In particular, it is proposed to

expand the legislative capabilities of the National Agency of Ukraine for finding, tracing and management of assets, derived from corruption and other crimes, in order to avoid possible conflicts with the Cabinet of Ministers of Ukraine and other central executive bodies. In particular, it is proposed to consider the possibility of endowing the said agency with the right of direct legislative initiative to regulate public relations in the field of identification, search and asset management

Keywords: *property, corruption, crime, state authority, lawmaking, rulemaking, executive branch, special status of authority*

References

1. Protsan, Yu. H. (2014). Vyznachenist pravovoho statusu orhaniv vykonavchoi vlady yak harantiiia dotrymanna pryntsyypiv pravovoi derzhavy i verkhovenstva prava. Administratyvne pravo i protses, 3 (9), 50–64.

2. Muzhykova, N. M.; Boiko, V. M. et. al. (Eds.) (2013). Orhany vykonavchoi vlady v Ukraini: pravovyi status. Chernihiv: Siverskyi tsentr pisljadiplomnoi osvity, 100.

3. Lavrenova, O. (2016). Tsentralni orhany vykonavchoi vlady zi spetsialnym statusom. Pidpriemnytstvo, hospodarstvo i pravo, 8, 115–119.

4. Vashchenko, Yu. V. (2012). Natsionalni komisii rehuliuвання pryrodnykh monopolii v systemi orhaniv derzhavnoi vlady v Ukraini. Pivdenoukraiynskiyi pravnychi chasopys, 3, 137–139.

5. Konventsiia Rady Yevropy pro vidmyvannia, poshuk, aresht ta konfiskatsiiu dokhodiv, oderzhanykh zlochynnym shliakhom, ta pro finansuvannia teroryzmu (2005). Konventsiia 16.05.2005. Available at: https://zakon.rada.gov.ua/laws/show/994_948#o61

6. Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or other property related to, crime. Available at: <https://eur-lex.europa.eu/legal-content/EN/TX-T/?uri=CELEX%3A32007D0845>

7. Pro Natsionalne ahentstvo Ukrainy z pytan vyavleniia, rozshuku ta upravlinnia aktyvamy, oderzhanykh vid koruptsiinykh ta inshykh zlochyniv (2015). Zakon Ukrainy No. 772-VIII. 10.11.2015. Available at: <https://zakon.rada.gov.ua/laws/show/772-19>

8. Pro utvorennia Natsionalnoho ahentstva Ukrainy z pytan vyavleniia, rozshuku ta upravlinnia aktyvamy, oderzhanykh vid koruptsiinykh ta inshykh zlochyniv (2016). Postanova Kabinetu Ministriv Ukrainy No. 104. 24.02.2016. Available at: <https://zakon.rada.gov.ua/laws/show/104-2016-%D0%BF>

9. Pro tsentralni orhany vykonavchoi vlady (2011). Zakon Ukrainy No. 3166-VI. 17.03.2011. Available at: <https://zakon.rada.gov.ua/laws/show/3166-17#n217>

10. Inshi orhany vykonavchoi vlady. Uriadovyi portal. Available at: <https://www.kmu.gov.ua/catalog>

DOI: 10.15587/2523-4153.2020.198659

SOME ASPECTS OF THE PROCEDURE FOR PROVIDING ADMINISTRATIVE SERVICES IN THE FIELD OF TAX AND COLLECTION MANAGEMENT

p. 34-42

Yehor Bulychov, Postgraduate Student, Department of Administrative and Customs Law, University of Customs and Finance, Volodymyra Vernadskoho str., 2/4, Dnipro, Ukraine, 49000

Yevhen Leheza, Doctor of Law, Professor, Department of Administrative and Customs Law, University of Customs and Finance, Volodymyra Vernadskoho str., 2/4, Dnipro, Ukraine, 49000

ORCID: <http://orcid.org/0000-0001-9134-8499>

The scientific article is devoted to the characteristics of the procedure of providing administrative services in the field of taxation and fees. In Ukraine, the procedure for providing administrative services in the field of tax and levying needs to be improved. After all, in the Law of Ukraine “On Administrative Services”, the characterization of the mechanism of the procedure of providing administrative services in the field of taxation and collection contains only formal aspects and is reflective of other normative legal acts, which, in turn, leads to its own and quite opposite interpretation of norms by subjects of public administration.

Regarding the directions of improvement of the procedure of providing administrative services in the field of taxation and collection there are: development and adoption of the Law of Ukraine “On Administrative Procedures”; the amount of payment for types of electronic services should be determined solely by laws, not by laws; development and adoption of the Law of Ukraine “On Administrative Fee”, which should unify the name of the fee for administrative services; it is necessary to define uniform rates of administrative fees for all types of administrative services.

The stages of the procedure of providing administrative services in the field of taxes and fees are established:

- 1) acceptance of documents and applications, their registration in accordance with the Model Instruction in the Central Executive Bodies, the Council of Ministers of the Autonomous Republic of Crimea, local executive bodies, approved by resolution Ministers of Ukraine dated November 30, 2011 No. 1242;
- 2) check of the completeness of the documents, the accuracy of the information provided, which can be carried out by inspecting and photographing the storage facilities, the surrounding area, checking the compliance of the storage facilities with the information, specified in the documents, attached to the application for authorization. According to the results of the “actual” inspection, an act

is drawn up. The term of verification of both documents and compliance of future objects of conducting permitting activity is general and should not exceed 10 working days on the day of registration of the application;

3) making a decision on granting a permit or refusing to grant a permit, issuing a relevant decision by an order occurring within no more than 3 working days from the date of drafting the act;

4) registration of the object of permitting activity in the respective Register;

5) sending to the applicant an extract from the Register

Keywords: legal act, procedure of providing administrative services in the field of taxation and fees

References

1. Priymachenko, D. V. (2010). Administrative services that given custom bodies: state and prospects. Bulletin of the Academy of Customs Service of Ukraine. Law series, 2 (5), 6–12.
2. On Administrative Services (2012). Law of Ukraine No. 5203-VI. 06.09.2012. URL: <http://zakon4.rada.gov.ua/laws/show/5203-17>
3. Tymoshchuk, V. P. (2003). Administratyvna protsedura ta administratyvni posluhy. Zarubizhnyi dosvid i propozyitsii dlia Ukrainy. Kyiv: Fakt, 496.
4. Averianov, V. B. (2005). Administratyvne pravo. Akademichnyi kurs Vol. 2. Kyiv: Yuryd. dumka, Osoblyvya chastyna, 624.
5. Pysarenko, H. M. (2006). Administratyvni posluhy v Ukraini: orhanizatsiino-pravovi aspekty. Odessa, 20.
6. Mordvin, I. A. (2013). Administratyvni posluhy podatkovykh orhaniv Ukrainy. Kharkiv, 189.
7. Sharov, Yu., Sukhinin, D. (2006). Udoskonalennia polityky i protsedur nadannia administratyvnykh posluh. Aktualni problemy derzhavnoho upravlinnia, 4 (26), 231–235.
8. Tsyndria, V. M. (2011). Orhanizatsiino-pravovi zasady nadannia administratyvnykh posluh orhanamy vnutrishnikh sprav Ukrainy. Kyiv, 20.
9. Fuhlevych, K. A. (2015). Administratyvni posluhy : poniattia, vydy, protsedurne rehuliuвання. Odessa, 23.
10. Sosnovykh, O. O. (2008). Diialnist orhaniv vnutrishnikh sprav shchodo nadannia administratyvnykh posluh: orhanizatsiino-pravovi pytannia. Kharkiv: Kharkivskiy natsionalnyi universytet vnutrishnikh sprav, 216.
11. Pro litsenzuvannia vydiv hospodarskoi diialnosti (2015). Zakon Ukrainy No. 222-VIII. 02.03.2015. Vidomosti Verkhovnoi Rady, 23, 158.
12. Mizhnarodna konventsiiia pro sproshchennia i harmonizatsiiu mytnykh protsedur: vid 18.05.1973 (2011). Ofitsiyni visnyk Ukrainy, 71, 727, 244.
13. The Customs Code of Ukraine (2012). Zakon Ukrainy No. 4495-VI. 13.03.2012. Vidomosti Verkhovnoi Rady Ukrainy, 44-45, 46-47, 48, 552.
14. Dubenko, S. D. (2008). Administratyvni posluhy orhaniv vykonavchoi vlady: teoretychni pidkhody do vyrishennia praktychnykh zavdan (na dopomohu slukhacham

systemy pidvyshchennia kvalifikatsii derzhavnykh sluzhbovtziv). Kyiv: NADU, 44.

15. Pro zatverdzhennia Polozhennia pro sklady tymchasovoho zberihannia (2012). Nakaz Ministerstva finansiv Ukrainy No. 613. 28.05.2012. Ofitsiinyi visnyk Ukrainy, 62, 225, 2552.

16. Pro diialnist mytnykh brokeriv (2015). Nakaz Ministerstva finansiv No. 693. 04.08.2015. Ofitsiinyi visnyk Ukrainy, 72, 230, 2394.

17. Pro zatverdzhennia Poriadku nadannia skladskym ob'ektam statusu «mytnyi sklad» ta pozbavlennia takoho statusu (2012). Nakaz Ministerstva finansiv Ukrainy No. 835. 16.07.2012. Ofitsiinyi visnyk Ukrainy, 61, 135, 2491.

18. Pro zatverdzhennia Poriadku podannia ta rozghliadu zaiav, nadannia, zupynennia dii, anuliuvannia dozvoliv na vidkryttia ta ekspluatatsiiu mahazynu bezmytnoi torhivli ta formy Zaiavy na vidkryttia ta ekspluatatsiiu mahazynu bezmytnoi torhivli (2012). Nakaz Ministerstva finansiv

Ukrainy No. 692. 08.06.2012. Ofitsiinyi visnyk Ukrainy, 54, 139, 2184.

19. Pro vporiadkuvannia vydachi sub'ektam pidpriemnytskoi diialnosti litsenzii na pravo optovoi torhivli spyrtom etylovym i plodovym, alkoholnymy napoiamy ta tiutiunovymy vyrobamy (1999). Postanova Kabinetu Ministriv Ukrainy No. 500. 31.03.1999. Ofitsiinyi visnyk Ukrainy, 24.

20. Pro Tymchasovyi poriadok vydachi litsenzii na pravo importu, eksportu spyrtu etylovoho, koniachnoho i plodovoho, alkoholnykh napoiv ta tiutiunovykh vyrobiv i rozdribnoi torhivli alkoholnymy napoiamy ta tiutiunovymy vyrobamy (1996). Postanova Kabinetu Ministriv Ukrainy No. 493. 13.05.1996. Uriadovyi kurier.

21. On the State Regulation of Production and Circulation of Ethyl Alcohol, Cognac and Fruit Alcohols, Alcoholic Beverages and Tobacco Products (1995). Zakon Ukrainy No. 481/95-BP. 19.12.1995. Vidomosti Verkhovnoi Rady Ukrainy, 46, 345.