

JEL Classification K41

THEORETICAL ASPECTS OF THE IMPLEMENTATION PROCEDURE OF COURT DECISIONS IN UKRAINE

BRAICHENKO Serhii

*Ph. D. in Juridical Sciences,
Assoc. Prof. of the Law, Social Sciences and
Humanities Department,
Banking University, Cherkasy Institute
ORCID ID: <http://orcid.org/0000-0002-4429-0770>
e-mail: bsnchk@i.ua*

FOMENKO Valentyna

*lecturer of the Law, Social Sciences
and Humanities Department,
Banking University, Cherkasy Institute
ORCID ID: <http://orcid.org/0000-0002-2778-8390>
e-mail: tinabogunova@gmail.com*

Abstract. *The article is devoted to the actual problems of enforcement of judgments in Ukraine, which is considered as the final stage of civil and economic process. However, there are alternative scientific visions that are also reflected here. The emphasis is placed on the theoretical substantiation of the simultaneous functioning in Ukraine of institutes of private and state enforcement of judgments. Modern doctrinal approaches to the definition of the concept of "production" are also considered, and the essence of the differences between the justifications of legal scholars of their scientific positions is noted.*

Keywords: *civil process, economic process, public executor, private executor, stage of proceedings, court decision.*

This article focuses on the urgent views of legal scholars and their problems of enforcement of judgments justifications.

that are proposed to be considered as the final stage of civil proceedings. The main attention is focused on the theoretical substantiation of alternative functioning of institutes of private and state executors of judicial decisions in Ukraine. The authors also examined current doctrinal visions of the concept of "proceedings" and noted the essence of the differences between the

It is undoubtedly worthy of the conviction of a group of scholars who distinguish enforcement proceedings as a separate, independent proceeding, which is not a procedural stage. The main argument in favor of this position is that enforcement proceedings are an out-of-court procedure. That is why the executive process should not be considered a stage. This is of great theoretical importance. A number of

scientists are convinced that the stages of the process are interconnected, and that the stage of implementation comes only after all the judicial stages have been completed and the judgment has come into force. In this case, the court, whose activity is governed by procedural laws, is not relevant to the activity of the private public executor who implements this decision. However, it should be borne in mind that the actions of the executors can be contested by both the obligor and the recoverer.

It also discusses the main provisions of the Law of Ukraine “On Bodies and Persons who Enforce Enforcement of Judgments and Decisions of Other Bodies”. The authors paid particular attention to defining the legal status of private performers in Ukraine as a structure that only acquires full legal status. Prospects of complete displacement by private executors of the State Executive Service as a natural evolutionary legal process are considered.

References

1. Komarov, V.V., Bihun, V.A. & Barankova, V.V. (2011). *Kurs tsyvilnoho protsesu [Course of the civil process]*. Kharkiv: Pravo [in Ukrainian].
2. Baliuk, I.A. (2008). *Hospodarske protsesualne pravo [Commercial procedural law]*. Kyiv: KNEU [in Ukrainian].
3. The Law of Ukraine On bodies and persons who enforce court decisions and decisions of other bodies. (n.d.). zakon.rada.gov.ua. Retrieved from <http://zakon3.rada.gov.ua/laws/show/1403-19> [in Ukrainian].
4. Vasyliiev, S.V. (2010). *Hospodarskyi protses Ukrainy [Economic process of Ukraine]*. Kharkiv: Espada [in Ukrainian].
5. Fursy, S.Ia. (Ed). (2009). *Tsyvilnyi protses Ukrainy: akademichnyi kurs [Civil process of Ukraine: academic course]*. Kyiv: KNT [in Ukrainian].
6. Yaroshenko, I.S., Izarova, I.O. & Yefimov, O.M. (2014). *Tsyvilne protsesualne pravo [Civil Procedure Law]*. Yaroshenko, I. S. (Ed.). Kyiv: KHEY [in Ukrainian].
7. Minchenko, R.M. & Andronov, I.V. (Eds.). (2016). *Tsyvilnyi protses [Civil process]* (2nd ed., rev.). Kyiv: Instytut zakonodavstva Verkhovnoi Rady [in Ukrainian].
8. Navrotska, Yu.V., Verba-Sydor, O.B. & Vorobel, U.B. (2013). *Tsyvilne protsesualne pravo Ukrainy [Civil Procedure Law of Ukraine]*. Navrotska, Yu.V. (Ed.). Lviv: LDUVS [in Ukrainian].
9. The Law of Ukraine On enforcement proceedings. (n.d.). zakon.rada.gov.ua. Retrieved from <http://zakon2.rada.gov.ua/laws/show/1404-19> [in Ukrainian].

10. Saiko, L.Yu. & Liashenko, V.V. (2015). Pravovi aspekty zaprovadzhennia instytutu pryvatnykh vykonavtsiv v Ukraini [Legal aspects of implementation of the Institute of Private Performers in Ukraine]. *Molodyi vchenyi - Young Scientist*, 5, 75-78 [in Ukrainian].

11. Solonar, A.V. & Vasylieva, V.V. (2016). Do pytannia zaprovadzhennia instytutu pryvatnykh vykonavtsiv v Ukraini [To the question of establishing an institute of private performers in Ukraine]. *Yurydychnyi naukovyi elektronnyi zhurnal - Legal Scientific Electronic Journal*, 1, 65-68 [in Ukrainian].