

**МІНІСТЕРСТВО ОСВІТИ І НАУКИ УКРАЇНИ
СУМСЬКИЙ ДЕРЖАВНИЙ УНІВЕРСИТЕТ
ФАКУЛЬТЕТ ІНОЗЕМНОЇ ФІЛОЛОГІЇ
ТА СОЦІАЛЬНИХ КОМУНІКАЦІЙ**



**СОЦІАЛЬНО-ГУМАНІТАРНІ
АСПЕКТИ РОЗВИТКУ СУЧАСНОГО
СУСПІЛЬСТВА**

**МАТЕРІАЛИ VII ВСЕУКРАЇНСЬКОЇ НАУКОВОЇ КОНФЕРЕНЦІЇ
СТУДЕНТІВ, АСПІРАНТІВ, ВИКЛАДАЧІВ ТА СПІВРОБІТНИКІВ**

(Суми, 18-19 квітня 2019 року)

**Суми
2019**

11. Zakon Ukrainy Pro ohoronu navkolishnoho seredovysha priyinatyi 25 chervnia 1991 roku [Law of Ukraine” On Environmental Protection” active from June 25 1991] *Vidimosti Verkhovnoi Rady Ukrainy – Bulletin of Verkhovna Rada of Ukraine*, Kyiv : Parlam vyd-vo [in Ukrainian]

12. Zemelniy Kodeks Ukrainy [The Land Code of Ukraine] (October 25, 2001 with the following amendments and additions) (n.d.) *zakon4.rada.gov.ua* Retrieved from <http://zakon4.rada.gov.ua/laws/show/2768-14>. [in Ukrainian]

13. Moskalenko, A. M. (2015) Principles and problems of agricultural land rational use *Economic Annals-XXI*, 5-6, (pp. 57–59). Retrieved from <http://soskin.info/userfiles/file/2015/5-6%202015/%CC%Eskalenko.pdf> [in Ukrainian]

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THE LEGAL STATUS OF ASSISTANTS TO THE JUDGES IN UKRAINE AND IN POLAND (COMPARATIVE ANALYSIS)

Relevance of the topic. In the light of the ongoing judicial reform aimed at bringing Ukraine's legal proceedings in line with European standards, the issue of organizational support for the activities of courts as one of the guarantees of the independence of judges becomes of paramount importance. Recommendations for the effective implementation of the Basic Principles of Independence of the Judiciary adopted by the resolution of the Economic and Social Council of 1989/60 and approved by UN General Assembly resolution 44/162 on 15 December 1989, namely Recommendation 5, stipulate that the State should pay special attention to the need

provision of certain resources necessary for the functioning of the judicial system, taking into account the appointment of a sufficient number of judges for the level of detention, providing the courts with the necessary personnel and equipment, and providing judges with a decent level of personal security, retirement and wages [1]. The above recommendation is also embodied in the Ukrainian legislation of the years of independence. Thus, in accordance with Part 1 Article 130, Part 1 of Article 126 of the Constitution of Ukraine, the state is obliged to provide financing and proper conditions for the functioning of the courts and the activity of judges as an integral part of the constitutional guarantees of their independence and integrity. According to Part 1 Art. 146 of the Law of Ukraine "On Judicial System and Status of Judges" dated 02.06.2016, No. 1402-VIII, the state provides funding and proper conditions for the functioning of courts and the activity of judges in accordance with the Constitution of Ukraine [2].

The guarantees of independence of judges established by the Constitution and laws of Ukraine are an integral part of their status, apply to all judges of Ukraine and is a prerequisite for the administration of justice by an impartial and fair court. One of these guarantees is the organizational provision of the work of courts by its apparatus, which also includes assistants to the judges, whose task is to facilitate the implementation of justice and fulfill their respective powers.

The purpose of the study is to develop practical recommendations for improving the current legislation governing the legal status of assistants to judges, and **the task of the study** is to compare the norms of the legislation of Ukraine regulating the relevant relations, with the similar legislation of Poland, for the acquisition of positive experience.

The Institution of Assistants to the Judges was first legislatively enshrined in Part 6 of Art. 130 of the Law of Ukraine "On the Judiciary of Ukraine" on February 7, 2002, No. 3018-III, but the legal status of assistants to the judges was not regulated by law [3]. This uneasy mission relied on subordinate acts that failed to fully describe the powers of the assistant to a judge, to clearly distinguish between his duties and the duties of the secretary of the court session. Time has shown that the new legal

institution of assistants to the judges does not justify itself in the present realities, and it is the legislators, the reformers, who must take the blame for it, if not decisive. At the time of the writing of the thesis, the legal status of the assistant to a judge is regulated by Art. 157 of the Law of Ukraine "On the Judiciary and Status of Judges" on 02.06.2016. No. 1402-VIII, Art. 62 of the Code of Administrative Justice of Ukraine [4], art. 92 of the Law of Ukraine "On Civil Service" dated December 10, 2015 [5], the Regulations on the Assistant to a Judge of the General Court, approved by the Decision of the Council of Judges of Ukraine dated March 25, 2011 No. 14 [6].

A comparative analysis of the above-mentioned normative acts indicates their lack of conceptual development, and in places, and the inconsistency between them, which alleviates their practical value and discredits the very idea of introducing the institution of assistants to the judges. In this regard, it should be noted that Art. 62 of the Code of Administrative Justice of Ukraine (as amended on 10.10.2017), in contrast to paragraph 20 of Section III of the Regulations on the Assistant to a Judge of General Jurisdiction, approved by the decision of the Council of Judges of Ukraine dated March 25, 2011. No. 14 (with subsequent amendments and supplements) defines the main duties of judge's assistants, which do not at all include the drafting of any procedural documents that are adopted by a judge. This approach is probably related to the position of those scholars who believe that the assistant to the judge, not taking part in the study of evidence in a court session, has no right to assess them, to establish the factual circumstances of the case and to give them a legal assessment. In my opinion, there is no stumbling block in the drafting of procedural documents by the assistant to the judge. A judge may instruct his assistant to draft a court decision on case materials, since the assistant to the judge in these cases does not replace the judge, but only facilitates his work, because the final right to accept the draft without modification or change it and sign the decision belongs exclusively to the judge.

For instance in Poland pursuant to the regulation of the Minister of Justice of 5 November 2002 on the detailed scope and manner of performing activities by the judges' assistants to independent activities, the assistant should draft judgments, prepare draft ordinances, prepare the case for consideration at the hearing or the

meeting, prepare projects orders regarding the formal conditions of the indictment, fitness check, timeliness and correctness of the judge's orders by the department secretariat, referral to people and institutions for information necessary to resolve the matter, control of the timeliness of expert opinions, preliminary analysis of files assigned to the judge's paper, preliminary analysis of allegations contained in the appeals, taking verifying activities in suspended cases and presenting to the judge the status of unrecognized cases, filling in statistical cards, collecting judgments and literature useful for the recognition of court cases and performing other activities related to the judicial activity of judges with whom he cooperates, resulting from the specifics of a given court department, drafting response projects letters affecting a given case, not consulting. In addition, the duties of the judge's assistant also include performing other activities affecting the efficiency and rationality of the proceedings ordered to be carried out at the order of the judge. Procedural motions and taking actions in the scope of enforcement of judgments in criminal and family matters [7].

Under the aforementioned conditions, when the assistant only participates in the preparation of court cases, he prepares letters, other materials, executive documents, copies of court decisions to be sent to the parties to the case, such a position in general loses any practical sense, since these duties actually duplicate the duties of the secretaries of court sessions, defined in Article 5, Article. 63 of the Code of Administrative Justice of Ukraine (in the new wording of 10/03/2017), namely, "registration of materials of administrative cases". Moreover, in paragraph 6 of this article, the secretary of a court session is obligated to perform other orders of the presiding judge in the case (not mentioned in clauses 1-5), which may include the preparation of draft requests, letters, other materials, executive documents, and as well as the execution of copies of court decisions to send the parties to the process, which in the sense of Part 2 of Art. 62 of the Code of Administrative Justice of Ukraine should be performed by an assistant, and according to the Part 3 of Art. 62 of the Code of Administrative Justice of Ukraine the assistant to the judge on behalf of a judge (presiding judge) may be entrusted with the authority of the secretary of the court session in his absence. Consequently, the bulk of the powers entrusted to the judge's

assistant by the applicable law is quite capable of meeting the secretary of the court (paragraphs 1-2 of Part 2 of Article 62 of the Code of Administrative Justice of Ukraine), and the control of the timely sending of court decisions copies by subordinate workers is carried out daily by the judges themselves.

Main results and research findings and their value. Therefore, in order to preserve the expediency of the position of the assistant to the judge, amendments should be made to Part 2 of Art. 62 of the Code of Administrative Justice of Ukraine, supplemented its paragraph with the following content, "on the instruction of a judge prepares draft judicial decisions, other procedural documents, which are adopted by a judge or under the chairmanship of a judge", because otherwise the category of posts should be reduced due to the independent drafting by the judges all the procedural documents, opportunities transfer responsibilities for the preparation and organizational provision of court proceedings for secretaries of the court session, and in order to save budget funds to pay them wages and the distribution of these payments to other employees.

Consequently, the establishment of the Institute of Assistants to Judges is meaningful and justifiable only if they will draft court decisions, and not perform purely technical functions on the registration and preparation of case materials for consideration.

References:

1. Recommendations for the effective implementation of the Basic Principles of Independence of the Judiciary adopted by the resolution of the Economic and Social Council of UN 1989/60 and approved by UN General Assembly resolution 44/162 of December 15, 1989 [Electronic resource]. – Access mode : http://sc.gov.ua/ua/mizhnarodni_standarti_u_sferi_sudochinstva_i_statusu_sudiv.html#
2. On the Judiciary and the Status of Judges: The Law of Ukraine dated 02.06.2016. No. 1402-VIII [Electronic resource]. – Access mode : <http://zakon5.rada.gov.ua/laws/show/1402-19>.

3. On the Judiciary of Ukraine: Law of Ukraine dated February 7, 2002 No. 3018-III [Electronic resource]. – Mode of access : <http://zakon2.rada.gov.ua/laws/show/3018-14>.

4. Code of Administrative Justice of Ukraine [Electronic resource]. – Mode of access : <http://zakon3.rada.gov.ua/laws/show/2747-15>.

5. The Law of Ukraine "On Civil Service" of 10.12.2015. [Electronic resource]. – Mode of access : <http://zakon3.rada.gov.ua/laws/show/889-19>.

6. Regulations on the assistant judge of the court of general jurisdiction, approved by the Decision of the Council of Judges of Ukraine dated March 25, 2011 No. 14 [Electronic resource]. – Access mode : <http://court.gov.ua/sudova-vlada/969076/pppsszu>.

7. Konieczna Diana. Obowiazki asystenta sędziego [Electronic resource]. – Access mode : <http://www.sprawnik.pl/artykuly,10246,14514,obowiazki-asystenta-sedziego>.

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ЩО ТАКЕ ЕМОЦІЯ?

ПОНЯТТЯ ЕМОЦІЙНОСТІ ТА ЕМОТИВНОСТІ

Емоції є регуляторами поведінки, соціальних контактів і багатьох психічних процесів.

Емоції – психічні стани людини, в яких реалізується безпосереднє ситуативне переживання (задоволення, радість, страх) [7, с. 81].

У виховному процесі роль емоцій надзвичайно важлива, оскільки вони впливають на мотиви й потреби підростаючої особистості. Крім того, емоції утворюють основну мотиваційну систему особистості і сприяють вихованню у неї морально-духовних цінностей. Така функція у становленні смислово-ціннісної сфери особистості пояснюється їхньою природою [1, с. 87].

Емоція – складний феномен з нейрофізіологічним, нервово-м'язовим та феноменологічним аспектами. Емоції можуть по-різному впливати на людей. Це