

Dual Nature of the Legal Status of the Deposit Guaranteeing Fund of Natural Persons in Ukraine

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The determination of the action limits of the norms of financial law is one of the most actual problems in the juridical science.

Thus, having a public and legal nature, the legal status of the Deposit Guaranteeing Fund of Natural Persons (hereinafter – the Fund) can be considered in terms of definition of the subject of the legal regulation as of financial law as well as administrative law.

Assuming as a basis that administrative and financial legal relations are the element of public and legal relations it should be mentioned the following.

Administrative-legal relations are social relations regulated by the norms of administrative law and formed in the administration sphere. In administrative-legal relations the parties are the bearers of mutual rights and duties, which are regulated by administrative-legal norm [1, p. 110].

The conception of the state administration includes the most important organizational and legal categories which become apparent in the administrative relations: the state administrative activity, the sphere of the state administration, the body of state administration (executive power) [1, p. 31-32].

Concerning the last category we think that it is more reasonable to use more general conception - the subject of the state administration, but not the body of the state administration since the corresponding functions of the state administration can be realized by the other subjects, authorized by the law to carry out these functions.

The function of administration is a concrete course of the administrative (organizational, regulating, monitoring and others) influence of the state administration on the object of administration.

Concerning the financial legal relations it should be stressed that they are the kind of the public legal relations which are formed by reason of realization of the financial activity of the state and bodies of local self-government.

M.V. Karasiova thinks that the boundaries of the financial legal relations are determined by the following parameters which should be taken into consideration jointly: a) these relations arise only in the sphere of the financial activity of the state and municipalities; b) they are formed on the basis of the legal regulation mainly with the help of the method of the authoritative directions; the characteristics of this method is imposing liability, juridical inequality of the subjects of financial law, and imperativeness and conformism of their behavior [2, p. 79].

The method of the legal regulation of the financial relations is directed toward the stability maintenance of the execution of the state financial activity.

Based on this it is possible to make apparent the following peculiarities of the financial legal norms as publicity and administrative character of the norm. Since the state activity regarding to formation, distribution and use of the monetary funds is centralized, systematized, that is administrative.

Financial-legal norms consider narrower and more specific spectrum of social relations in comparison with the norms of administrative law.

In particular it can be seen by means of analysis of certain issues of the legal regulation of the legal status of the subjects of the state administration.

The legal status of the Fund is specified by article 3 of the Law of Ukraine “On the Deposit Guaranteeing System of Natural Persons”, which determines its place in the system of the subjects of the state administration. Thus, the Fund is the institution which performs special functions in the sphere of the deposit guaranteeing of natural persons and withdrawal of insolvent banks from market.

Legislator determines the legal cover, within which the Fund can operate, having fixed two-component structure of its legal status: the first component is the system of characteristics of public – legal state and public-legal activity of the Fund as the participant of public- authoritative relations; the second is the system of

functional characteristics of the subject of public- authoritative activity, which can be manifested in its competence.

In financial law the subjects can be divided into the following groups: state and its territorial formation, collective and individual subjects [3, p. 142].

As Miroshnyk mentions in her book, the subjects of financial law can be singled out into three categories: - subjects of financial law that don't have authoritative power; - subjects that have authoritative power; - subjects of financial law with delegated individual financial-legal power [4, p. 152].

The Fund refers to the third category. To support this it should be mentioned main tasks, which are regulated by the norms of the Law of Ukraine "On the Deposit Guaranteeing System of Natural Persons": financing securing of the deposit guaranteeing system of natural persons and withdrawal of insolvent banks from the market that facilitates the stability securing of the state financial system.

In terms of administrative-legal regulation the Fund is distinguished as special institute which has special functions of the state administration in the sphere of the stability maintenance of the banking system of Ukraine by means of the execution of tasks which were mentioned above.

In any case the emergence of such special subject of the state administration as the Deposit Guaranteeing Fund of Natural Persons is the result of deliberate improvement in the state regulation of the financial-credit system of the state, since the regulation and administration of the public finance is the main direction of the activity of any country.

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