

CERTAIN FEATURES OF THE REFORM OF STATE POWER IN UKRAINIAN WAY

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A characteristic feature of the modern Ukrainian state is that for more than a quarter of a century Ukraine has been in the process of continuous reform of all branches of legislation, state executive bodies, certain areas of state executive power, local self-government bodies, administrative structure, public service and other institutions.

It is apparent that the goal of any reform should be qualitative changes in the sphere of public life, in which the corresponding reform is being introduced. Prior to the announcement of the start of the reform, it is necessary to carry out global preparatory work on the economic, sociological and legal analysis of the practical necessity of the declared reform and specific projected results of its completion, indicating clearly defined deadlines for their onset. Should the desired changes as a result of the reform do not occur, the reform should be recognised as unsuccessful.

Having analysed the stages of judicial reform and the reform of the State Enforcement Service of Ukraine, it can be asserted that the initiators of the reform of the judicial and executive branches of government were primarily interested in two things:

1) the reform process itself, which is accompanied by huge financial costs at the expense of taxpayers and various donor organizations and international funds, and the huge human resource involved, which ensures the direct reform process; and

2) the desire of each new political elite that has come to power in a democratic and legal way to change the state management elite as a means to achieve political goals.

The reform of the State Enforcement Service is closely connected with judicial reform, since the activities of this particular system of state bodies are closely connected with the activities of the judicial branch, not only by their consistency and logic, but also by their content component. In the procedural law of Ukraine, enforcement proceedings are considered to be the last stage of judicial proceedings and the final stage of the justice process.

It is commonly known that the very fact of making a court decision (meaning a court decision in the broad sense of the word: judgment, ruling,

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resolution, order), even if it has entered into legal force, does not mean that justice has been carried out. After all, the achievement of justice can only be declared when the violated, disputed or unrecognized right and the legally protected interest of a person is protected, which is possible only in the case of proper and timely enforcement of the court decision.

On the one hand, a court decision is not only a procedural document of a certain form, but also at the same time is an act of a state judicial authority that is binding. On the other hand, the judicial authority that delivers a relevant decision (an act of judicial power) is deprived of any legal instruments in a legal way to influence the course of its enforcement, since in the absence of the good will of the parties regarding its enforcement, the compulsory enforcement of a court decision is mainly entrusted to another state authority – the State Enforcement Service, which in turn is a component of the state enforcement branch.

It is precisely due to the lack of judicial control means that the statistical number of enforced court decisions varies between 20 and 30 percent. This means that the entire system of courts of Ukraine, built on the principle of territoriality and specialisation, does not fulfil its main task – the administration of justice. And the constitutional right of every person to proper and just protection of their right by an impartial court remains only a proclaimed constitutional declaration.

This happens for various reasons, and the main one is the irresistible desire of high-ranking officials to reform all the state processes introduced by the former rulers.

The State Enforcement Service was founded back in 1998 to replace the liquidated institute of bailiffs, who were subordinate to the court, and who were assigned the task of enforcing a court decision and other acts. In the same manner as nowadays, the participants in the court trial accused the courts of dishonesty, bribery, and dependence on «telephone law». Despite the existing institution of effective judicial control at the time, the degree of enforcement of a court decision varied within 60 percent, and the creation of an independent state body – the State Enforcement Service – was supposed to contribute to ensuring the enforcement of the court's decision and the completion of the administration of justice.

However, as is well known, the goal was not achieved, precisely because from the moment of its creation to the present day, the State Enforcement Service is in a state of continuous reform. Sometimes it exists as an independent government body, sometimes in the system of the Ministry of Justice, sometimes under double subordination, which results in the absence of a permanent consistent responsible work. And there are many reasons, amongst which mention may be made of the lack of interest of a particular state enforcement officer in effective work, low wages, and the lack of any other social and economic guarantees on the part of the state, and most

importantly: the State Enforcement Service is not faced with the task of completing justice. Usually, the State Enforcement Service is engaged in the implementation of an indicative rate of revenues to the state budget, meaning that the completion of enforcement proceedings by non-enforcement of a court decision in cases stipulated by law is quite legal and common.

Not so long ago, a new legal institution appeared on the legal expanses of Ukraine – the institute of a private enforcement officer, which was granted by the state with the right to provide public services for the enforcement of court decisions at the request of participants in the judicial process. It is disputable whether this institute will be able to replace the existing State Enforcement Service in the nearest future. However, as an alternative right of a person interested in enforcing a court decision and other acts, the private enforcement officers can and should function.

As for the fate and subsequent attempts to reform the State Enforcement Service, it is possible that despite the deep respect for the State Enforcement Service officials and their extremely complex and psychologically difficult activities, the legislative and executive bodies of state power need to have the courage and recognize that the creation of the State Enforcement Service as an independent system of state enforcement power was erroneous and it is necessary, as part of the next judicial reform, to restore the institution of liquidated bailiffs subordinated to the judicial authorities in order to ensure the implementation of the constitutional right of a person to judicial protection and the proper implementation of the main task of the court – the administration of justice.

ATTRIBUTION OF CYBERATTACKS COMMITTED THROUGH CYBERINFRASTRUCTURE OF A THIRD STATE AND DUE DILIGENCE OBLIGATION

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Cyberattacks became a global challenge to international community, which is highly dependent on industrial control systems. They are especially dangerous when launched against objects of critical infrastructure, without proper functioning of which people may suffer from the lack of food, water, electricity, medical care etc, and a state – be subjected to political and economic crisis.

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