РОЗДІЛ ІІ. КОНСТИТУЦІЙНЕ ПРАВО; МУНІЦИПАЛЬНЕ ПРАВО

УДК 34.021

PROBLEMS, WHICH ARISE IN CONCERN TO THE IMPLEMENTATION OF THE PRINCIPLE OF THE RULE OF LAW

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In this article, there are described problems, which arise in concern of the implementation of the principle of the rule of law on the example of Ukraine and Germany. There are defined gaps in Ukrainian legislation in concern of the appointment of judges and how it influences the everyday work of judges. The second main question concerns reasonable time if judges should be strictly limited with a time of the consideration of cases.

Key words: principle of the rule of law, court, judges, appointment, reasonable time.

ПРОБЛЕМЫ, ВОЗНИКАЮЩИЕ В СВЯЗИ С ОСУЩЕСТВЛЕНИЕМ ПРИНЦИПА ВЕРХОВЕНСТВА ПРАВА

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В статье описываются проблемы, которые возникают в связи с осуществлением принципа верховенства права на примере Украины и Германии. Обозначены проблемы, которые возникают в украинском законодательстве в связи с назначением на должность судьи, описано, как это влияет на каждодневную работу суда. Второй вопрос касается разумных сроков, в каких случаях судьи должны быть ними ограничены.

Ключевые слова: принцип верховенства права, суд, судья, назначение, разумный срок.

ПРОБЛЕМИ, ЩО ВИНИКАЮТЬ У ЗВЯЗКУ ІЗ ЗДІЙСНЕННЯМ ПРИНЦИПУ ВЕРХОВЕНСТВА ПРАВА

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Одним з основоположних принципів, які забезпечують розвиток права й держави, є верховенство права. Велику роль у його реалізації на практиці здійснюють судові органи.

Особливу увагу у цій статті присвячено таким проблемам, які заважають його реалізації, зокрема процедурі призначення на посаду судді та необхідності обмеження суддів розмуністю строків.

Із приводу процедури призначення на посаду судді порівняно закони Німеччини та України, проаналізовано вплив недопрацьованості українського законодавства з цього питання. Звичайно, до Конституції України внесено зміни, якими встановлено, що судді обираються одразу безстроково. Однак сьогодні ще залишилися судді, які призначені на перший термін – 5 років, як це було раніше, і ще не перепризначені на безстроковий період. У результаті маємо перенавантаженість суддів, недопрацьовану систему, адже невизначеним є час обрання судді безстроково після закінчення першого п'ятирічного терміну їх призначення, у результаті чого судді сидять без повноважень і в судах залишається недостатня кількість суддів із повноваженнями, а наплив справ від цього меншим не стає. Це впливає на те, що судді починають працювати понаднормовий робоий день задля того, щоб забезпечити розумні строки та достатнє ознайомлення із матеріалами справи задля прийняття законного рішення. Тому, звичайно, зміни до Конституції є доцільними, але ця проблема сьогодні залишається невирішеною.

Щодо відсутності строків проаналізовано практику Європейського суду з прав людини стосовно того, що впливає на затягування розгляду справи, а також ситуація із судової практики Німеччини, коли голова суду написала листа до іншого судді з приводу того, що він працює занадто повільно. Ця справа досягла навіть рівня дисциплінарного суду, який прийняв рішення, що голова суду мала право спонукати суддю працювати швидше, тут немає посягань на незалежність суду. Однак досить вагомим є аргумент судді, що він лише докладно вивчає справу та що його справи часто публікуються у юридичних виданнях. Тому, вважаться, що судді не мають так сурово бути обмеженами розумністю строків на рівні нехтування процедурними питаннями, дослідження обставин справи та своєї об'єктивності.

Ключові слова: принцип верховенства права, суд, суддя, призначення, розумний строк.

The principle of the rule of law is one of the most fundamental, which provides the development of state and law in each country. Rule of law is one of the founding principles stemming from the common constitutional traditions of all European countries, and is one of fundamental values upon which the European Union is based. Respect for the rule of law is a prerequisite for the protection of all fundamental values, including democracy and fundamental rights [1]. Democracy has as its foundation respect for the human person and the rule of law [2, p. 127].

A huge rule in realization of this principle in practice play state authorities of the country, especially the judicial branch of power. That is why a great importance for its realization in nowadays realities of any country play the discussion and study of problems, which arise and should be solved.

Various aspects of modern theory and practice of modern state and law were investigated and explored by such Ukrainian lawyers – V. Babkin, A. Zayets, M. Koziubra, A. Kozlovskyi, V. Opryshko, V. Pohorilko, O. Petryshyn, P. Rabinovych, I. Rymarenko, A. Selivanov, S. Slivka, O. Skakun, Yu. Shemshuchenko and others.

But, as we know, the development of the country doesn't remain on one place, and each change in law influences on it. That is why it is considered to be rational to analyze which problems arise in concern to implementation of the principle of the rule of law in the country through analysis of the law, which concerns judicial authorities.

If to talk about courts, all of them are different in concern their competence and jurisdiction, but all of them have the same purpose: protection of rights and freedoms, constitutional order, national security, the rule of law and fairness in society. At the same time ensuring the implementation of the provided by Constitution of Ukraine rights and freedoms of man and citizen is the main content of judicial authorities, so as according to the Constitution, jurisdiction of the courts extends to all legal relations which arise in the country, so that under the judicial protection are all the rights, freedoms and duties of citizens.

That is why it is important to analyze the ways of realization of the principle of the rule of law in constitutions of different countries, in the work of state authorities, and which problems arise during on the one hand side good intentions of the legislator. That not everything what on the first view can be counted as that what will help the operation of the principle of the rule of law, make different procedures easier will work so as it was expected.

As it is known, one of the main backgrounds of the principle of the rule of law is an acceptance of ensuring of a judicial decision by an independent tribunal, a big step in strengthening of this principle are the constitutional changes in Ukraine in 2016.

So, before according to the article 126 of the Constitution of Ukraine "Judges hold office for permanent terms ... and judges appointed to the office of judge for the first time" [3]. But in accordance to the last reduction from 30 of September 2016 in the same paragraph of the article is written just: "Judges hold office for permanent terms" [4].

In Germany as opposed to Ukraine since a long time there is a law, which is still working, and which prescribes in its section 10 of the "General Judicial Act": "Whoever has worked as a judge for at least three years after acquiring the qualification to hold judicial office may be appointed a judge for life… Taking account of more than two years of such work shall presuppose special knowledge and experience on the part of the person to be appointed". Paragraph 2 of the section 12 says: "Five years at the latest after his appointment, a judge on probation shall be appointed a judge for life or, on being given civil service tenure for life, he shall be appointed a public prosecutor. This time-limit shall be extended for any unpaid leave taken" [5].

The difference with Ukrainian situation is that in this currant law judges are firstly elected for a period on a probation, and it is not prescribed, like it was before in Ukraine only for 5 year period. Because of this there was a situation that, for example, the judge can commit judgments only from the 1st of April 2011 till the 1st of April 2016, and until it will not be elected for a lifelong period it will be out of powers and cannot commit judgments, can only make some other work in the court like conduct generalization of the practice of courts, prepare case-law practice, they are sent to study, prepare reports on trainings, study and then report in the court about changes in the legislation and wait for its election. In contrast in Germany is written "at least three years" and "five years at the latest after his appointment, a judge on probation shall be appointed a judge for life".

So, it can be made a decision that the judges are not waiting for their elections and there is not a gap in period between they were elected for a probation and between they were elected for a life long period, because it is not strictly identified the date when the power of judges on the probation ends and it is identified that maximum in 5 years they are already elected.

In Ukraine, for example, it is also bringing the situation that judges every day receive so many cases that it is impossible to finish them until this five year period will be finished. So that after the power of judges was ended, their cases should be transferred to another judges, which still have this power to commit judgment. And the main minus in this situation is first of all that there are not enough of judges in the courts and furthermore judges have a lot of work, and are limited with terms and do not have time to commit judgment. As a result some of them instead of working from 9 till 18, in order to ensure the efficiency the judicial consideration of cases, they work an overtime day, some of them start their working day at 8 and finish it later. As a result in such situation we can also talk about the violation of the principle of the rule of law, so as everyone has a right on proper working conditions which cannot be followed if according to the norms of schedule of the day is written that they should have an eight hour working day, but additionally in order that the cases will not be listened for years and to provide people with fast and lawful court process judges are placing themselves in not comfortable conditions. What makes the work of the judges even more difficult is if the judge which is now without powers for some period until it will be elected for permanent terms did not finish some case, in normal situation it will be 50, sometimes even 200 cases left and in accordance to Ukrainian law all these cases should be reviewed by other judges from the begining.

What is more difficult is that in Ukrainian law is not identified the period when the judges should be elected for permanent terms. So it can even sometimes take a year.

So, as we can see, changes in Ukraine that the judges can be elected for a permanent term and the relinquishment from the first 5 year period is a good change, so as in the past it was leading to the

possibility of a political influence on a judge during his subsequent appointment from the side of political forces represented by Verkhovna Rada, which was solving the issue of appointment of judges before. An important factor is also the transfer of function of the appointment of judges to the Constitutional body – the High Council of Justice, composed of 21 members, most of whom are judges.

All in all, if to compare experience of election of judges in Germany and as it was in Ukrainian law before, so as this system was formulated differently as it was in Germany, additionally it leaded to some problems, like the period, when judges are left without powers and cannot commit judgments, after their 5-years period finishes and should wait for an unknown period of time until they will be elected. As a result, courts are left with a small amount of judges, which can commit judgments and a huge influx of cases.

But for sure not always judges have a possibility to provide people a quick and at the same time lawful and objective decision.

So, paragraph 1 of the article 6 of the European Convention of Human Rights establishes the next: "In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law" [6]. The right to a fair trial is fundamental to the rule of law and to democracy itself.

According to the overview of 1959–2015 of the European Court of Human rights violation of the article 6 of the Convention takes 41,31% of the common amount of violations by the countries-parties of this convention.

In Germany this amount is 102 cases, if to compare with a total amount of represented complaints in 287 judjments, it can be made a decision, that the length of proceesings is a problem in Germany which desturbs people. Ukraine also has one of the biggest amount of judgments in this spehere – 303 [7].

From the analyzes of the practice of the European Court of Human Rights about the interpretation of the provision about "reasonable time" can be made a decision, that term, which can be considered as reasonable, can not be the same for all cases and it would be unnatural to establish the same term in a concrete numerical expression for all circumstances. That is why in all cases appears the problem of evaluation of the reasonable term, which depends on some criteria, made by the European Court of Human Rights [8, p. 328].

To establish the reasonableness of terms in consideration of specific cases national courts of the European Court of Human Rights identified in his practice some connected criterions:

– The complexity of the case;
– The behavior of the applicant;
– Behavior of judicial and other state authorities;
– Importance of the subject of consideration for the applicant.

The long duration of the proceedings could be considered reasonable if the case itself is complex as from the actual, same from the legal side.

In case of necessity, a person who appeals to the European court of Human Rights for the recognition of unreasonably long proceedings has to prove that she did not personally commit actions aimed at delaying the process. This means that every time the European Court of Human Rights evaluates the applicant's behavior and its impact on the duration of the proceedings. However, analyzing one of the cases about criminal prosecution, the Court noted that it is impossible to demand from the person to cooperate with court in proceedings if such assistance would lead to its conviction.

A striking example, where applicants' behavior became one of the reasons to the long consideration in a dispute, is a case of "Chirikosta and Viola against Italy", where the 15-year period of review

was considered justified, because the applicants by themselves were asking seventeen times for the postponement of the process and did not object against six postponements of the review, made on the basis of statements of the other party in the case [9, p. 8–9].

The analysis of the practice of the European Court of Human Rights gives the possibility to make a decision that there are such problems, which lead to the violation of the reasonable time:

– failure of the court to make actions to secure the presence of the participants of the proceedings (defendants, experts, witnesses);
– too long breaks between court meetings without a valid reason;
– excessive length of judicial examinations and failure in taking by court actions to properly their implementation;
– unreasonable length of appeal and casation proceedings in courts of higher instances [8, p. 329–330].

As for me, very interesting is an experience of Germany in the situation of the length of court hearings. For example, if to talk about the above-discussed topic, Germany has its own view and on the one hand side really takes care about the realization of the principle of fair trial, provided by the European Convention of Human Rights and implemented in the article 103 of the Basic Law of Federal Republic of Germany. What is more article 25 of the Basic Law called "Primacy of international law" provides the next: "The general rules of international law shall be an integral part of federal law." This means, that Germany should also rule the provisions of the European Convention of Human Rights, what it is successfully doing, especially if to talk about reasonable time.

But, not always it is usefull for the realisation of the principle of the rule of law to hurry with case solving and decisions, because how a judge can make an impartial, objective, transparent decision if he is controlled by terms and if only he will work on the case a little longer someone will already write a complaint on him?

Lets consider the next. In Germany there was a situation that the head of the court asked a judge with a small number of working cases, to work faster.

The President of the Court of Appeal, Karlsruhe, Christine Hügel, wrote a letter to one of its judges, which sounded harshly: "The accusation and admonition", subject of the letter of 26 January 2012 was Thomas Schulte-Kellinghaus, judge of a civil office in the Freiburg district Office of the same court of appeal [10].

This situation reached even the Disciplinary court for judges in Germany (Dienstgerichtshof). There was a complaint based on the comparison of performance figures with other colleagues of the judge. So, the head of the court Christine Hügel had told her colleague that he had lagged behind the average numbers. In some years he did less than a half-day working judge. He had only reached about 68 percent of the average performance of other judges – in 2010 he had a total of 82 completed cases. Therefore, the number of open procedures in its field rose by 67 per cent. This is "beyond all generous tolerances". Schulte-Kellinghaus, who opposed the exhortation, said that a different time requirement was necessary for each individual case. He emphasized that he was working very carefully. It was indisputable that his temporal work was more than under the other judge, and his judgments are frequently printed in the professional press. Matthias Grewe from the association of judges and prosecutors in Baden-Württemberg described the procedure as extraordinary. Judicial independence is a great asset. For instance, a superior should not have any influence on the termination of a procedure.

So, here was the opposition of influence on the independence of the independent jurisprudence dependent on the alleged productivity aspects [11].

The Stuttgart court had decided that a judge can be asked by his superior to work faster. A corresponding complaint does not infringe judicial independence [12].

So, in other words, the court made a decision that retention and exhortation are not contrary to judicial independence. There was also no inadmissible pressure on the judge [11].

Also, it can be agreed with the comments of people in accordance to this case that the judge does not work a little in this case, but only thoroughly. It was also mentioned that the judge was often quoted, thus obviously found by the literature to be good.

Certainly, long trial periods are harmful to the parties, mostly for those who are right. But unfortunately the damage of wrong decisions of the courts is much bigger for society, than the longer period of court hearing. So, with his working behavior Mr. Schulte-Kellinghaus is a much better service to the society than any judge who puts himself under pressure. People of his profession should follow his example.

For example, if to take Ukrainian legilative practice and legislation, in its decision from 2 of November 2004 № 15-рп/2004 the Constitutional Court of Ukraine noted that the rule of law is the supremacy of law in the society. The rule of law demands from the state its implementation in law-making and law enforcement activities, including the laws that in its content should be saturated with ideas of social justice, freedom, equality and so on.

Failure to comply with the terms of consideration of civil and criminal cases and cases on administrative offenses violates the constitutional right to judicial protection, guaranteed by Article 55 of the Constitution of Ukraine, and negatively affects the efficiency of justice and the authority of the judiciary.

Materials of judicial practice indicate that the main causes of violations of procedural terms are lacks in the activity of courts, mainly associated with poor organization of the trial.

Often superficial consideration of civil cases and criminal proceedings, ignoring the rules of substantive and procedural law leads not only to the abolition of judicial decisions in appeal or cassation, but also to a substantial violation of terms of a decision on the merits of the proceedings, and in proceedings on administrative violations – to closing of the proceedings as the end of deadlines to administrative responsibility.

In order to ensure compliance with procedural terms by the courts handling civil and criminal cases and cases on administrative offenses, and because of the emergence of the questions by courts while the application of certain provisions of procedural law, plenum of High specialized court of Ukraine for civil and criminal cases resolves to give the courts the following explanation.

The deadlines, which are set by the court (for example, terms of correction of statement of claim or appeal) must comply with the principle of reasonableness. Determining (at its discretion) the duration of these periods, the court must take into account the principles of discretionary and competition, deadlines set by law for consideration of the case in determining the terms of particular proceedings, complexity of the case, the number of participants of the case, potential difficulties in requesting and examination of evidence, etc.

Terms of the case can not be considered reasonable if they are compromised by employment of judge in another process, the appointment of court with large intervals, delaying because of the transfer of cases from one court to another in cases prescribed by law, groundless satisfaction of unreasonable requests of participants of the case, which resulted in delay of the case for a long time, the deposition of the case due to its inadequate preparation for trial, failure to take measures to prevent unfair behavior of participants of the case, etc. as the reasons, which indicate low levels of the judiciary and irresponsible attitude to their duties [13].

So, it can be made a decision that despite of the fact of how developed country is, how long it is already existing, how good are its norms, anyway there is not an ideal procedure or ideal law. In each of them there are some either gaps, either other contradictions.

For example in this paragraph were represented Ukraine and Germany. And in each of these countries there are some problems, or better to say, questions, which arised during the realization of

laws, and as result, which can lead to the violation of the principle of the rule of law. So as, for example in Germany in order to provide people principle of reasonable time, judges should work very fast, in Ukraine it leads to such problems that judges should work extra hours, what is as a result of a long term of appointment of judges for a lifelong period. All this is a result of not ideal legislation and mistakes, which should be solved.

So, in Germany the judges should not be so strictly guided by the principle of reasonable time of court hearing in the meaning of neglection to the procedure and their objectivity and acquaintance with the circumstances of the case.

In Ukraine the procedure of election of judges for a life period after their 5-year period is finished should last faster, that the courts will not be left with a small amount of judges, which have the power to commit judgments.

REFERENCES

1. Rule of law, available at : http ://ec.europa.eu/justice/effective-justice/rule-of-law/index_en.htm (access 08 March, 2017)
2. Rhona, K.M. (2013), Smith. Texts and Materials on International Human Rights 3rd Ed. Taylor & Francis, London.
3. Constitution of Ukraine with amendments on the 21 of February 2014, available at : http ://zakon3.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80/ed20140302 (Accessed 08 March, 2017).
4. Constitution of Ukraine with amendments on the 30 of September 2016, available at : http ://zakon3.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80 (access 08 March, 2017).
5. The German Judiciary Act from 19.04.1972, amended on the 31.08.2015, available at : http ://www.gesetze-im-internet.de/englisch_drig/englisch_drig.html#p 0009 (access 08 March 2017).
6. European Convention on Human Rights amended by Protocols Nos. 11 and 14 ; supplemented by Protocols Nos. 1, 4, 6, 7, 12 and 13, available at : http ://www.echr.coe.int/Documents/Convention_ENG.pdf (access 04 March, 2017).
7. Overview 1959-2015 – ECHR – European Court of Human Rights, March 2016, available at http ://www.echr.coe.int/Documents/ Overview_19592015_ENG.pdf (access 25 March. 2017).
8. Lahuta, V.O. (2013), “Criteries of determination of reasonable time”, Forum of law, no. 3.
9. Banchuk, O. (2005), “Reasonable time in court proceedings : European standards and Ukrainian realities”, Lawyer, no. 11 (62).
10. Wenn ein Richter langsam arbeitet/ When the jusge is working slow from 04.12.2012, available at : https ://www.welt.de/newsticker/news3/article111812644/Wenn-ein-Richter-langsam-arbeitet.html (access 27 March, 2017).
11. Niederlage für langsam arbeitenden Richter/ Defeat for slow-working judges. Pia Lorenz from 20.04.2015, available at : http ://www.lto.de/recht/job-karriere/j/olg-stuttgart-dgh-1-13-langsamer-richter-vorhalt-ermahnung-ruege-begruendet/ (access 27 March, 2017).
12. OLG-Chefin begrüßt Urteil zu "langsamem" Richter, Regional Appeal court-chefin welcomes judgment on "slow" judge from 23.04.2015, available at : http ://www.lto.de/recht/nachrichten/n/olg-chefin-begruesst-urteil-langsamer-richter/ (access 27 March, 2017).
13. Decision of the Constitutional Court of Ukraine in case of constitutional submission of the Pension Fund of Ukraine on an official interpretation of provisions of Art. 1, parts of the 1, 2,

3, Article 95, 2 p. of Art. 96, p. 2, 3 and 6 of Art 116, p. 2 of Art. 124, p. 1 of Art. 129 of the Constitution of Ukraine , p. 5 of Art. 4 of the Budget Code of Ukraine, p. 2 of Art. 9 of the Code of administrative Procedure of Ukraine in the system due to the specific provisions of the Constitution of Ukraine from 25.01.12, available at : http ://zakon3.rada.gov.ua/laws/show/v003p710-12 (access 27 March, 2017).

УДК 342.5: 341.17

ПРИНЦИПИ ТА МЕТОДИ РЕАЛІЗАЦІЇ ПРАВООХОРОННОЇ ФУНКЦІЇ ДЕРЖАВИ В УМОВАХ АСОЦІАЦІЇ УКРАЇНИ ТА ЄВРОПЕЙСЬКОГО СОЮЗУ

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Статтю присвячено дослідженню принципів і методів реалізації правоохоронної функції держави в умовах асоціації України і Європейського Союзу та агресії на Сході нашої держави. Проаналізовано позиції учених із зазначеної проблеми, положення законодавства у цій сфері, визначено особливості правоохоронної функції держави та методи її реалізації у сучасних умовах.

Ключові слова: держава, правоохоронна функція, принципи, методи, Європейський Союз, примус і переконання.

ПРИНЦИПЫ И МЕТОДЫ РЕАЛИЗАЦИИ ПРАВООХРАНИТЕЛЬНОЙ ФУНКЦИИ ГОСУДАРСТВА В УСЛОВИЯХ АССОЦИАЦИИ УКРАИНЫ И ЕВРОПЕЙСКОГО СОЮЗА

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Статья посвящена исследованию принципов и методов реализации правоохранительной функции государства в условиях ассоциации Украины и Европейского Союза и агрессии на Востоке нашей страны. Проанализированы позиции ученых по данной проблеме, положения законодательства в этой сфере, определены особенности правоохранительной функции государства и методы ее реализации в современных условиях.

Ключевые слова: государство, правоохранительная функция, принципы, методы, Европейский Союз, принуждение и убеждение.

PRINCIPLES AND METHODS FOR THE IMPLEMENTATION OF THE LAW ENFORCEMENT FUNCTION OF THE STATE UNDER THE CONDITIONS OF THE ASSOCIATION OF UKRAINE AND THE EU

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The article investigates the principles and methods of implementation of the law enforcement functions of the state in terms of association of Ukraine with the European Union and aggression in the east of the state. Scientists analysed the position of this problem, provisions of the legislation in this area the peculiarities of the law enforcement function of the state, and its implementation methods in modern conditions.

Key words: government, law enforcement function, principles, methods, European Union, coercion and persuasion.

Асоціація України і Європейського Союзу, прогнозовані процеси реформування усередині країни, воєнне протистояння на Сході держави дозволяють розглядати проблематику