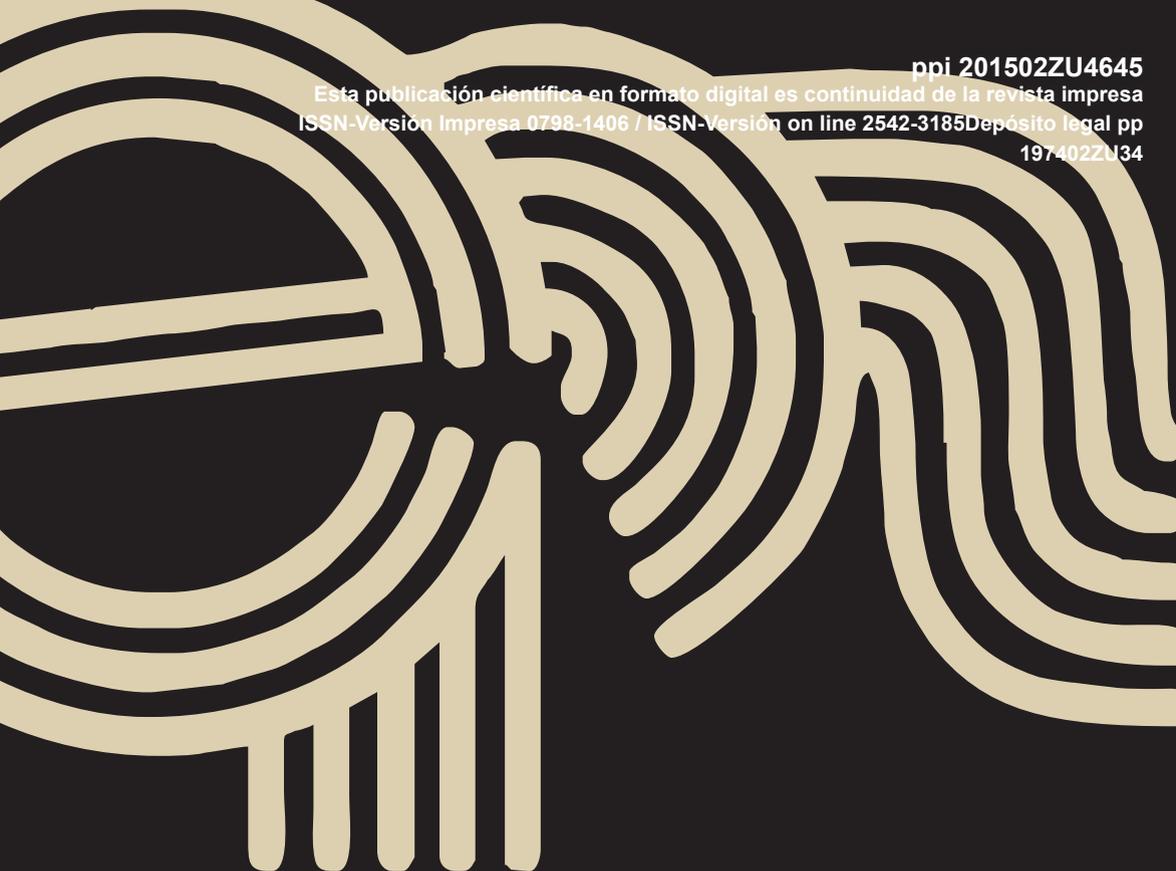


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Legal guarantees of lawyers' activities with respect to the provision of free secondary legal aid in the administrative court system

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Serhii Shatrava *
Serhii Vylkov **
Yevhen Sobol ***
Nataliia Maksymenko ****
Inna Zelenko *****

Abstract

The research was aimed at ascertaining the content of legal guarantees of the lawyer's activity in terms of rendering free secondary legal aid in administrative proceedings. With the help of general and special methods and cognition, it has been shown that the legal guarantees of a lawyer's activity as a subject of rendering free secondary legal aid have the following characteristics: 1) guarantee the freedom, without hindrance, of the exercise of the rights attributed to the lawyer and the due fulfillment of the duties attributed to the obligations; 2) the set of means, modalities and conditions that make up the content of the guarantees are always set at the appropriate regulatory and legal level; 3) they begin to operate after the occurrence of legal events that are related to the acquisition of special rights and obligations by the lawyer, and; 4) it is a component of the more general legal category "guarantee of defense". By way of conclusion, we can state that the legal guarantees of the lawyer's activity depend for their success on several factors: institutional, legal and contextual, which require particular treatment by future research.

Keywords: lawyer in Europe; legal guarantees; administrative process; legal aid; free legal assistance.

* Kharkiv National University of Internal Affairs, Kharkiv, Ukraine. ORCID ID: <https://orcid.org/0000-0002-7072-961X>

** Head of Higher Qualification and Disciplinary Commission of the Bar; Kyiv, Ukraine. ORCID ID: <https://orcid.org/0000-0003-0328-9957>

*** Volodymyr Vynnychenko Central Ukrainian State Pedagogical University, Kropyvnytskyi, Ukraine. ORCID ID: <https://orcid.org/0000-0002-0804-8354>

**** Volodymyr Vynnychenko Central Ukrainian State Pedagogical University Kropyvnytskyi, Ukraine. ORCID ID: <https://orcid.org/0000-0002-1005-5115>

***** Volodymyr Vynnychenko Central Ukrainian State Pedagogical University Kropyvnytskyi, Ukraine. ORCID ID: <https://orcid.org/0000-0003-0226-7481>

Garantías jurídicas de las actividades de los abogados con respecto a la prestación de asistencia jurídica secundaria gratuita en el sistema de tribunales administrativos

Resumen

La investigación tuvo por objeto conocer el contenido de las garantías jurídicas de la actividad del abogado en cuanto a la prestación de asistencia jurídica secundaria gratuita en los procedimientos administrativos. Con la ayuda de métodos generales y especiales y de cognición, se ha demostrado que las garantías legales de la actividad de un abogado como sujeto de la prestación de asistencia legal secundaria gratuita, tienen las siguientes características: 1) garantizar la libertad, sin trabas, del ejercicio de los derechos atribuidos al abogado y el debido cumplimiento de los deberes atribuidos a las obligaciones; 2) el conjunto de medios, modalidades y condiciones que integran el contenido de las garantías se fijan siempre en el nivel reglamentario y legal adecuado; 3) comienzan a funcionar después de la ocurrencia de hechos jurídicos que están relacionados con la adquisición de derechos y obligaciones especiales por parte del abogado, y; 4) es un componente de la categoría legal más general «garantía de defensa». A modo de conclusión podemos afirmar que las garantías jurídicas de la actividad del abogado, depende para su éxito de variados factores: institucionales, legales y contextuales, que requieren de tratamiento particular por parte de futuras investigaciones.

Palabras clave: abogado en Europa; garantías jurídicas; proceso administrativo; auxilio judicial; asistencia jurídica gratuita.

Introduction

The professional and special rights and duties of a lawyer, as a subject of provision of free secondary legal assistance, are exercised by him during the consideration and resolution of a public-law dispute in an administrative court. At the same time, it is obvious that a lawyer, receiving the status of a procedural representative of one of the participants in an administrative case (a person who needs secondary legal assistance on a free basis), is additionally granted the procedural rights and obligations specified in Art. 44 the CAP of Ukraine.

In this context, it is worth briefly reminding that all potential subjects of specific administrative-procedural relations must necessarily have such a legal property as administrative procedural legal personality, thanks to

which they become full-fledged participants in the administrative case and realize the constitutional right granted by the state to judicial protection.

By itself, the legal construction “legal entity”, performing the function of generalizing the characteristics of the legal status of a natural or legal entity, is used in almost all areas of law. The practical purpose of this category is that it outlines the circle of persons who can be recognized as subjects of law, guarantees their acquisition of a certain legal status and a set of rights and obligations, and also reflects their “legal destiny” (Dzhafarova, 2014).

Therefore, the model of administrative procedural legal personality, which consists of administrative procedural legal capacity, legal capacity and procedural rights and obligations, is also inherent to a representative lawyer who provides free secondary legal assistance to one of the main participants in an administrative case.

By the way, as some administrative researchers rightly note, there is no single administrative procedural legal personality for all participants in the administrative process: for each subject of administrative-procedural legal relations, a specific legal personality is provided, which is characterized by a certain content and scope (Ditkevych, 2011).

Such a conclusion allows us to state the fact that the purpose of participation and the functional appointment of a lawyer as a participant in an administrative case in a judicial process, who provides free secondary legal assistance, directly affects the content and scope of his administrative procedural legal personality.

It is quite logical that the lawyer implements the subjective interest of the person he represents, in order to exercise the functional rights and obligations assigned to him, determined by the norms of substantive law. On the other hand, his interest in an administrative case in the process of providing free secondary legal assistance is always characterized not only by private interest, but also by a state-legal and social component, as it follows from the competence, purpose, functions and professional and special powers entrusted to him by law, defined in the Laws of Ukraine “On Advocacy and Advocacy” (Law of Ukraine, 2012) and “On Free Legal Aid” (Law of Ukraine, 2011). So, today, the professional representation performed by a lawyer in the administrative process at the expense of state funds actually combines the possibility of him performing two functions - the function of direct representation and the function of providing free secondary legal assistance.

As we know, an exhaustive list of procedural rights and obligations of the parties to an administrative case is contained in Art. Art. 44, 47 of the Code of Administrative Procedure Ukraine (Law of Ukraine, 2005). At the moment, the legislator obliges all participants in an administrative case to use their procedural rights in good faith, not to abuse them and to

strictly fulfill procedural obligations (Part 3 of Article 2, Part 2 of Article 44 of the Civil Procedure Code of Ukraine). The above also applies to a representative lawyer who provides free secondary legal assistance within the administrative process, in accordance with Part 1 of Art. 57 and Part 3 of Art. 16 the CAP of Ukraine.

Taking into account the peculiarities of consideration and resolution of a public legal dispute in an administrative court, as well as the range of subjects to whom the legislator grants the right to receive free secondary legal assistance, it becomes obvious that a lawyer can provide this type of legal assistance only to one of the parties to an administrative case, which, firstly, is not a subject of authority and, secondly, mostly declares claims on the subject of the dispute.

Only in certain cases specified by law, the lawyer has the right to provide free secondary legal assistance to low-income and unprotected natural persons who are under the jurisdiction of Ukraine, foreigners or stateless persons who act as a defendant in the following administrative lawsuits: 1) on detention foreigner or stateless person or forced deportation outside the territory of Ukraine; 2) on establishing restrictions on the exercise of the right to freedom of peaceful assembly (meetings, rallies, marches, demonstrations, etc.) (Part 4 of Article 46 of the CAP of Ukraine (Law of Ukraine, 2005), Article 14 of the Law of Ukraine "On Free Legal Aid" (Law of Ukraine, 2011).

Content of Part 3 of Art. 21 of the Law of Ukraine "On Free Legal Aid" (Law of Ukraine, 2011) and part 2 of Art. 59 of the CAP of Ukraine (Law of Ukraine, 2005) indicates that the powers of a lawyer providing free secondary legal assistance in an administrative process must be confirmed by a mandate from the center for providing free secondary legal assistance and a power of attorney drawn up in accordance with the requirements of administrative procedural legislation, which is certified by an official person of the body (institution) that made such a decision.

Restrictions on the attorney's powers to perform a certain administrative-procedural action, again, must be stipulated in the power of attorney issued to him, as evidenced by Part 2 of Art. 60 the CAP of Ukraine (Law of Ukraine, 2005). For the most part, the above refers to the powers contained in Art. 47 of CAP of Ukraine and relate to: 1) refusal of the claim statement; 2) recognition of the statement of claim in whole or in part; 3) changes in the basis or subject of the claim; 4) increase or decrease in claims; 5) filing a response to a claim; 6) achieving reconciliation; 7) filing a counterclaim.

As an example, we will cite separate procedural rights and duties of a lawyer as a subject of providing free secondary legal assistance in an administrative process, based on the norms of the CAP of Ukraine.

First of all, a lawyer who represents the interests of a person against whom administrative proceedings have been initiated has the right to familiarize himself with the materials of the administrative case (Articles 43, 49, 52, 53, 58, 59, 62 of CAP of Ukraine (Law of Ukraine, 2005). If the information provided by a person in need of free secondary legal assistance is not sufficient to clarify all the circumstances of the case, the lawyer, guided by the principle of competition, dispositiveness and official clarification of all the circumstances of the case (Article 9 of the Code of Administrative Procedure of Ukraine), takes all possible measures to obtain such information (collects information about circumstances and facts that can be used as evidence, in accordance with the procedure established by law).

According to Art. Art. 44, 223 the CAP of Ukraine, the lawyer also has the right to submit a petition to postpone the consideration of the case or announce a break in it in the event of the need to study a significant amount of administrative case materials or form a legal position.

If there are legal grounds, the lawyer is obliged to explain to the person to whom he provides free secondary legal assistance the possibility of conciliation with the other party in an administrative case, its conditions, procedure and consequences of conciliation (Article 190, clause 3, part 1 of Article 238, Article 314, 348, 377 of the CAP of Ukraine). In addition, if necessary, the lawyer has the right to submit a petition or statement for securing evidence or securing a claim (Articles 114-117, 150-153 of the CAP of Ukraine), after agreeing on this issue with the person he represents.

The legislator also imposes on the lawyer the obligation to comply with the procedural terms established by law when providing free secondary legal assistance, as well as to respond to their violation by other participants in the manner established by law (Articles 118-123, 173, 295, 309, 329, 342, 363, 376 CAP of Ukraine). In the case of missed deadlines and if there are grounds provided for by law, the lawyer has the right to file a motion to renew the missed procedural deadlines (Article 121 of the CAP of Ukraine).

The lawyer is obliged to notify the administrative court and the person to whom he provides free secondary legal assistance of the impossibility of attending the court session in advance (parts 2, 3 of article 131 of the Code of Administrative Procedure of Ukraine).

The lawmaker also does not prohibit a lawyer from preparing objections against the court's satisfaction of the other party's requests to add evidence to the court case materials after the procedural period established by law (articles 44, 79 of the CAP of Ukraine).

In some cases, the lawyer has the right to object to the satisfaction of the demands, statements and petitions of other participants in the legal process by the administrative court, which are contrary to the legitimate interests

of the person he represents, to express his own arguments, considerations and objections on the merits of the administrative case, based on the legal basis agreed with this person positions (Articles 44, 47, 166 of the CAP of Ukraine).

During the trial, the lawyer is granted the right to participate in the examination of evidence, if necessary, to submit oral and written requests, explanations, to state objections and to submit a request for the involvement of participants in the administrative process who, in his opinion, should be involved in the case, to participate in interrogations, court debates, other procedural actions (Articles 39, 44, 47, 81, 82, 84, 91, 93, 209-226, 243 of the CAP of Ukraine).

If the lawyer believes that the person he represents is, in his opinion, unjustifiably insisting on an appeal or revision of the court decision, then he offers to agree with him on the legal position and draws up a written legal opinion (Articles 13, 293, 328 of the CAP of Ukraine).

In the process of appealing a court decision in an administrative case, the lawyer (if necessary) submits a request for consideration of the case with the participation of the person he represents (Part 3 of Article 296, Part 3 of Article 304, Clause 1, Part 1 of Article 311, Part 3 of Article 330, Part 3 of Article 336, Part 3 of Article 338 of the CAP of Ukraine).

It is clear that these and other administrative-procedural powers of the lawyer in the process of providing free secondary legal assistance cannot be properly implemented in the administrative process in the absence of certain prerequisites, conditions and means to ensure them at an optimal level. In order for their effective implementation to take place, there must be a whole system or set of normatively established methods and conditions. Among the latter are legal guarantees of advocacy, that is, such legal means, as noted by A.V. Ivantsova, which are enshrined in legal norms, and the subject of their influence are the rights and duties of a lawyer, ensure their implementation, protection and renewal in case of their violation (Ivantsova, 2010).

1. Purpose and objectives of the research

The main purpose of the article is to study the legal guarantees of the lawyer's activities regarding the provision of free secondary legal assistance in the administrative proceedings of Ukraine. In order to achieve the goal of the article, the following tasks were solved: first, to investigate the understanding of the term "guarantee" and "guarantee of advocacy"; secondly, to find out the legal guarantees of advocacy by functional purpose; thirdly, to offer one's own understanding of "legal guarantees of the activity of a lawyer as a subject of providing free legal aid" and to form its features.

2. Literature review

The problems of studying free legal aid in Ukraine, clarifying its legal nature and content, the issue of determining the organizational, legal and managerial aspects of the activity of state bodies and institutions that ensure and guarantee the realization of a person's right to free legal aid, as well as various aspects of the organization of a self-governing institute of the bar, which implements the function of providing legal assistance, have not been the subject of a separate comprehensive scientific study to date.

Only fragmentarily, within the framework of studying more general problematic issues of advocacy activities, certain aspects of the raised topic were considered, in particular by the following scientists: E.Yu. Bova comprehensively highlights the problems of organizing, securing and ensuring the right of citizens to receive free legal aid (Bova, 2009); A.V. Ivantsova conducted a comprehensive study of the modern problem of the organizational forms of advocacy (Ivantsova, 2010); M.V. Stamatina examined the organization of activities related to the realization of citizens' right to free legal aid (Stamatina, 2013); A.V. Bitsai clarified the theoretical, organizational and legal principles of a lawyer's participation in mediation, which determine the functioning and further development of mediation in the legal system of Ukraine with the participation of lawyers (Bitsai, 2015); V. V. Zaborovsky revealed at the conceptual level the theoretical and legal provisions of the legal status of a Ukrainian lawyer and developed on their basis and put into practice scientifically based proposals for improving the norms of the current legislation on advocacy, in order to ensure the proper realization of a person's right to professional legal (legal) assistance (Zaborovsky, 2017); P. Valko presents a comprehensive idea of the essence and features of providing free secondary legal assistance by lawyers in administrative proceedings (Valko, 2020), etc.

A general review and analysis of the above-mentioned works shows that they mainly contain separate aspects of the organizational and legal basis for the provision and provision of certain forms and types of legal assistance, while the specifics and features of the legal guarantees of the lawyer's activity regarding the provision of free secondary legal assistance were practically not considered.

3. Research methodology

The methodological basis of scientific work is a set of general scientific and special scientific methods and methods of cognition, which are comprehensively used to solve the tasks set in the dissertation research. The methods of functional and systemic analysis, as one of the main methods of

this work, were used for the purpose of researching the essence and features of the realization of the individual's right to free legal assistance by subjects endowed with the professional status of a lawyer.

The use of terminological, logical-semantic and logical-legal methods made it possible to formulate the author's definition of the concept of "guarantees of advocacy in the process of providing free secondary legal assistance." The methods of classification and grouping provided the possibility of classifying the legal guarantees of the lawyer's activity as a subject of providing free secondary legal assistance in administrative proceedings, taking into account the norms of national legislation and international legal official documents.

4. Results and discussion

Moving on to covering the issue of legal guarantees of a lawyer's activity as a subject of providing free legal aid, (Pohosian *et al.*, 2021) we consider it expedient to first clarify in general terms the content of such categories as: "guarantee", "legal guarantees", "guarantees of activity". Undoubtedly, all of them have a significant theoretical and methodological significance for our research, taking into account its purpose and tasks. We will briefly conduct a general review of interpretative editions and legal literature, on the pages of which these categories are considered and their primary importance is revealed.

In legal literature, the term "guarantee" is used in a wide variety of meanings, as it is quite multifaceted and is studied not only by legal theory, but also by other legal sciences in the aspect of researching human rights and freedoms, legal principles or legal regimes, as well as certain areas of activity of state bodies and their officials, etc. Thus, if we are talking about "legal guarantees" or "legal guarantees", we mean legally established means of protecting the rights and freedoms of citizens, ways of their implementation, as well as means of protecting law and order, the interests of society and the state (Busel, 2003).

At the same time, guarantees are not recognized as any conditions for the existence and realization of human and citizen rights, but only those defined by the state to ensure the concrete implementation of a person's legal status, the actual implementation of his subjective right.

V.V. Vvedenska notes that guarantees are a certain obligation of the state to create a system of prerequisites, conditions, means and methods enshrined in legislation, which provide everyone and everyone with equal legal opportunities to discover, acquire and realize their rights and freedoms, their actual implementation, protection and reliable protection

(Vvedenska, 2006). So, on the one hand, guarantees are used to ensure the optimal development of certain legal relationships, and on the other hand, they are designed for negative phenomena and events associated with the presence of a threat to the rights, freedoms and interests of a person (guarantees-protection) or their violation (guarantees- protection).

It is the state, as often emphasized by researchers, that, in the person of its authorized bodies, is obliged to ensure the realization of the guaranteed rights, freedoms and interests of the individual, not to violate them, and to provide the necessary protection and protection. In general, in all the above definitions, a special emphasis is placed on the state's obligation (through a set of legally established methods and means) in terms of creating the necessary conditions for an individual's ability to realize his legal rights, freedoms and interests. After all, such conditions must ensure their actual implementation, adequate protection and protection when necessary.

As for the legal guarantees of advocacy, on the pages of special literature in the specialized field, some researchers emphasize that such guarantees are aimed both at protecting a lawyer from possible manifestations of arbitrariness on the part of the state, attorney self-government bodies and other subjects, and at ensuring the right of an individual for professional legal (legal) assistance, the implementation of which is closely interconnected with the existing system of such guarantees (Zaborovsky, 2017).

R.V. Afanasiyev, for example, sees the assignment of guarantees of advocacy in the implementation of positive conditions for the implementation of advocacy functions, in particular regarding the reality of protection, representation and provision of other types of legal assistance to the client, as well as ensuring the state of protection of the advocate from the influence of objective and subjective negative factors in process of his professional activity. According to the scientist, economic-legal, social-legal, criminal-legal, administrative-legal, criminal-procedural and other types of guarantees are important among the guarantees of advocacy (Afanasiev, 2014).

Instead, the fact that professional rights and guarantees, according to I.V. Golovany, represent a characteristic difference between advocacy and other types of legal practice. And it is precisely around professional rights and guarantees, provided they are actually implemented, that the modern Ukrainian legal community unites without any coercion (Golovan, 2004).

The stated points of view do not cause any complaints and comments, and therefore, extrapolating their content to the term-concept "legal guarantees of the activity of a lawyer as a subject of providing free legal aid" (by analogy), we can formulate the latter as a set of legally established means, methods and conditions by means of which the actual implementation, realization, protection and protection of the rights and obligations of the lawyer as a subject of provision of free legal aid are ensured.

Especially since Art. 23 of the Law of Ukraine “On Advocacy and Advocacy” clearly indicates that guarantees of advocacy are guaranteed and protected by the Constitution and Laws of Ukraine, which regulate legal principles of advocacy and advocacy (Law of Ukraine, 2012).

It is obvious that it is with the help of material-financial, political, organizational-legal and other conditions and means that the unimpeded and effective implementation of advocacy activities, its reliable protection, as well as the functioning of the Ukrainian Bar Association as a self-governing independent legal institution as a whole is ensured.

Violation of the guarantees of lawyer activity defined by the legislator is subject to criminal liability in accordance with criminal procedural legislation (Article 374, Article 397-400 of the Criminal Code of Ukraine (Law of Ukraine, 2012). At the same time, we focus our attention on the fact that the real implementation of the legal guarantees of the lawyer as an entity providing free secondary legal assistance in the administrative process occurs when a number of legal documents are concluded, which certify the administrative and procedural powers of the lawyer to provide free secondary legal assistance.

As can be seen from the above, the legal guarantees of advocacy in general can be conventionally divided into: 1) general guarantees, which are represented by a set of methods, means and conditions that ensure the exercise of the professional powers of a lawyer, granted by law for the implementation of his main tasks and functions; 2) special guarantees that facilitate and guarantee the implementation of the attorney's powers in the process of carrying out a certain type of advocacy (in the process of providing free primary legal assistance, participation as a defense attorney in a criminal trial, etc.); 3) individual (personalized) guarantees that ensure the implementation of the powers of a specific lawyer in certain legal relations with his participation (ensuring the personal safety of a specific lawyer-defender in the process of considering a specific criminal case in accordance with the Law of Ukraine “On ensuring the safety of persons participating in criminal proceedings” (Law of Ukraine, 1993) etc.

The legal regulation of guarantees of advocacy is carried out not only by the norms of national legislation, but also by the norms of international legal official documents (the European Convention on the Protection of Human Rights and Fundamental Freedoms, the Recommendations of the Committee of Ministers of the Council of Europe on the freedom of professional activity of lawyers). In addition, the protection of lawyers' rights is regulated by acts of the United Nations, the Council of Bar and Legal Societies of Europe (SSBE), the International Bar Association, etc. (Migdal, 2018).

First of all, national legislation in the field of organization of legal aid activities guarantees the right to proper payment for the lawyer's activity as a subject of free secondary legal aid, in particular: 1) the right to the correctness of the calculation of the amount of his remuneration; 2) the right to reimbursement of expenses related to the provision of free secondary legal assistance by a lawyer on a permanent basis in accordance with the contract or on a temporary basis in accordance with the contract, which are carried out in the prescribed manner.

At the same time, in part 2 of Art. 25 of the Law of Ukraine "On Free Legal Aid" contains a rule according to which a lawyer in the process of providing free secondary legal aid on a permanent basis under a contract or on a temporary basis based on a contract is provided with the guarantees established by the Law of Ukraine "On Advocacy and Advocacy" and other by the laws of Ukraine (Law of Ukraine, 2011).

Analysis of the content of Art. 23 of the Law of Ukraine "On Advocacy and Advocacy" allows to state that the professional rights, honor and dignity of a lawyer are guaranteed and protected at the legislative level, in particular, it is prohibited to: 1) interfere with and hinder the implementation of advocacy; 2) demand from a lawyer, his assistant, a trainee, a person who is in employment relations with a lawyer, a lawyer's office, a lawyer's association, as well as from a person in respect of whom the right to practice law has been terminated or suspended, to provide information that is lawyer's secret.

These persons may not be interrogated on these matters, unless the person who entrusted the relevant information exempted these persons from the obligation to maintain secrecy in accordance with the procedure prescribed by law; 3) review, disclose, demand or withdraw documents related to the practice of advocacy; 4) to involve the lawyer in confidential cooperation during operative and investigative measures or investigative actions, if such cooperation is related to or may lead to the disclosure of the lawyer's secret; 5) interfere in private communication between the lawyer and the client; 6) submit submissions to investigators, prosecutors, as well as issue a separate decision (resolution) of the court regarding the lawyer's legal position in the case; 7) interfere with the lawyer's legal position; 8) bring to criminal or other liability a lawyer (a person in respect of whom the right to practice law has been suspended or suspended) or threaten to apply liability in connection with his practice of law in accordance with the law; 9) identify the lawyer with the client; 10) to carry out investigative measures or investigative actions against the lawyer, which can be carried out only on the basis of a court decision; 11) hold the lawyer accountable for his statements in the case, including those that reflect the client's position, for statements in the mass media, if the lawyer's professional duties are not violated (Law of Ukraine, 2012).

Let's also pay attention to the fact that separate regulations of the same article establish legal guarantees for: a) equality of rights with other participants in the proceedings, compliance with the principles of competition and freedom in providing evidence and proving their persuasiveness; b) state protection of the life, health, honor and dignity of the lawyer and his family members, as well as their property; c) implementation of disciplinary proceedings against a lawyer in a special manner; d) the right to security during participation in criminal proceedings in accordance with the procedure established by law (Law of Ukraine, 2012).

Thus, the generalization of the legal guarantees of advocacy, defined in the Law of Ukraine "On Advocacy and Advocacy", allows them to be combined according to their functional purpose into the following groups: 1) guarantees of independence of the advocate; 2) guarantees of the lawyer's inviolability, within which it is possible to distinguish: a) guarantees of the lawyer's professional safety; b) guarantees of the lawyer's personal safety; 3) guarantees of inviolability of the lawyer.

Among the most typical violations of the rights of lawyers (of a less serious nature), it is possible to single out failure to provide or untimely provision of access to information and case materials to the lawyer (which, in essence, is an obstacle in the preparation of the defense or representation). In addition, state authorities and law enforcement agencies interfere in every possible way in the lawyer's performance of his activities, trying to maximally control the process of their work, creating certain obstacles that do not belong to the powers of these bodies. There are quite a few cases in which investigators do not ensure the mandatory participation of a defense attorney in the cases provided for by law; restrictions on the right to freely choose a defense counsel; creating obstacles to the realization of procedural rights related to obtaining free legal aid, etc. (Azarov, 2018).

Conclusions

Taking into account the above, we can state that, in general, the legal guarantees of a lawyer's activity, in particular as a subject of providing free legal aid in the administrative proceedings of Ukraine, are characterized by the following characteristics: 1) ensure the unhindered and free exercise of the lawyer's rights and their proper execution duties assigned by him in the process of providing free legal assistance to a person who needs it; 2) the set of means, methods and conditions that make up the content of guarantees is always fixed at the appropriate regulatory and legal level (national and international), in particular defined in the norms of substantive and procedural law and embodied in law enforcement acts; 3) objectively determined by the level of development at this stage of the life

of society and the state, on the one hand, the legal institution of advocacy, and on the other, the institution of free legal aid; 4) begin to function after the occurrence of legal facts, which are associated with the acquisition of special rights and obligations by the lawyer for the provision of free legal assistance; 5) is a constituent part of the more general legal category “guarantee of advocacy”.

Therefore, the legal guarantees of the activity of a lawyer as a subject of providing free legal aid should be understood as a set of legally established means, methods and conditions by means of which the actual implementation and protection of the rights and obligations of a lawyer as a subject of providing free legal aid are ensured legal aid.

In turn, it is appropriate to classify the lawyer’s legal guarantees depending on the legal status to which he is assigned: 1) general guarantees, which are represented by a set of methods, means and conditions that ensure the exercise of the professional powers of the lawyer granted by law for the implementation of basic tasks and functions; 2) special guarantees that facilitate and guarantee the implementation of the attorney’s powers in the process of carrying out a certain type of advocacy (in the process of providing free legal aid, participating as a defense attorney in a criminal trial, etc.); 3) individual (personalized) guarantees that ensure the implementation of the powers of a specific lawyer in certain legal relations with his participation (ensuring the personal safety of a specific lawyer-defender in the process of considering a specific criminal case in accordance with the Law of Ukraine “On ensuring the safety of persons participating in criminal proceedings “ etc.).

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