

Сергій Гречанюк,

доктор юридичних наук, доцент, завідувач кафедри конституційного, адміністративного та фінансового права Тернопільського національного економічного університету

Наталія Пузирна,

кандидат юридичних наук, доцент кафедри трудового права, адміністративного права та процесу Чернігівського національного технологічного університету

Галина Терещук,

кандидат юридичних наук, доцент кафедри конституційного, адміністративного та фінансового права Тернопільського національного економічного університету

Роксолана Гречанюк,

кандидат юридичних наук, головний науковий співробітник відділу науково-методичного забезпечення прокурорської діяльності у сфері запобігання та протидії корупції Національної академії прокуратури України

ADMINISTRATIVE ACTIVITY OF LAW ENFORCEMENT AGENCIES OF UKRAINE (THE PROCURACY OF UKRAINE AND THE SFS OF UKRAINE)

Prosecution authorities in Ukraine perform four basic functions fixed by the Constitution of Ukraine. Constitution of Ukraine provides that on the procuracy of Ukraine are laid the following powers: 1) state accusation in court; 2) representation of interests of citizens or state in court in cases determined by law; 3) supervision over observance of laws by bodies conducting operational and search activity, inquiry and pretrial investigation [1]. Functional content of procuracy recently has undergone significant changes due to reformation of the criminal justice system, exclusion of general supervision from the number of functions of procuracy, development and adoption of new legislation on the activities of procuracy, which among other things involves substantial organizational transformation.

Considering the above mentioned, the opinion of S. A. Kulynych, according to which there is now an urgent need for regulatory regulation of mechanism of not only protection and defense of rights, freedoms and lawful interests of individuals and legal entities, but also their relations with public authorities including prosecution agencies is correct. Procedures of the so-called positive management activity concerning solutions of everyday intraorganizational issues in the prosecution bodies require normative regulation and increased role of norms of administrative law in organization of management activity in these bodies despite even the fact that it needs much greater efficiency and administrative discretion. Because administrative procedures in the prosecution bodies are intended to ensure the necessary sequence and maximum fullness of realization of their parties' rights and freedoms, become an obstacle to subjectivism and arbitrariness from the side of government bodies [2, p. 32]. V.V. Dolezhan noted that there are three kinds of management relations in the prosecution bodies: 1) management relations not related with implementation of prosecutorial supervision, including those that arise between managers and subordinated subjects of prosecutorial system (hiring different *categories of staff*, imposition of penalties, application of *encouragement measures*, certification of personnel, etc.); 2) management and supervisory relationships, in which managerial elements are dominated (order of higher prosecutor on the organization of reception of citizens directly in enterprises); 3) supervisory and management relations, in which supervisory elements are dominated, determination of changes or termination of prosecutorial and supervisory relationships follow directly from them (giving tasks to perform inspection of the implementation of laws to subordinated prosecutors, providing instructions on verification of specific complaints or claims, providing instructions on making the act of prosecutorial response or, conversely, on its revocation to subordinated prosecutors [3, p. 84–86].

The purpose of the administrative procedures in the activity of the prosecution bodies are as follows: firstly, organizing and bringing to uniform standards similar in content and form of administrative actions in the prosecution bodies; secondly, timely detection of problems in the sphere of management activity of prosecution

bodies, requiring solution; thirdly, creation of conditions for ensuring implementation of the rights, freedoms and interests of employees of the prosecution bodies in intraorganizational relations and rights, freedoms and interests of physical and legal persons in external relations administration in external administrative relations; fourthly, adoption of legitimate and reasonable management decisions; fifthly, prevention of abuse of official position [2, p. 30].

The new Law of Ukraine «On Prosecution» (of October 14, 2014 № 1697-VII) defines the legal basis of organization and activity of the procuracy of Ukraine, *prosecution self-government*, status of prosecutors, prosecution system, the procedure and the system of prosecution of Ukraine [4]. This normative legal act directly states that functions not provided by the Constitution of Ukraine cannot be assigned to the procuracy and uses new approach to construction of administrative relations in the prosecution system. It is manifested in the new organizational system of Prosecutor General of Ukraine (hereinafter – the PGU); regional prosecution service; local prosecution service; military prosecution), as well as in new approaches to activity (independence of prosecutorial activities both from external influences and internal pressure; formation of self-government; new standards for training and appointment of prosecutors, as well as disciplinary practices; lack of investigators; *functioning features* of prosecution).

The main advantage of the above-mentioned law, on a plan of its authors, should be the introduction of fundamentally new principles of functioning of this law enforcement body. It can be noted that many of the initiatives, which were implemented, really have only positive impact in the medium and long term are able to change the emphasis of activity and restore the reputation of the body as such, which strengthens the legitimacy in the state. This will also be supported by changes in the management of procuracy [5, p. 99].

V. V. Shuba rightly notes, that the activity of prosecution bodies of Ukraine is regulated by various branches of law. Thus, the Law of Ukraine «On the Procuracy» contains norms of labor, financial, civil, criminal, administrative law and social security law. The Law of Ukraine «On the Procuracy» is a complex normative act. The presence of sectoral norms contained in this Law, should be considered in practice of prosecution bodies, particularly during the application of legal norms [6, p. 75]. Concerning administrative and legal relations in activity of prosecution bodies of Ukraine, before mentioned author refers understand public relations regulated by administrative legal norms, which are formed both during external and intraorganizational activities of the prosecution bodies, one of which mandatory participants is procuracy or its official is one of its [6, p. 14]. Thus, summarizing the above mentioned, we can note that administrative activity of prosecution bodies is:

1. Activity aimed at streamlining of processes in the middle of the prosecution system and in particular Procuracy of appropriate level (is provided through the use of various management tools, adoption and control over the implementation of management decisions, planning, control powers, combining management with specific functional areas of activity for the purpose of effective organization of activity);

2. Internal and external administrative and jurisdictional activity (aimed at preventing crime and bringing the perpetrators to justice from the number of employees of the procuracy, as well as other citizens, legal persons, etc.);

3. Activity aimed at the rights and legitimate interests of citizens, establishment of public order, rule of law in various areas of public and social life, law enforcement activity (due to implementation of coordination of representative functions, etc.).

Such an interpretation of administrative activity, in our opinion, somewhat expands the overall theoretical understanding of this type of activity, instead fully disclose all its possible directions. If we return to the new legislation on the activities of the procuracy, then decentralization of management relations, reduction of total impact of the GP of Ukraine on subordinated procuracies and the transfer of its administrative nature to the coordination and methodological contents, formation of real, not formal independence of prosecutors in making their decisions, as well as increasing demands for the quality of their work along with the reduction of powers may be considered as main positives.

Lets continue review of administrative activity of law enforcement agencies, analysis of fiscal sphere. By the Decree of the Cabinet of Ministers of Ukraine (hereinafter – CMU) of 21 May 2014 № 236 a new provision on the State Fiscal Service of Ukraine (hereinafter – SFS of Ukraine) was approved [7]. With this Decree fiscal reform of public administration in Ukraine was completed. We can confidently say, that combination of tax and customs control functions and powers in the difficult economic situation of Ukraine *during* the years since *its independence* is a positive step and should centralize all fees and charges.

The main objectives of the SFS of Ukraine are:

1) realization of state tax policy and policy in the customs sphere, state policy in the sphere of combating against infringements during the application of tax and customs legislation, within the powers provided by law exercise of control over contribution coming in the form of *taxes and other fees* paid to budgets and state funds,

customs and other payments, state policy in the sphere of control over production and turnover of alcohol, alcoholic beverages and tobacco products, public policy in administration of single contribution, as well as combating offenses during the application of the law on the payment of a single contribution, public policy in the sphere of control over the timeliness of payment in foreign currency in the statutory term, compliance with the order of cash payments for goods (services), as well as the availability of licenses for types of economic activity requiring licenses under the law and trade patents;

2) submission to the Minister of Finance proposals to ensure formation of: state tax policy; state policy in the sphere of customs matters; state policy in the sphere of combating violations of *tax and customs legislation*, exercise of control over contribution coming in the form of *taxes and other fees* paid to budgets and state funds, customs and other payments; state policy in the sphere of control over production and turnover of alcohol, alcoholic beverages and tobacco products; state policy in administration of single contribution, as well as combating offenses during the application of the law on the payment of a single contribution; public policy in the sphere of control over the timeliness of payment in foreign currency in the statutory term, compliance with the order of cash payments for goods (services), as well as the availability of licenses for types of economic activity requiring licenses under the law and trade patents [7].

TC of Ukraine, which regulates relations arising in the sphere of collection of taxes and fees, in particular, sets out an exhaustive list of taxes and duties collected in Ukraine and procedure of their administration, payers of taxes and duties, their rights and obligations, the competence of the controlling bodies, powers and duties of its officials during the implementation of tax control, as well as responsibility for violation of tax laws is the main legal document existing in the *tax sphere*. This Code also defines the functions and the legal framework for controlling bodies [8]. A. V. Golovach believes that most of the staff of the tax authorities performs mainly administrative functions, exercise organizational and legal powers established and guaranteed by administrative law. During implementation of these activities employees enter into numerous administrative and legal relationships with individuals, legal entities, other state bodies, representatives of governmental and law enforcement agencies of foreign countries [9, p. 200].

TC of Ukraine contains the notion of administration of taxes, customs duties, single fee for obligatory state social insurance and other duties under the legislation, control over the observance of which is entrusted to controlling bodies (hereinafter - taxes, duties, fees) – as a set of decisions and procedures of controlling bodies and actions of their officials, defining the institutional structure of tax and customs relations, organize identification, records of taxpayers and payers of the single contribution and objects of taxation, provide service maintenance of taxpayers, organization and control over payment of taxes, fees, payments in accordance with the procedure established by law [8]. This formulation corresponds to the context of administrative activity as part of it. In this regard, D. V. Prymachenko defined administrative activity of customs authorities as regulated predominantly by administrative law subordinate, focused, state-government, executive and administrative activities, related to practical implementation of measures, aimed at direct implementation of customs policy of the state and organization and functioning of the customs bodies. Independent forms of administrative activity of customs bodies are adoption of administrative acts, conclusion of administrative contracts, legal transactions, implementation of organizational measures, perform material and technical operations [10, p. 32]. O. O. Kosycia notes that administrative tasks of the tax authorities are as follows:

- formation and implementation of a unified state tax, state customs policy in the administration of taxes and fees, customs duties;
- prevention and combating offenses during application of tax and customs legislation;
- control over contribution coming in the form of *taxes and other fees* paid to budgets and state funds;
- organization of work of central executive body, its territorial bodies, enterprises, institutions and organizations belonging to their sphere of management;
- establishment of rules of conduct for tax officials and control over their implementation;
- providing methodical and practical assistance to territorial bodies in organization of work, inspection of such work;
- reception of citizens, consideration of *citizens' appeals*, requests and appeals of people's deputies of Ukraine, as well as requests for public information;
- coordination of activities of its territorial bodies and organization of their interaction with state bodies and local government bodies;
- providing public authorities with information from databases of tax authorities and other bodies [11, p. 23].

It should be noted that the issue of administrative activity in fiscal sphere was considered in the context of many social relations in this area and achievements of these authors will serve as a theoretical basis for matters covered by the subject and the object of this work.

To summarize, we should note that administrative activity of the fiscal body has general conceptual character that consists in the formation of public policy in the fiscal sphere, as well as practical, expressed in the effective organization of functioning of fiscal bodies for achievement of the aforementioned objectives. It must be emphasized, the aim of this activity is not limited to one area and has many vectors, which generally allow to build activity outside the administrative and legal regulation. This is due to the fact that effectively established administrative activity in general contributes to the criminal procedural, operational-investigative, security-jurisdictional functions of before mentioned bodies. Because only proper organization is able to efficiently distribute professional human resources, which will ensure the achievement of assigned tasks.

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