

АДМІНІСТРАТИВНЕ ПРАВО ТА ПРОЦЕС, ФІНАНСОВЕ, ІНФОРМАЦІЙНЕ ПРАВО

Babinska A.V.

Postgraduate Student,

Taras Shevchenko National University of Kyiv

ADMINISTRATIVE ENSURING OF THE RIGHT OF CITIZENS TO OCCUPY THE PROSECUTOR'S OFFICE

Considering the new chapter V of the Law of Ukraine «On Prosecution» of 14 October 2014 a number of requirements for candidates for a position of a prosecutor, as well as procedure for occupying such a position in order to form a professional staff of the prosecution authorities, can be identified [1].

It provides that a citizen of Ukraine who has a law degree, experience in law at least two years and speaks the state language may be appointed as a prosecutor at the local prosecution authorities.

A citizen of Ukraine who has worked as a prosecutor for at least three years may be appointed as a prosecutor at the regional prosecution authorities. Prosecutor General must have worked as a prosecutor for at least five years.

Citizens who are the officers enrolled on military service or in reserve and have a law degree may be appointed as military prosecutors.

A person may not be appointed as a prosecutor if:

- He is recognised as incapacitated or partially capable by court;
- He has a disease that interferes with the duties of the prosecutor;
- He has an unspent or outstanding criminal record or has an administrative penalty for corruption offenses [3].

First of all, attention should be drawn to the provisions of the Law of Ukraine 'On Prosecution', which states that the selection of candidates for the prosecutor's office shall be made on a competitive basis according to the results of the qualifying examination [1]. At the same time, anyone who meets the requirements to the candidate for prosecutor may apply to the Qualification-disciplinary commission of prosecutors with an application for participation in the selection of candidates for the prosecutor's office [4].

The procedure for selecting candidates and their appointment as prosecutors at the local prosecution authorities starts from the decision of the Qualification-disciplinary commission of prosecutors to conduct the selection of candidates for the prosecutor's office and ends in giving a prosecutor's oath. This procedure covers 13 stages, including undertaking by a candidate a specialised training at the National prosecution Academy of Ukraine for one year.

It was decided that prosecutors at the local prosecution authorities shall be chosen in Ukraine on a competition basis, despite the fact that the new Law 'On Prosecution' has already established the procedure for appointing prosecutors to

administrative positions through the Council of Prosecutors. The reformers were so carried away with the introduction of ‘competition’ that did not even pay attention to the law [1]. Thus, the legal basis of this work is the order of the Prosecutor General of Ukraine of 20.07.2015 No 98, which approved the Procedure for conducting test examinations for occupying a prosecutor’s office at the local prosecution authorities and Procedure of conducting the four-level open competition for occupying the offices of the chiefs at the local prosecution authorities, their first deputies and deputies. Conducting the four-level open competition was provided by 5 competitive commission in Kyiv, Lviv, Dnipropetrovsk, Odesa and Kharkiv [2].

The composition of each committee consisted of four people, one appointed by Prosecutor General and three by the Verkhovna Rada. Consequently, Prosecutor General of Ukraine delegated prosecutors and the parliament ‘provided’ deputies. By the way, the requirements for reputation, education, work experience in law enforcement agencies to these candidates were not provided at all. Orders did not provide these requirements either and the composition of the commissions was formed chaotically [2]. Therefore, the results of such competitive commissions immediately alarmed the public, because the prosecutors at the local prosecution authorities were appointed, apparently, not according to their abilities or professional experience, but according to ‘other’ criteria.

As a result of this, part of professional prosecutors had to leave their offices and absolutely distrust the objectivity of such a selection. At the same time, the public and the media emphasised on the fact that owing to this ‘selection’ the management positions at the local prosecution authorities were occupied by the former state executives, police, lawyers from various institutions that do not have even the basics of criminal proceedings or forensic science, and some of them could not bear the workload and work conditions, and has been retired from prosecutors authorities.

After conducting the above analysis, it can be concluded that the reform of the prosecution authorities is chaotic and the clear procedure of changes to this state institution is absent.

References:

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3. Kulish A.M. Problems of staffing in prosecution authorities in Ukraine // Forum of law. – 2006. – No 2. – P. 94-97 [Electronic resource]. – Access: <http://www.nbu.gov.ua/e-journals/FP/2006-2/06kamopu.pdf>
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