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THE MAIN DIRECTIONS OF IMPROVING THE EFFICIENCY OF INTERPRETING ADMINISTRATIVE DELICT LEGAL NORMS

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Abstract

The paper is aimed at defining conceptual foundations of the efficiency of interpreting the administrative delict legal norms. The article presents the main scholarly provisions, conclusions, and recommendations based on the study of fundamental aspects of the interpretation of statutory regulations, which determine the procedure in administrative offense cases and their

administrative delict consequences drawing on the examples of proceedings for violations of the tax and customs legislation as well as the competition law.

It is being substantiated that these directions of improving the interpretation of administrative delict norms of law concern, first of all, the following issues: 1) the possibility of bringing legal entities to responsibility for the commission of an administrative offense; 2) court powers within the framework of administrative delict proceedings; 3) introduction of additional procedural guarantees and refinement of rules of interpretation for better compliance with the basic principles of administrative delict proceedings and imposition of administrative penalties (equality and adversarial nature of proceedings, proportionality, presumption of innocence, freedom from self-incrimination, the right to have adequate time and facilities for the preparation of the defense, justifiability of decisions on the imposition of an administrative penalty).

Keywords: administrative delict legal norms, legislation, efficiency, interpretation.

1. INTRODUCTION

The mainstreaming of the issues related to determining the administrative and legal status of a man and a citizen in the context of the current conditions in which the state and the society are developing, the need to review key approaches to understanding the essence and purpose of administrative law conditioned by the socio-economic transformations in the state-formation process, as well as Ukraine's ambitions for European integration have become not only a prerequisite for updating the contemporary doctrine of administrative law and its methodology but also a catalyst for the research into a number of both narrowly specialized studies and fundamental, basic building blocks of administrative law.

An important factor of success on this path is the effective legal interpretation activity conducted by both the subjects of official interpretation and the subjects of doctrinal interpretation of administrative delict law, which ensures the reliable protection of the rights and freedoms of citizens, property, the constitutionally established state order of Ukraine, the established legal order, strengthening the rule of law, crime prevention, education of citizens in the spirit of exact and strict observance of the Constitution and laws of Ukraine, respect for the rights, freedoms, honor, and dignity of other citizens, etc[1].

In addition to addressing the immediate tasks of the institution of administrative liability, the interpretation of administrative delict law and the effectiveness of this process have a positive impact on the law enforcement practice in this area, enhance lawmaking, raise the level of legal awareness and legal culture of the subjects of administrative delict relationships, etc. Given the above, it can be observed that these circumstances determine the indispensability and relevance of the selected research vector.

Determining the areas of improvement of the theoretical legal and legislative basis for the interpretation of the rules of proceedings on administrative offense cases and the imposition of administrative penalties, we consider it appropriate to express our observations on the following: 1) the possibility of prosecuting legal entities; 2) court powers within the framework of administrative delict proceedings; 3) introduction of additional procedural guarantees and improvement of rules of interpretation for better compliance with the basic principles of administrative delict proceedings and imposition of administrative penalties (equality and adversarial nature of proceedings, proportionality, presumption of innocence, freedom from self-incrimination,

[1] Lipynskyi V. V. (2021). Efektyvnist' tlumachennja administratyvno-deliktnyh pravovyh norm [Efficiency of Interpretation of Administrative-Tort Legal Rules]. *Thesis.* Dnipro. 1-2. (in Ukrainian).

the right to have adequate time and facilities for the preparation of the defense, justifiability of decisions on the imposition of an administrative penalty)[1].

2. LITERATURE REVIEW

It should be noted that in the modern legal literature there are no comprehensive studies that focus on the principles of effective interpretation of administrative delict law. The works of representatives of the theory of law and administrative law, in general, do not, in turn, take into account the specific character of the subject, purposes, and legal remedies of administrative delict regulation, which further increases the need to develop a theory of effective interpretation of administrative delict law. However, the relevant research undoubtedly has a significant impact on the scholarly search pertaining to a narrower specialization, namely the problematique of interpretation of administrative delict law. Among such studies, it is possible to mention the works of such scholars as O.V. Bilous, Yu.L. Vlasov, M.M. Voplenko, Y.N. Kolokolov, O.P. Korenev, M.M. Korkunov, O.I. Kostenko, Y.O. Leheza, A.S.

[1] **Lipynskyi V. V. (2021). Tlumachennja administratyvno-deliktnyh pravovyh norm: teoretyko-pravovi ta prakseologichni aspekty [Interpretation of administrative-tort legal norms: theoretical-legal and praxeological aspects]. Treatise. Odesa: Publishing House Helvetica. (in Ukrainian)**

Pigolkin, S.V. Pryima, D.V. Pryimachenko, P.M. Rabinovych, Yu.G. Tkachenko, O.F. Cherdantsev, etc.[12345]

3. SOME ISSUES OF BRINGING LEGAL ENTITIES TO RESPONSIBILITY FOR COMMITTING AN ADMINISTRATIVE OFFENSE

Beginning to define and scientifically substantiate the innovations aimed at refining the legislation on administrative liability, primarily for its application to the appropriate entity that improves its financial situation as a result of an administrative offense committed by persons with close legal bonds with it and with identical interests, as well as lends itself to coercive procedural measures and the consequences of administrative penalties, it is worth raising the question of the need for legislative recognition of legal entities as subjects of administrative offenses in order to determine the subject of the interpretation of administrative delict law in such a way that it covers the circumstances and activity of such legal entities related to administrative offenses and so that, taking them into account, a fair and due process and proportional administrative penalties could be decided on.

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[1] **Lipynskyi V. V. (2021). Efficiency of Interpretation of Administrative-Tort Legal Rules. *Thesis*. Dnipro. 2.**

[2] **Liutikov P., Bilous O. (2021). The concepts and the essence of interpretation of law. *Baltic Journal of Economic Studies*. Vol 7, No 1. p. 139-144.**

[3] **Kolokolov Ya. N. (2011). Autenticheskoe oficial'noe tolkovanie norm prava: teorija, praktika, tehnika [Authentic official interpretation of the rule of law: theory, practice, technique]. Thesis. Nizhniy Novgorod. (in Russian)**

[4] **Pryimachenko D., Liutikov P., Shevchenko M. Judicial review of the exercise of discretionary powers: case-law of European court of human rights and experience from Ukraine. *Journal of law and political sciences*. 2021. Volume: 26. Issue: 1. p. 400-425.**

[5] **Halaburda N., Leheza Y., Chalavan V., Yefimov V., Yefimova I. (2021). Compliance with the principle of the rule of law in guarantees of ensuring the legality of providing public services in Ukraine. *Journal of law and political sciences*. Vol. 29, Issue 4. p. 100-121.**

In this regard, first of all, we would like to recall that according to the content of the clarifications offered by international organizations specializing in customs administration, common law countries and some individual civil law countries have introduced the concept of liability of legal entities long ago, given that participants in export-import transactions are usually legal entities, and their size and structure do not always allow to identify a natural person who is the beneficiary of the offense or the only entity responsible for the decision, action or omission that is recognized as a violation of customs rules (for example, in case of non-compliance with customs rules due to negligence the offense is usually the result of a decision taken not so much at the sole discretion, as at the discretion of several corporate structures). Moreover, according to A.V. Dusyk, despite the fact that in the context of proceedings on violations of customs rules, legal entities are not officially recognized as subjects of administrative liability, they bear negative consequences as a result of customs confiscation and are subject to some specific procedural actions (for example, customs raids or taking samples and specimens for examination), which are aimed precisely at legal entities. However, legal entities are not provided with the possibility to exercise any legal guarantees or legal instruments to protect their rights and legitimate interests, as their participation in the relevant administrative delict proceedings is impossible[1]. As it has already been clarified, following the elaboration of the case-law of the European Court of Human Rights, this is incompatible with the requirement of Art. 7 of the Convention to exclude the possibility of punishing a person for a crime committed by another person, which applies equally to both natural and legal persons. The imposition of criminal penalties on legal entities (which, within the meaning of this

[1] **Dusyk A. V. (2006). Provadzhennja u spravah pro porushennja mytnyh pravyl [Proceedings in cases of violation of customs rules].** ***Dissertation*****. Kharkiv. 35. (in Ukrainian).**

international legal document, pertains to a significant number of administrative penalties) in circumstances where they were not participants in any criminal proceedings, because the charges were brought only against their legal representatives in their personal capacity, and the question of unfair and criminally punishable nature of decisions of legal entities within the framework of the criminal proceedings against their legal representatives and participants did not arise, does not meet the above-mentioned requirement, which necessitates appropriate amendments to the law of Ukraine on administrative liability to enable the recognition of legal entities as subjects of administrative offenses as well as to expand opportunities for the interpretation of administrative delict legal norms in relevant cases[1].

4. POWERS OF COURTS IN ADMINISTRATIVE OFFENSE CASES

The next step towards improving the practice of interpreting the legislation on administrative liability is to eliminate unreasonable self-exclusion of courts in administrative delict proceedings from verifying if the competent administrative body has correctly established the circumstances of the case and assessed them, the fairness of administrative penalties and all other aspects of the administrative decision with reference to discretionality of the powers of relevant administrative bodies, their exclusivity or connection with the study of complex highly specialized issues, for which it seems only the employees of the relevant administrative bodies have sufficient expertise.

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[1] Lipynskyi V. V. (2021). Efektyvnist' tlumachennja administratyvno-deliktnyh pravovyh norm [Efficiency of Interpretation of Administrative-Tort Legal Rules]. *Dissertation*. Dnipro. 363-364. (in Ukrainian).

Thus, a study of the case-law of the European Court of Human Rights has shown that in order to comply with the conventional standards of the fair trial, national law should provide for the right to appeal against a decision of an administrative body imposing administrative penalties, which within the meaning of the Convention are equivalent to criminal penalties, along with assigning to the courts the jurisdiction over the circumstances of the case and their legal assessment. Respecting the prerogative of administrative bodies for the management of public affairs, the independence and tasks of the courts, this international judicial institution indicated that the national court should deal with all matters of fact and law to establish the legality and validity of an administrative decision, regardless of technical, economic or any other complex nature of the issue, its connection with the public safety, etc., which may motivate only the involvement of experts and/or referral of the case to a board of specialized judges, but not a refusal of courts from jurisdiction over the case. Similarly, courts are expected to verify the proportionality of the administrative penalty with the possibility of changing its amount to bring it to correspondence with the requirements of the rule of law. It is also noteworthy that this position is consistent with the case-law of the Court of Justice of the European Union, according to which the courts cannot rely on the discretion of the European Commission as a basis for refusing to conduct a thorough review of questions of law and facts, even if this refers to the interpretation of economic information by the Commission.

Fulfilling the above requirements is necessary not only to ensure a fair trial but also to comply with procedural guarantees of the right to the use and peaceful enjoyment of the property in accordance with Art. 1 of Protocol No. 1 to the Convention, according to which any interference with the peaceful use of property (including the imposition of a fine or the use of seizure or confiscation

as administrative penalties) must be accompanied by procedural guarantees giving the person concerned, in particular, the right to appeal effectively against interference measures, during which a fair balance must be struck between conflicting private and public interests. At the same time, given the separation of powers and the exclusivity of the competence of the subjects of power, it is unacceptable within the framework of judicial control over the legality and validity of their decisions to impose administrative penalties to go beyond the area of justice, which may take the form of, for example, determining other measures of the state response to a contentious legal relationship or making a decision instead of the subject of power before this subject of power has had the opportunity to make an authoritative management decision within the powers and terms provided by law.

In view of the above, it can be deemed inadmissible to interpret administrative delict norms related to the court powers within the framework of appeals against decisions of administrative bodies to impose administrative penalties in such a way as if they do not allow the re-establishment of the circumstances of the case or their reassessment by the court, as well as checks as for the proportionality of the administrative penalty chosen by the administrative body, taking into account the endowment of the administrative body in the relevant legal relationships with discretionary powers or the complex nature of the issue, which is important for the resolution. Instead, during administrative delict proceedings, the court must verify if the competent administrative body has correctly established the circumstances of the case and assessed them, the fairness of the imposed administrative penalty and all other aspects of the administrative decision, regardless of the discretionality of the powers of the administrative body pertaining to the technical, economic or any

other complex nature of an issue, its connection with the public safety, etc., using, if necessary, the services of experts or specialists[1].

Turning to the presentation of scholarly recommendations for the proper interpretation of the general principles of administrative delict law with consideration to international standards and best foreign practices, we will begin by providing the justification for the position on the need to ensure compliance of the administrative sanctions for violating competition law with its general objectives.

In particular, on the basis of scholarly investigation into the questions of the interpretation of competition law, it should be emphasized that, recognizing that the provisions of competition law and the basic administrative delict law on sanctions for violation of competition law are inextricably linked to its objectives, it can be deemed evident that each sanction should be aimed at supporting and protecting economic competition, restriction of monopolism in economic activity in order to ensure the effective functioning of Ukraine's economy through the development of competitive relations, which, when the decision on the guilt of the business entity in anti-competitive actions is being taken, eliminates the possibility to take into consideration circumstances which are not covered by the competition law, such as, for example, shielding domestic producers and the interests of consumers without consideration of the fair competition.

5. ADDITIONAL PROCEDURAL GUARANTEES AND RULES FOR INTERPRETING THE NORMS OF ADMINISTRATIVE DELICT LAW

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Proceeding with the recommendations on the proper interpretation of the general principles of administrative delict law, we consider it appropriate to determine how to interpret the comprehensive and defining principle of proportionality in the context of proceedings in administrative offense cases and resolving the issue of administrative penalties.

It should be recalled that proportionality as a fundamental requirement for the state intervention in the realization of rights, freedoms, and legitimate interests establishes the need to maintain a fair balance between the adverse consequences of state intervention in the realization of rights, freedoms, and legitimate interests and the goals at achieving which this intervention is aimed[1]. A fair balance is not considered to be secured if the person is subjected to an excessive burden as a result of the interference, i.e. if the burden is more destructive than that which would have been sufficient given all the circumstances of the case, including the particular situation of the person. In the context of the interpretation of administrative delict law, which provides for the possibility of imposing administrative penalties and restricting the rights of the individual in another way, proportionality requires to determine during the application of these restrictive measures whether the appropriate punitive, deterrent or another effect could be achieved through less intensive administrative penalties or other measures of interference (which leads to the necessity for the competent public authority to consider less severe restrictive decisions) in order to strike a fair balance between the relevant public interest and the rights of the person prosecuted for the administrative offense, avoiding the implementation of the measures of intervention, which is automatic,

[1] Lipynskyi V. V. (2021). Efektyvnist' tlumachennja administratyvno-deliktnyh pravovyh norm [Efficiency of Interpretation of Administrative-Tort Legal Rules]. *Dissertation*. Dnipro. 366. (in Ukrainian).

independent from the individual circumstances of the person's case and inflexible.

In this regard, it should be noted that the results of the study of the administrative delict law of Ukraine revealed its evident non-compliance with the requirement of proportionality of administrative penalties, primarily in the part that regulates the application of administrative penalties for violation of customs rules. In particular, it is stated that the sanctions of the customs legislation regulations, which determine the body of the offense violating the customs rules, set fines in a fixed amount (without lower and upper limits for permissible amounts of fines), and confiscation is an unconditional and unalterable penalty if it is provided for any given violation of customs rules. It is obvious that the imposition of fixed administrative penalties without the possibility to duly take into consideration the circumstances of the case while determining the type and amount of the penalties is incompatible with the principle of proportionality, which, inter alia, is consistently proclaimed in international customs administration standards reflected in the EU Customs Code, the International Convention on the Simplification and Harmonization of Customs Procedures, the Agreement on simplification of the WTO trade procedures (Protocol amending The Marrakesh Agreement Establishing the World Trade Organization), as well as enshrined in the customs legislation of the most developed countries[1].

At the same time, there can be no doubt that for the interpretation of these administrative delict legal norms with observance of proportionality, amending their literal content is not an urgent need, because proportionality as

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a component of the rule of law is a principle with greater legal force than these administrative delict legal norms, which allows to deviate from them and properly ensure compliance with administrative penalties for violation of customs rules and the consequences of these violations, the degree of guilt of the offender, taking into account all the circumstances of the case, mitigating and aggravating the liability, and requires that the most lenient type and amount of administrative penalties sufficient to achieve the objectives of administrative penalties for breaches of customs rules be applied. The foreign experience of the most developed countries has shown that mitigating circumstances reducing the responsibility for violating customs rules should include the commission of an offense for the first time with negligence as the form of guilt or without significant consequences for the state budget due to the loss of revenue; taking all possible steps to avoid the offense, including requesting advice or other assistance from the customs authorities; bona fide error in complex issues of customs administration due to inexperience; the connection of the offense with a complementary error of the customs authorities, cooperation with the customs authorities during the investigation; positive history of interaction with customs authorities, etc.

The same shortcoming, which can also be remedied by interpreting the relevant provisions of customs legislation in line with the principle of proportionality, is reflected by the legal basis for confiscation for breaches of customs rules. While the amount of the fine may be adjusted to the gravity of the offense and the degree of guilt of the offender, taking into account all relevant circumstances of the case, confiscation may be adjusted to the circumstances of the violation of customs rules and the offender's situation, primarily by means of the departure from applying it provided that exceptional mitigating circumstances have been established, including, in particular, the

possibility to return a vehicle specially modified or adapted to commit violations of customs rules to its previous condition for its intended use.

In contrast to the above cases, in which a non-alternative administrative penalty in some circumstances of the case may be excessively severe, the administrative delict law of Ukraine contains provisions that do not comply with the principle of proportionality because the most severe administrative penalty for an administrative offense is insufficient to achieve punitive, deterrent and educational-correctional effect on the offender. In particular, when interpreting the administrative delict provisions of competition law, it should be assumed that the administrative fines for anticompetitive offenses under the Code of Ukraine on Administrative Offenses are so insignificant that the highest fines in the statutory range correspond to the least serious anticompetitive offenses in any circumstances, which definitely allows applying to offenders a fine in the largest amount. This will ensure the implementation of proportionality in its part, according to which the type and amount of sanctions should be commensurate with the scale and nature of the violation, guaranteeing appropriate punishment for the committed offense and deterrence from committing such an offense or continuing such violations in future[1].

Continuing to identify the most general ways to improve the interpretation of administrative delict law, we should note that this process, regardless of the place and purpose of such legal norms that constitute the subject of interpretation, must include establishing their compliance with

[1] Lipynskyi V. V. (2021). Tlumachennja administratyvno-deliktnyh pravovyh norm: teoretyko-pravovi ta prakseologichni aspekty [Interpretation of administrative-tort legal norms: theoretical-legal and praxeological aspects]. *Treatise*. Odesa: Publishing House Helvetica. 330-331 (in Ukrainian).

international standards of human rights protection and good governance, quality criteria of legal norms, which cover their accessibility and predictability.

First of all, the rule of law in terms of its requirements for the quality of legislation recognizes the admissibility of applying only those legal provisions, the wording of which is sufficiently specific and understandable given the peculiarities of public relations, especially their participants, at whom a given law is directed, in order for them to have a reasonable opportunity to conduct their behavior with awareness of all its possible consequences (formalities, conditions, restrictions or sanctions) in accordance with these provisions of the law. These peculiar features of public relations, which determine the appropriate degree of predictability of legislation, are, in particular, the participation of representatives of those professions that must carry out activities with great caution and pay special attention to assessing the risks that accompany their activities; participation of enterprises from which it is reasonable to expect to seek professional legal advice to clarify the content of the requirements of the law.

At the same time, the requirement of predictability of administrative delict law should not be absolutized, because, for example, in the context of sanctions for anticompetitive actions to ensure proper implementation of their punitive and preventive purposes it is equally necessary to prevent businesses from calculating in advance the amount of fine for the offense and based on the results of comparing the potential proceeds of an anticompetitive offense with the amount of the fine for it with sufficient confidence determining the economic feasibility of anticompetitive actions[1].

[1] Lipynskyi V. V. (2021). Tlumachennja administratyvno-deliktnyh pravovyh norm: teoretyko-pravovi ta prakseologichni aspekty [Interpretation of administrative-tort legal norms:

In addition to the predictability of the positive legislation, the rule of law contains expectations for judicial interpretation of the law, as it is generally accepted that even in properly elaborated legal provisions, in any part of national legislation, there is an inevitable element of judicial interpretation to clarify abstract rules and to adapt to changing circumstances. In particular, in the context of administrative offenses of a criminal nature, judicial interpretation is required to be consistent with the wording of the relevant provision of the criminal law, which is perceived in the context of the facts of the case, to be well-founded, to comply with the established trends in the national court practice or to contain a reference to exceptional circumstances which justify a departure from these trends.

In the light of the considerations given above, it seems certain that during administrative delict proceedings the possibility of applying the relevant rules should be examined in view of their compliance with the appropriate degree of predictability and, for proper enforcement, their content should be specified if for one reason or another it is not fully understood. To perform this task, taking into account the previously obtained research results, we can recommend, first of all, to fill the gap in customs legislation concerning the outside date for imposing an administrative penalty, which is calculated starting from the date on which the offense was committed by means of applying by analogy the law of the minimum criminal statute of limitations, which is two years from the date of the commission of a criminal offense under criminal law, unless there are exceptional circumstances.

theoretical-legal and praxeological aspects]. *Treatise*. Odesa: Publishing House Helvetica. 331-332 (in Ukrainian).

Having substantiated the need and optimal ways to amend and supplement the administrative delict law in order to adjust its interpretation through the correct definition of the subject of the administrative offense, having also expressed our views on the proper interpretation of legal provisions on the jurisdiction of the court over the circumstances of the case and their legal assessment, as well as having drawn conclusions on how the principle of proportionality and the requirement of predictability of the application of the law should affect the interpretation of administrative delict law, we will turn to specifying the recommendations for the interpretation of procedural and some special principles in the administrative offense proceedings.

6. RECOMMENDATIONS FOR THE INTERPRETATION OF CERTAIN PRINCIPLES OF LAW IN THE ADMINISTRATIVE PROCEEDINGS

Having got acquainted with the practice of interpretation and application of the ECtHR principles of equality of arms and adversarial proceedings as procedural guarantees of a fair trial, as well as with some considerations of scholars on the implementation of these principles in administrative delict proceedings under Ukrainian law, we can state that they should be interpreted in such a way that they oblige the administrative body or court as the instance which takes the primary decision on the administrative liability of the person or reviews this decision by way of judicial appeal, in particular, to provide the person being prosecuted with the opportunity to interrogate any witness or present any evidence to substantiate their position, as well as to obtain pieces of evidence by requesting them, except in cases where they are not relevant to the decision in the case or the request for their disclosure is not accompanied by a proper justification.

Also, in light of these principles, the court should not collect incriminating evidence on its own initiative in the course of administrative proceedings. Moreover, according to O.M. Kurylo and S.O. Bylya, the very absence of the prosecution imposes on the court the functions of the prosecutor in the case of an administrative offense, which are uncharacteristic of it, primarily in cases when the person denies the circumstances specified in the protocol on the administrative offense[1]. In view of this, it is essential for a prosecutor or another authorized official to maintain the position on the person's guilt in committing an administrative offense, especially in cases where the criminal aspect of fair trial standards is applicable due to the criminal nature of the administrative penalty that threatens the offender.

Adequate procedural possibilities for a person prosecuted for an administrative offense and the adversarial nature of administrative delict proceedings may also be ensured by interpreting procedural administrative delict norms in such a way that it is mandatory to make arrangements for that person to have sufficient time and opportunity to provide clarifications for them to be taken into account for the adoption of a lawful and reasoned final decision in the case of administrative offenses[2].

CONCLUSION

[1] Kurylo O.M., Bylya S.O. (2010). Nedoliky pravovogo reguljuvannja sudovogo rozgljadu sprav pro administratyvni pravoporushennja. [Disadvantages of legal regulation of court proceedings in cases of administrative offenses]. *Visnyk Verhovnogo Sudu Ukrai'ny*. [Bulletin of the Supreme Court of Ukraine]. № 8 (120). 46. (in Ukrainian)

[2] Lipynskyi V. V. (2021). Efektyvnist' tlumachennja administratyvno-deliktnyh pravovyh norm [Efficiency of Interpretation of Administrative-Tort Legal Rules]. Dissertation. Dnipro. 372. (in Ukrainian).

Having summed up the ways of the proper interpretation of administrative delict law to ensure compliance with procedural guarantees reflected in international standards of justice, we would like to offer some considerations on special requirements, the necessity of fulfilling which in most administrative delict proceedings is dictated by the criminal nature of administrative offenses and penalties. As the analysis of the case-law of the European Court of Human Rights in terms of the application of the criminal aspect of Art. 6 of the Convention has shown, these special requirements are, first of all, observance of the presumption of innocence and ensuring the right to have adequate time and facilities for the preparation of the defense. Since the right to have adequate time and facilities for the preparation of the defense has already been touched upon in the context of equality and adversarial nature of proceedings, crystallizing the rules of interpretation of administrative delict law, which are compatible with the presumption of innocence, we will note that these rules are, first of all: placing the burden of proof on the prosecution; interpretation of any doubts in favor of the accused, which, in particular, entails the recognition of an insufficiently motivated decision on the guilt of a person without proper justification of this conclusion and without refutation of all reasonable doubts to be unjust.

At the same time, one should take into account the generally accepted position that the repressiveness of administrative proceedings and penalties is somewhat less than that which is inherent in criminal proceedings and penalties, which leads to a relaxation in the requirements of the standard of proof and presumption of innocence in administrative proceedings. In particular, a study of European law enforcement rules in cases of violation of economic competition law has demonstrated that despite the similarity of administrative penalties for anticompetitive offenses to criminal penalties, the standards of proof in these

cases do not have to fully comply with the criminal procedural requirements, which, among other things, does not exclude the objective responsibility of economic entities for anti-competitive offenses, if the general fairness of the proceedings is observed. Similarly, in accordance with the case-law of the ECtHR, it is perfectly permissible, provided that a fair balance between the right to the defense and the interests of justice has been achieved, to establish the presumption of guilt in these proceedings, such as the presumption of driver's responsibility for leaving the scene of a traffic accident or failure to stop and notify the police of the accident; the presumption of the employer's responsibility for illegal employment of a foreigner; the presumption of the owner's of the vehicle responsibility for committing a traffic offense; the presumption of the taxpayer's responsibility for tax debt; the presumption of responsibility of the owner of contraband goods, etc.

In the context of improving the legal regulation during the enforcement of legal provisions related to the temporary seizure of things and documents in administrative proceedings, it is necessary to point out the following key ideas.

First of all, due attention should be paid to the defining aspects of the temporary seizure of things and documents. As the analysis of administrative delict law has shown, its provisions do not provide a sufficient degree of detail to guarantee the protection of the rights and legitimate interests of owners from the seizure of their property and documents, which in the circumstances of the case is unreasonable and disproportionate. A positive step would be to interpret the legal principles aimed at protecting property rights in such a way that they allow an early return of seized items and documents in exceptional circumstances, in particular, according to the model established by US law, if specific items and documents are not involved in active criminal proceedings or other parallel administrative delict proceedings and any of the following

circumstances occurs: 1) according to the case file it is obvious that the confiscation is not applicable to temporarily seized goods and commercial vehicles; 2) the applicant makes a cash deposit equal to the value of temporarily seized goods and commercial vehicles; 3) the applicant has settled all issues with the customs authorities, in particular, paid all customs duties and reimbursed the costs for the proceedings in the relevant case to the customs authorities.

In addition, in order to increase the likelihood of solving grave and difficult-to-investigate cases of law violation, to reduce the costs of administrative bodies to investigate them by encouraging offenders to plead guilty and to facilitate the investigation of administrative offenses, the provisions of administrative delict law should be interpreted as allowing at least partial release from liability under these conditions due to the existence of mitigating circumstances of an exceptional nature.

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