

INNOVATION LEGAL SCIENCE IN THE EUROINTEGRATION SPACE

ADMINISTRATIVE RESPONSIBILITY FOR INFRACTION OF FISCAL DISCIPLINE IN UKRAINE

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The current reform of the financial and budgetary sphere is characterized by focus on change of intergovernmental relations in order to ensure fiscal decentralization, including increased financial resources available to local governments, formation of financially capable local communities, increasing of its own and delegated powers financing of administrative-territorial formations. Therefore, in the introduction of a new model the public finances functioning is important the research of bases and procedure for fiscal legislation infraction liability.

Problems of administrative responsibility were investigated by such scientists as V. Averyanov, O. Bavyko, Yu. Bytyak, E. Dodin, S. Kivalov, A. Komzyuk A. Iwanski, V. Ivanov, L. Voronova, M. Kucheriavenko, N. Pryshva, E. Alisov, Ivan Bondarenko and others. However, the correlation issue of administrative and financial responsibility, liability of those responsible for infraction in finance remains [8, p. 211].

The aim of the article is the legislative support research of administrative responsibility for infraction of fiscal discipline.

Current Ukrainian legislation does not give an accurate definition of administrative responsibility, so there is a multitude of opinions on it in the theory of Administrative Law.

V. Kopyechnykov considers administrative responsibility in a positive (prospective) and retrospective (negative) views. In the prospective understanding the administrative liability is characterized as responsible attitude of the administrative law subject to their obligations and compliance with the bans. In a retrospective sense it is a specific relationship between the state (its bodies and officials) and the subject of an administrative offense to respond on offense and the subject who committed it, and reliance on offender type and extent of administrative penalties [4, p. 597-598]. I. Holosnichenko discloses administrative responsibility as an obligation of the person who committed the administrative offense, to bear responsibility for his illegal actions within the statutory penalties [2, p. 82]. V. Averyanov said: "administrative responsibility is a kind of legal liability, which is a combination of administrative legal relations arising in connection with the use of authorized bodies (officials) to persons who have committed administrative offense stipulated administrative rules special law sanctions - administrative penalties" [1, p. 430-431].

The basis for the application of administrative liability is an administrative offense, which, according to Art. 9 (1) of the Code of Ukraine on Administrative Offences considers as wrongful, guilty (intentional or reckless) action or omission which infringes on public order, property, rights and freedoms, the established order management and for which the law provides administrative liability [3].

Infraction of financial legislation issues are devoted to art. 164-2 of the Code of Ukraine on Administrative Offences, the objective side of which consists of: hiding in accounting for foreign exchange and other income, wasteful expenditure and losses, no accounting or keeping it in infraction of the established order, making false statements to financial statements, failure to submit financial statements, failure or low quality of inventories of cash and valuables, late submission for review or approval of the annual financial plan of the enterprise public sector and report on its performance, preventing employees of state financial control in carrying out audits and inspections, failure to take measures to recover from the guilty losses shortage, embezzlement, theft and mismanagement [3]. However, the provisions of this article are outdated and flawed, have gaps that need to be liquidated through reforms, and the removal of which will contribute to ensuring the legality in the implementation of financial legislation and more efficient use of administrative responsibility for infraction of legislation on financial matters.

Infraction of the budget legislation is governed by the Art. 164-12 of the Code of Ukraine on Administrative Offences. The objective side of the offense consists of inclusion of false data to budget requests, which led to the adoption of unjustified or unreasonable budget allocations; infraction of the Budget Code of Ukraine in the implementation of pre-payment for goods and services from the budget, as well as infraction of the order and timing of such payment; payments from the budget without registration budgetary commitments, in the absence of supporting documents or when including to the payment documents false information and unfounded refusal of payment by performing treasury services and others [3].

Fiscal legislation is one of the most important for the functioning of the state, for regulating mobilization, allocation and use of public funds relations. However, today the infraction of fiscal laws is a common phenomenon that is caused by lack of adequate resource base in combination with the inability to timely adjustment directions of budgetary funds institutions in the normal course of business, and as a result - the lack of independence of institutions in the operational management and control of own resources [7, p. 199]. In addition, the distribution functions of

prevention and investigation of economic offenses between several public authorities is inefficient. The duplication of functions of law enforcement agencies in the fighting against economic crimes should be eliminated by creating the unified State Service for Financial Investigation.

Governmental concept of the state financial control for the period until 2017 provides for implementation of budget institutions in Ukraine a modern system of internal control and audit based on international standards (INTOSAI and COSO), but in the seven years since the adoption of the concept qualitative changes in SFC was not occurred [6].

Considering the above, it is necessary to search more effective methods, measures of control. For example, special attention should be paid to experience of the United States, which has the longest history of financial offenses combating and the most effective financial monitoring. Today, the US system of financial monitoring has most typical following features: Anglo-Saxon legal system bases, a clear legislative regulation, financial market development, high information transparency of the banking system, high levels of interaction and information sharing between law enforcement agencies of different ministries and agencies [5, p. 92]. For the US, is characterized as A large number of financial monitoring subjects (just over 20 000 banks), among which takes top spot the US financial intelligence unit (FinCEN). FinCEN work is based on the principles of broad inter-agency coordination and close cooperation with such entities of state financial monitoring as the Federal Reserve, Ministry of US Treasury, the Committee of Currency Controls, Federal Bureau of Investigation, Secret Service. The main law governing specifics of financial monitoring in the USA is PATRIOT Act 2001, which identifies three basic elements of financial offenses combating by each subject of financial monitoring: 1) the develop of internal procedures to combat financial offenses; 2) customer identification procedure and his beneficiary; 3) procedure of information on suspicious transactions [5, p. 92].

Thus, the problem of administrative liability of those responsible for infraction in the financial and public sector should be considered comprehensively, not only in its individual aspects relating to liability for infractions of tax, budget, currency, bank legislation. In addition, while the implementation of measures of administrative responsibility for infraction of fiscal discipline in Ukraine, the experience of foreign countries for the improvement of standards and guidelines of financial monitoring in fiscal relations should be taken into account.

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SOCIAL RESPONSIBILITY OF COURTS AND INNOVATIVE FORMS OF PUBLIC CONTROL OVER THEIR ACTIVITY

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Abstract. *The article is devoted to the problem of increasing social responsibility of the courts through the application of innovative methodology of citizen report cards that is the instrument of external quality evaluation of the work of these specific social institutions. In particular, it is analyzed by researchers received as a result of the empirical research an integral quality evaluation of court work of Ternopil region by such six criteria as affordability of the court, convenience and comfort of being in the court, completeness and clarity of information, compliance with the terms of judicial proceedings, the quality of the work of court staff, the quality of judge work.*

Key words: *social responsibility, judicial reform, monitoring, social survey, citizen report card, evaluation criteria, the quality of judicial services.*