

Administration of Justice in Zaporizhia region informs!

MECHANISMS OF REALIZATION OF CONTROL FUNCTION OVER OBSERVANCE OF RULE-MAKING BY THE SUBJECTS ABOUT THE STATE REGISTRATION OF LEGAL ACTS BY JUDICIAL AUTHORITIES

The function of state registration of normative legal acts of ministries and other organs of executive power, organs of economic management and control, which stir rights, freedoms and legal interests of citizens, or have interdepartmental character, is carried out by the agencies of justice from January, 1, 1993.

Primary purpose of this function is providing of guard of constitutional rights, freedoms and legal interests of citizens and juridical entities, proclaimed and assured by Constitution and laws of Ukraine, removal of violations of legislation, increase of legality and effectiveness of normative legal acts of subjects of rule-making.

On the basis of purpose that must be attained during realization by agencies of justice of state registration of normative legal acts, this procedure consists in conducting of legal examination of normative legal act, in other words, determination of its difference to Constitution of Ukraine and legislation, decision-making about state registration of the noted normative legal act, its skidding to the state register and Unique state register of normative legal acts.

State registration of normative legal acts is carried out by Ministry of Justice of Ukraine, Main administration of justice of Ministry of Justice of Ukraine in Autonomous Republic Crimea, main administrations of justice in oblasts, Kyiv and Sevastopol, district (city-district), districts in Kyiv and Sevastopol management of justice.

For today procedure of state registration of normative legal acts is well-regulated by Decree of President of Ukraine from October, 3, 1992 № 493 “About state registration of normative legal acts of ministries and other organs of executive power”, by the decision of Cabinet Ukraine from December, 28, 1992 № 731 “About claim of Statute about state registration of normative legal acts of ministries and other organs of executive power” and by the row of normative legal acts of Ministry of Justices of Ukraine which regulate question of presentation of normative legal acts on state registration and their conducting by state registration, abolition of decision, about state registration of normative legal acts, brought to the state register.

It follows to pay attention that in article 117 of Constitution of Ukraine is set the necessity of fixing of the noted procedure at the level of legislative act, in this connection for today prepared project of law of Ukraine about normative legal acts. Thus part of questions which touch the mechanism of conducting of state registration of normative legal acts is well-regulated by Law of Ukraine “About principles of public regulator policy in the field of economic activity”.

Taking into account that for achievement of afore-mentioned purpose in the process of state registration of normative legal acts by the agencies of justice are provided with a control function after the observance of legislation about state registration of normative legal acts, it follows to consider more detailed the mechanisms of realization of this function.

Of course, by a point 1 afore-mentioned decision a right is given to Ministry of Justice of Ukraine and his territorial agencies which carry out state registration of normative legal acts, to check in ministries, other bodies of executive power, bodies of economic management and control of inhibition of legislation, about state registration of normative legal acts, in the case of necessity to require presentation of normative legal acts on state registration and make suggestions about the removal of found out violations and failings and bringing in responsibility of public servants, guilty in the assumed violations.

On results of verification by the agencies of justice (if it's needed) inform Cabinet of Ministers of Ukraine, Council of ministers of Autonomous Republic Crimea, oblast's, Kiev's and Sevastopol's city state administrations, proper authorities of office of public prosecutor and mass medias.

In addition, the noted point are under an obligation leaders of ministries, other bodies of executive power, authorities of economic management and control, in a monthly term to report the body of state registration about the accepted measures.

With the purpose of establishment of the unique mechanism of realization by Ministry of Justice of Ukraine and territorial agencies of justice of verifications of the state of implementation of rule-making legislation subjects about state registration of normative legal acts by the order of Ministry of Justice of Ukraine from February, 1, 2005 № 13/5, registered on February, 1, 2005 after № 121/10401, Order of conducting by agencies of justice of verifications of the state of inhibition of legislation about state registration of normative legal acts.

The results of systematic verifications of the state of inhibition of legislation testify about state registration of normative legal acts, that violations of legislation about state registration of normative legal acts carry mass character.

Practice of work of agencies of justice from control after implementation the subjects of rule-making of legal requirements of agencies of justice in relation to the removal of violations of legislation about state registration of normative legal acts, discovered in the process of verifications of these subjects, showed that the last delayed with their implementation. Absence at the agencies of justice of effective levers of influence on the violator of legislation about state registration of normative legal acts results in work from control after implementation of rule-making requirements subjects in relation to the removal of failings, discovered in the process of verification of these subjects, taken to the permanent letters-reminders.

At the same time, it follows to pay attention to results, attained on results of implementation by agencies of justice of control function, notably: by results of borne by the agencies of justice of suggestions about the removal of failings from all unregistered normative legal , discovered during verifications, conducted by the agencies of justice, for today greater part of the real acts are abolished, other normative legal acts are registered. Only small part of normative legal acts are on control in corresponding agencies of justice.

Will notice that found out unregistered normative legal acts are abolished by the subjects of rule-making exceptionally on insistency of agencies of justice.

A question appears: why do the subjects of rule-making delay with implementation of the proper requirements of agencies of justice?

It in particular, as well as was worded, explained that agencies of justice does not provided with the necessary levers of influence on the subjects of rule-making, but that's why the last, knowing impunity of the actions or inactivity in relation to the observance of legislation about state registration of normative legal acts, avoid presentation on state registration and send normative legal deeds to implementation unregistered normative legal acts.

For achievement of high level of discipline of subjects of rule-making in part of inhibition of norms of legislation about state registration of normative legal acts and the same providing of higher level of defense of rights for citizens was a necessity of establishment of administrative responsibility for violation of legislation about state registration of normative legal acts.

In this connection, and also with the necessity of fight against afore-mentioned violations as with the phenomenon, which threatens public relations which answer interests of the state, by Law of Ukraine “About making alteration in Code of Ukraine about administrative offences in relation to establishment of responsibility for violation of legislation about state registration of normative legal acts” administrative responsibility of leaders of subjects of rule-making is set for an ill-timed presentation, on state registration of normative legal acts which in accordance with a law are subject of state registration, sending to implementation of normative legal acts which did not pass state registration and not published in the order which set law. The noted Law will promulgate simultaneously with promulgate the law of Ukraine about normative legal acts.

Together with it will consider other ways of realization by agencies of justice of control function are possible after the observance of rule-making legislation subjects about state registration of normative legal acts.

So, seen for expedient introduction of every quarter verifications of subjects of rule-making, which do not execute the legal requirements of agencies of justice in relation to the removal of violations of legislation about state registration of normative legal acts, by bringing of the proper changes in Order of conducting of justice of verifications of the state of inhibition of legislation organs about state registration of normative legal acts, ratified by the order of Ministry of Justice of Ukraine from February, 1, 2005 № 13/5, registered on February, 1, 2005 after № 121/10401.

Taking into account periodicity and results of such verifications, their introduction, will be instrumental in more rapid exposure of possible violations of legislation about state registration of normative legal acts and more quickly use of measures on their removal.

Except this, it's possible way of increasing of level of observance of subjects of rule-making legislation about state registration of normative legal acts is introduction of procedure of periodic (monthly or quarterly) direction to the agencies of justice of lists of prescriptive documents, accepted for proper period. It will enable the agencies of justice observe accepted prescriptive documents by the subject of rule-making and instrumental in the timely sending to state registration of the proper normative legal acts, and the same to prevent possible violation of legislation about state registration.

Taking into account worded, establishment of administrative responsibility for violation of legislation about state registration of normative legal acts is the real possibility of effective influence on public servants, guilty in violation of legislation about state registration of normative legal acts, which will allow to provide the higher level of defense of rights for citizens.

Deputy of chief of department of registration of
normative legal acts, legalization of
associations of citizens, legal work
and legal formation of Main administration of
justices in Zaporozhia oblast

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