

2. Порядок проведення спеціальної перевірки стосовно осіб, які претендують на заняття посад, які передбачають зайняття відповідального або особливо відповідального становища, та посад з підвищенням корупційним ризиком: постанова Кабінету Міністрів України від 25.03.2015 № 171. URL: <http://zakon5.rada.gov.ua/laws/show/171-2015-%D0%BF> (дата звернення: 08.04.2018).

3. Про очищення влади: Закон України від 16.09.2014 № 1682-VII. Відомості Верховної Ради. 2014. № 44. Ст. 2041.

4. Про органи та осіб, які здійснюють примусове виконання судових рішень і рішень інших органів: Закон України від 02.06.2016 № 1403-VIII Відомості Верховної Ради. 2016. № 30. Ст. 542.

5. Про нотаріат: Закон України від 02.09.1993 № 3425-XII. Відомості Верховної Ради України. 1993. № 39. Ст. 383.

6. Про адвокатуру та адвокатську діяльність: Закон України від 05.07.2012 № 5076-VI Відомості Верховної Ради. 2013. № 27. Ст. 282.

7. Про відновлення платоспроможності боржника або визнання його банкрутом: Закон України від 14.05.1992 № 2343-XII. Відомості Верховної Ради України. 1992. № 31. Ст. 440.

8. Рекомендації № Rec (2003) 17 Комітету Міністрів Ради Європи державам-членам щодо примусового виконання, що ухвалені Комітетом міністрів 9 вересня 2003 року на 851 засіданні заступників міністрів. URL: https://vkksu.gov.ua/userfiles/doc/perelik-dokumentiv/EU_Standarts_book_web-1.pdf (дата звернення: 27.03.2018).

9. *Ковалко І.* Основные направления реформирования системы принудительного исполнения судебных решений в Украине. *Legea si viata.* 2015. № 3. С. 36–40.

REFERENCES

1. About the Civil Service: Bill of Ukraine dated December 10, 2015 No 889-VIII. Bulletin of the Verkhovna Rada. 2016. No 4. Art. 43 [in Ukrainian].

2. The procedure for conducting a special examination in respect of persons who are applying for positions which involve taking a responsible or particularly responsible position and positions with an increase in the risk of corruption: the resolution of the Cabinet of Ministers of Ukraine dated March 25, 2015 No 171. URL: <http://zakon5.rada.gov.ua/laws/show/171-2015-%D0%BF> (Date of Application: 08.04.2018) [in Ukrainian].

3. About Purification of Power: Bill of Ukraine dated 16.09.2014 No 1682-VII. Bulletin of the Verkhovna Rada. 2014. No 44. Art. 2041 [in Ukrainian].

4. About the Bodies and Persons, Carrying out the Enforcement of Court Decisions and Decisions of Other Bodies: Bill of Ukraine dated 02.06.2016 No 1403-VIII, Bulletin of the Verkhovna Rada. 2016. No 30. Art. 542 [in Ukrainian].

5. About the Notary: Bill of Ukraine dated 02.09.1993 No 3425-XII. Information from the Verkhovna Rada of Ukraine. 1993. No 39. Art. 383 [in Ukrainian].

6. About Advocacy and Advocacy Activities: Bill of Ukraine dated 05.07.2012 No 5076-VI. Bulletin of the Verkhovna Rada of Ukraine. 2013. No 27. Art. 282 [in Ukrainian].

7. About Restoration of Solvency of a Debtor or Recognition of It as a Bankrupt: Bill of Ukraine dated May 14, 1992 No 2343-XII. Bulletin of the Verkhovna Rada of Ukraine. 1992. No 31. Art. 440 [in Ukrainian].

8. Recommendation No Rec (2003) 17 of the Committee of Ministers of the Council of Europe to Member States on Enforcement, adopted by the Committee of Ministers on September 9 2003 at the 851 Deputy Ministerial Meeting. URL: https://vkksu.gov.ua/userfiles/doc/perelik-dokumentiv/EU_Standarts_book_web-1.pdf (Date of Application: 27.03.2018) [in Ukrainian].

9. *Kovalko, I.*, 2015, Osnovnyye napravleniya reformirovaniya sistemy prinuditel'nogo ispolneniya sudebnykh resheniy v Ukraine. "The Main Directions of Reforming the System of Compulsory Execution of Judicial Decisions in Ukraine". *Legea si viata* 3, 36–40 [in Russian].

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REQUIREMENTS FOR PRIVATE AND PUBLIC EXECUTIVES: COMPARATIVE LEGAL ANALYSIS

Significant decrease of the performance of court decisions and trust in the judiciary made the scientific community to consider the issue of the introduction of the institution of a private executive. With the enactment of 02.06.2016 of the Bill of Ukraine "About

Bodies and Persons Enforcing the Enforcement of Judgments and Decisions of Other Bodies” No1403-VIII, new entrants “private executives” have been introduced in Ukraine in the enforcement proceedings. Despite the controversy of introducing into the legal field of private performers, the views on raising the requirements for their competence do not cause disagreements among scholars.

The comparative legal analysis carried out by the authors of the paper on the legally established requirements for individuals of private and public executives confirmed the urgency of this issue and revealed different approaches to their selection and competence.

The research establishes that, in addition to the requirements regarding the age and education of private performers, the legislator imposes additional requirements on the personal and business qualities of a public executor.

The absence of similar requirements to a private performer causes different approaches to the selection of private and public executives.

The person of the private executor additionally establishes the requirement to pass the qualifying examination and to have full civilian capacity. Such a requirement for state executives is duplicated in Clause 2 Art. 19 of the Bill of Ukraine “About Civil Service”, as they are civil servants. However, at the present stage, there are no documents confirming the full civil capacity of a person.

The issue of verifying the recognition of a person as incapacitated or limited is also indeterminate. The authors propose to introduce information on the recognition of a person incapacitated or restricted to the Unified State Demographic Registry.

Legislator does not extend to private performers age restrictions and requirements to the absence of a court decision regarding the deprivation of the right to engage in activities related to the performance of the functions of the state or to hold corresponding positions established for the state executors by the Bill of Ukraine “About Civil Service”.

The articles proposed by the authors of the changes to the requirements for private performers are important, since the performer, as the manager of someone else’s property, must have a high level of trust among the participants in the proceedings and society.

Keywords: private executives, government executives, enforcement proceedings, claims.

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