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# HUMAN RIGHTS: THEORY AND PRACTICE

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## **HUMAN RIGHTS: THEORY AND PRACTICE**

collection of scientific papers

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Maryna Dei

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The edition is intended for representatives of science and education, state authorities and local self-government, civil society organizations and everyone interested in forming the effective human rights protection system in Ukraine with European best practices and national priorities.

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the simultaneous perception of financial law ban as one of basic elements of the system of financial law and as an instrument of public and legal influence on public relations in finances.

The first group primarily includes protective and regulatory, guaranteeing and legitimizing, information-oriented, and value-motivated functions. The second group includes estimating and interpreting, counteracting, and legal and technical (accumulative) functions. From our perspective, the abovementioned functions of financial law ban are basic. In this context, the list of the functions is not considered to be complete and exhaustive. This classification of the functions of financial law ban allows demonstrating its effect on an individual and society; in other words, it allows showing what the state realises by introducing financial law bans.

Describing the abovementioned functions in general, there is a further point to be made here. By introducing financial law bans, the state and other public associations (communities) govern and protect financial public relations in the sphere of the generation, distribution, and use of public monetary funds that are important and valuable to public associations and, thus, stabilise and harmonise financial relations and public monetary funds at all levels. The introduced bans in aggregate define the limits of and legitimise the government's legal financial intervention in public relations as the acutest form of social and economic conflict settlement. Financial law bans present a certain package of financially important characteristics of banned actions and, thus, define clear limits of good behaviour for individuals and legal entities in public relations. Financial law bans may have orientation influence even when financial law standards are not in force. The introduced financial law bans in aggregate undoubtedly impact the value system of a certain entity reasoning their good behaviour. Two last functions are tightly interrelated and interdependent.

Having analysed the existing financial law bans in aggregate, the state may assess whether it is necessary to apply financial law to a certain group of public relations (mobilisation, distribution, use of public monetary funds; budget, tax, or currency relations and etc.) and, thus, interpret them. Financial law ban is also an instrument for counteracting violations in financial law. The legal and technical (accumulative) function of financial law ban is – to some extent – more practical and involves that financial law ban allows looking around and identifying financial law and compensative mandates as well as other sources of regulatory acts of financial law, which generate financial law ban.

Therefore, the system of independent functions of financial law ban other than functions of legal standards (standards of financial law) and functions of elements essential to financial offence justifies the idea that such a social legal phenomenon as financial law ban is independent and has multiple aspects. The system of functions of financial law ban is based on the specifics of its legal nature while the ban is considered as a complicated social legal phenomenon. Financial law ban carries out different functions at different levels of operation of financial law.

#### References:

1. Aliksieiev S. S. Pravovyie zaprety v structure sovetkoho prava [Legal Bans in Structure of Soviet Law], Pravovedenie [Legal Science] – 1973., No. 5., pp. 43-51.
2. Ivanova Z.D. Zapreschayushchie normy v mehanizme pravovoho regulirovaniya [Banning Provisions in Mechanism of Legal Regulation], Sovetskoe gosudarstvo i pravo [Soviet State and Law] – 1975., No.11., pp. 108-112.
3. Radko T.N. O roli zapretov v pravovom rehulirovanii [Role of Bans in Legal Regulation], Trudy VSShM MVD SSSR [Works of High School of USSR Ministry of Internal Affairs] – 1969., Edn. 1., pp. 87-98.
4. Mykhailenko O.O. Rechovo-pravovi obmezhenyia prava privatnoi vlasnosti za starodavnim rymskim ta suchasnym tsivilnym pravom Ukrainy [Legal Restrictions of Private Property Right in Ancient Roman Law and Modern Ukrainian Civil Law], Candidate of Sc. of L. Dissertation: Specialization 12.00.03. – Zaporizhzhia., 2003., p. 224.
5. Pyvovar Yu. I., Novakovets V.M. Finansovo-pravove rehulyuvannya publichnyh zakupivel v Ukraini [Legal Financial Regulation of Public Procurements in Ukraine], Monography. – Kyiv., Try K LLC, 2012., p. 224.
6. Pyvovar Yu. I., Pashynska V.V. Teoretychni osnovy pravovoho reguluvannya finansuvannya derzhavnyh tsilovoyh program: finansovo-pravovyi aspekt [Theoretical Fundamentals of Legal Regulation of Investment in State Goal-Oriented Programmes: Aspect of Financial Law], Monography. – Kyiv., LESIA Small Enterprise, 2015., p. 256.
7. Dmytrenko E.S. Finansove pravo Ukrainy. Zahalna chastyna [Financial Law in Ukraine. General Part], Navchalnyi posibnyk [Textbook]. – Kyiv., Alerta, 2006 – p. 376.
8. Makarenko O.Yu. Administrativno-pravova ohorona nadr Ukrainy [Protection of Subsoils with Administrative Law in Ukraine], Doctor of Sc. of L. Dissertation: Specialization 12.00.07. – Kharkiv., 2013., p. 353.
9. Ivanskyi A.Y. Funktsii finansovo-pravovoi vidpovidalnosti [Functions of Legal Financial Responsibility], Aktualni problem derzhavy i prava [Current Problems of State and Law] – 2008., Edn. 40., pp. 318-327.
10. Matselyk M.O., Matselyk T.O., Pryhotskyi V.A. Finansove pravo: navchalnyi posibnyk [Financial Law: Textbook]. – Kyiv., Znannia Publish. House, 2015., p. 815., Access mode: <http://westudents.com.ua/glavy/71596-31-ponyattya-sutnst-finansovo-pravovih-norm.html> (data zvernennya 30.11.2016).
11. Rossikhina H.V. Funktsionalnyi analiz aktiv zastosuvannya finansovo-pravovykh norm [Functional Analysis of Application of Financial Law Standards], Legal Doctrine as Basis for Creating Legal System of State: Materials from the International Scientific and Practical Conference dedicated to 20<sup>th</sup> anniversary of the National Academy of Legal Sciences of Ukraine and discussion of Legal Doctrine of Ukraine, 5-volume monography, held in Kharkiv on 20-21 November 2013. – Kharkiv., National Academy of Legal Sciences of Ukraine, 2013., pp. 289-292.
12. Hoiman V.I. Deystvie prava (metodolohicheskii analiz) [Force of Law (Methodological Analysis)]. – Moscow., Publishing Office of Academy of Ministry of Internal Affairs of Russia, 1992., p. 180.

## THE ISSUES OF THE LEGAL PROTECTION OF THE TAX POLICE WORKERS IN UKRAINE<sup>1</sup>

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*This article deals with the issues of the legal and social protection of the tax police workers, gives the examples from practices that show the violations of the rights of tax police workers and proposes the actual measures to solve them.*

**Keywords:** tax police, legal and social protection, remuneration of labour, allowance.

<sup>1</sup> The work is carried out under the project No. 0116U006814 (cover letter No. 01/15.06/3278 of August 19, 2016).

Many state authorities provide a normal functioning of the state power in Ukraine. One of them is the tax police, which originally was a part of tax authority system; then - a part of the system of income and fees; and now - a part of the State Fiscal Service.

The tax and economic security of the state depends on the efficiency of tax police units, which gives it an absolute importance in a difficult economic situation and further economic reforms undertaken in Ukraine. But can a tax police worker feel protected by the state.

The tax police is a law enforcement agency, which is able to fully exercise control over the compliance with the legislation on taxes and fees through the implementation of its tasks, functions and powers, as well as prevent, disclose and investigate criminal and other offenses in fiscal and budget areas [1]. In our view, the tax police is a key entity, which creates the opposition to the offenses connected with business and economic areas.

The Tax Code of Ukraine [2], namely Article 356 states that the state guarantees the legal and social protection of senior and junior officers of the tax police and their families. They are subject to the guarantees of the social and legal protection provided for in Articles 20-23 of the Law of Ukraine On Police, which repealed and the Law of Ukraine On the Status of Military Veterans, Veterans of the Internal Affairs Bodies and Some Other Persons and Their Social Protection.

Thus, paragraph 21 of the Regulations on Military Service by Junior and Senior Officers of the Internal Affairs Bodies, approved by the Cabinet of Ministers of the Ukrainian SSR of July 29, 1991 No. 114 provides that junior and senior officers must have 41-hour working week. Where necessary, they serve more than the established working hours and on weekends and holidays. The remuneration of labour in overtime, night, weekend and holidays is made according to the legislation. In case of shift work (service) and continuous duty, equal length of day, evening and night shift is set.

The junior and senior officers are required to take the service where necessary due to the interests of the service and according to the direct orders of the direct superiors. [3] But the experience shows that the tax police workers regularly carry out visits to the border without proper orders from management, to establish the illegal importation of lubricants, excise goods (spirits, alcohol, cigarettes) into Ukraine. These visits are carried out mainly at night and during off-hours, for which no one pays and they are not fixed anywhere, violating all constitutional rights of the tax police workers.

So, the investigation and operational group (hereinafter - IOG) is assigned according to a monthly schedule, which is regulated by the Instruction on the organization of duty of investigation and operational group of the operational management of the State Fiscal Service (hereinafter – the Instructions) to actively respond to the termination of the illegal actions by the citizen and public officer and business entities, expose the crimes, offenses in the economy, elimination of the consequences of the emergencies in the operational offices of the State Fiscal Service of each oblast.

The investigation and operational group of the tax police is appointed, composed of: senior IOG, two criminal investigators, investigator, policeman-driver of a standby vehicle, which is recorded in the Book of Orders by the Head of Staff and the workers sign the duty schedule of IOG. The schedule is approved by the heads of the main departments of the State Fiscal Service of oblasts. This Instruction sets a duty period of IOG, usually it is from 8.00 a.m. to 8.00 p.m.

That is, the Instructions clearly states that IOG members perform the duty in excess of the working day (as the working day of each employee lasts from 9.00 a.m. to 6.00 p.m.), on holidays and weekends (as the duty falls on these days), and therefore the heads had to prepare a written order and documents on tracking of the working time of the workers (time sheet is meant) for the workers involved in IOG on holidays and weekends. The failure to prepare these documents results in the further failure to execute and submit them to the department of finance, accounting and reporting for the calculation of monetary compensation for overtime, weekends and holidays.

By 15 April 2016 the Resolution of the Cabinet of Ministers of Ukraine of September 14, 1991. No. 197 On the Manner of Compensation to Junior and Senior Officers of the Internal Affairs Bodies for the Service in Excess of the Working Time Set by the Legislation, as well as on Weekends and Holidays set forth:

1. In case of the involvement of the junior and senior officers of the internal affairs bodies supported by the republican and local budgets and funds received under contracts from the ministries, departments, enterprises, institutions, organizations and citizens before duty in excess of working time set by the legislation, the remuneration of their labour for this time is made in the amount provided by the labor laws of Ukraine, on the basis of the official salary and the salary under the special rank.

The service of the junior and senior officers of the internal affairs bodies on weekends and holidays can be compensated upon their consent by providing another day of rest or in cash at a double rate.

2. Financing of the costs associated with the implementation of this resolution for the junior and senior officers of the internal affairs bodies of republican level is carried out within the appropriations allocated to the Ministry of Internal Affairs of Ukraine from the republican budget. But now this resolution repealed and a new one is pending. The tax police workers continue to come on duty of IOG on weekends and holidays, and compensation for time worked is never paid.

Under current law, the remuneration of work in overtime is made under Article 106 of the Labor Code of Ukraine [4], which states that: “The overtime work is paid at double hourly rate under the hourly system of the remuneration of labour.

According to the piece-rate system of the remuneration of labour, the overtime work is paid in surcharge of 100 percent of the tariff rate of worker of the relevant qualification, whose remuneration of labour is made under the hourly system - for all overtime hours worked.

In case of the summarized account of the working hours, all hours worked in excess of the working time in the accounting period are paid as overtime in the manner provided for by first and second parts of this article.

The compensation for the overtime works by granting a day off is not allowed.”

The payment for work on the weekend is calculated in accordance with Article 107 of the Labor Code of Ukraine, which established the following:

The work on a holiday and day-off is paid at a double rate:

- 1) pieceworker - at the double piece-rates;
- 2) workers, whose work is paid at hourly or daily rates – in the amount of double hourly or daily rate;
- 3) workers, who receive a monthly salary - in the amount of the single hourly or daily rate in excess to the salary, if work on a holiday and a day-off was carried out within the monthly norm of working time, and in the double hourly or daily rates in excess to the salary if the work was carried over the monthly rate.

The payment in said amount is made for the hours actually worked on a holiday and a day off. At the request of the worker, who worked on a holiday and a day off, he may be given with another day of rest.

But somehow, the State Fiscal Service does not perform above mentioned regulatory and legal acts. Because they think that everything is according to the law.

The experience shows that the tax police workers each month learn about the violation of their legal rights during the introduction with the duty schedule being in IOG per month, and management, represented by the Chief of Operational Management of the State Fiscal Service allows these violations for some reason.

So, in 2013, during the dismissal from the tax police of Sumy oblast, two workers found that they did receive compensation for overtime work and work on holidays and days off during all their service. After that they apply for protection of their rights to the Sumy Regional Administrative Court - case No. 818/7665/13-a and No. 818/7932/13-a. At trials, the court confirmed that the plaintiffs had to learn about the violations of their rights systematically during the period of service, not during the dismissal. The question arises, as a public body at that time the Ministry of Revenues and Fees, which controls the timeliness of submission of reports by the taxpayers and payers of single contribution stipulated by law (declarations, payments and other documents related to the calculation and payment of taxes, fees), timeliness, accuracy, completeness of the calculation and payment of taxes, duties, payments may violate the rights of its workers, namely no accrual and non-payment of full salary.

The failure to pay these funds results in:

Firstly, the violation of the constitutional rights of tax police workers, since Article 43 of the Constitution of Ukraine stipulates that the state creates the conditions for the full enjoyment of the citizens' right to labor, guarantees the equal opportunities in the choice of profession and activity, implements the programs of the vocational education, training and retraining according to the social needs. But in practice things are different, the state authorities are the first violators of the labor laws of Ukraine because their actions lead to an apparent leveling of rules which enshrine the fundamental rights of tax police workers, including labor rights. And this situation in the future will only leads to neglecting other human rights enshrined in law.

Secondly, lack of control and lawlessness from the leadership of the State Fiscal Service of Ukraine, heads of fiscal services in oblasts.

Thirdly, the budgetary savings, for which in the end of the year the leadership gets big bonuses.

After analyzing the cases of Sumy Regional Administrative Court No. 818/7665/13-a and No. 818/7932/13-a the following appropriate measures can be identified, which do not lead to the further violations of the rights of tax police workers:

- Each day of work on weekends and public holiday should be supported by the head's order and workers should constantly monitor this process;

- In each case of receipt of the a settlement letter in salary, pay attention to accruals of the funds for work on weekends and holidays (if there is no accruals, it is necessary to prepare a letter to the head to justify the reasons for which the relevant accruals are not carried out);

- If the head does not accept the application or ignore the application, it is necessary to apply to the county administrative court with the claim (in 1 month from the moment of violation of the rights).

Another case of breach by the Main Department of the State Fiscal Service in Sumy oblast of the rights of the tax police worker, which occurred in 2016 in part of not awarding a next special rank on time, was not left unattended. So the public officers by prior agreement among themselves in spite of the Disciplinary Statute of the Internal Affairs Bodies of Ukraine adopted by the Law of Ukraine of February 22, 2006 No. 3460-IV fabricated the official note to cancel the order of the Main Department of DFS in Sumy oblast of December 9, 2015 No. 290-o On Removal of the Disciplinary Action in order not to provide another officer rank of the tax police worker, which he was entitled to receive on time. The tax police worker applied to court for the protection of his constitutional rights, as a result Kharkiv Administrative Court of Appeal satisfied the appeal of the worker. Thus, the tax police worker received a court decision, which became final and confirmed the illegal actions of the Main Department of the State Fiscal Service in Sumy oblast. This is another case when the heads of the executive authorities violate the legal rights of their employees, and in our case - the tax police worker.

Thus, there are some allegations among the experts and deputies of Ukraine that tax police need to be liquidated, as it does not fully perform its functions. But no one talks about the legal and social protection of the senior and junior officers of the tax police, the conditions of their work. The existence of this law enforcement body is impossible with such a treatment by the state. Therefore, we believe the reorganization of this body is an essential step of the state for the effective protection of the rights of the tax police worker and protection of the financial system of Ukraine.

#### References:

1. The Activities of the Tax Police: Legal and Organizational Principles: Monograph., A.M. Kulish, D.G. Muliavka, O.M. Riezniuk – Sumy., Sumy State University, 2015. - 126 p.
2. Tax Code of Ukraine of December 2, 2010 No. 2755-VI [Electronic Resource]., Access mode: <http://zakon3.rada.gov.ua/laws/show/2755-17>
3. The Provisions of Service by the Junior and Senior Officers of the Internal Affairs Bodies: the Resolution of the Cabinet of Ministers of the Ukrainian SSR of July 29, 1991 № 114 [Electronic Resource]., Access mode: <http://zakon5.rada.gov.ua/laws/show/114-91-%D0%BF>
4. Labour Code of Ukraine of December 10, 1971 No. 322-VIII [Electronic Resource]., Access mode: <http://zakon3.rada.gov.ua/laws/show/322-08>

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## METHODS OF RISK ASSESSMENT FOR FINANCIAL STABILITY IN ACTIVITY OF INSURANCE COMPANIES

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*Herein have been analyzed basic risk assessment methods of insurance companies' financial activity and determined methods which can be the most accurately and the fastest calculated to further minimize negative effects of risks in order to improve socio-economic development of the structural elements of the business scope of insurance companies. We propose risk control strategy which will improve strategic management of financial stability.*