

UDC 351.74:342.95]:342.7(477)(043.5)

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Petrov, Serhii (2023). Principles of administrative legal personality of the Main Service Centre of the Ministry of Internal Affairs. *Entrepreneurship, Economy and Law*, 5, 71–77, doi <https://doi.org/10.32849/2663-5313/2023.5.11>

PRINCIPLES OF ADMINISTRATIVE LEGAL PERSONALITY OF THE MAIN SERVICE CENTRE OF THE MINISTRY OF INTERNAL AFFAIRS

Abstract. Purpose. The purpose of the article is to determine the principles of administrative legal personality of the Main Service Centre of the MIA. **Results.** The general characteristics of the administrative legal personality of the Main Service Centre of the MIA contribute to the certainty of its tasks, the definition of its general competence, functions and powers vested in such a body, the purpose of which is to ensure the proper implementation of the state's functions in a certain field of public relations. In the context of European integration processes, scholars are increasingly turning to European standards of public administration. Of course, there is no single act or document. There are the requirements of society and the response of states and the EU as a European integration association to the demands of their citizens. It is established that the Main Service Centre of the MIA, which has been established on the basis of the Regulations on the Main Service Centre of the MIA and is defined by these Regulations as a legal entity under public law which is an interregional territorial body for the provision of services of the Ministry of Internal Affairs of Ukraine, has all the features of such an entity, and moreover, it has the features of an institution, since it aims at the fullest realisation of public law interests. Of course, the definition of the Main Service Centre as an institution is conditional, made to emphasise its role and focus on fulfilling one of the state's functions of streamlining public relations in a particular sector – the operation of road transport. **Conclusions.** It is concluded that the Main Service Centre of the MIA and its official (head), in the course of performing public administrative functions on the grounds of the powers defined by the Regulations on the Main Service Centre, implement the functions assigned to it by the MIA: public service (aimed at ensuring the provision of services by territorial service centres of the MIA by organising their activities, methodological and logistical support to implement public policy on road safety and operation of motor vehicles) and managerial and administrative functions necessary to ensure public service activities of the system of service centres of the MIA of Ukraine.

Key words: legal personality, services, coordination, territorial service centres, public service activities.

1. Introduction

The general characteristics of the administrative legal personality of the Main Service Centre of the MIA contribute to the certainty of its tasks, the definition of its general competence, functions and powers vested in such a body, the purpose of which is to ensure the proper implementation of the state's functions in a certain field of public relations. In the context of European integration processes, scholars are increasingly turning to European standards of public administration. Of course, there is no single act or document. There are the requirements of society and the response of states and the EU as a European integra-

tion association to the demands of their citizens.

The purpose of the article is to determine the principles of administrative legal personality of the Main Service Centre of the MIA.

2. Classification of participants in administrative legal relations

To respond to the needs for the formation of “smart governance”, focused on creating a favourable environment for human existence, an environment conducive to the exercise of human rights, freedoms and legitimate interests, it requires the orderliness of social relations, their adequate regulatory framework, and the effective resolution of managerial issues focused on human rights and needs.

To date, V.B. Averianov's definition of an executive body is doctrinally relevant, who defines an executive body as an organisationally independent element of the state apparatus (mechanism of the state), which is endowed with a clearly defined list of powers (competence) in accordance with the tasks and functions assigned to it, and consists of structural units and positions held by civil servants, and is referred by the Constitution and laws of Ukraine to the system of executive bodies (Averianov, 2007, p. 125). Naturally, it can be concluded that each of the state executive bodies has a unique competence inherent only to this body, enabling to identify it and distinguish it from other bodies as elements of the public administration apparatus. In addition, according to his definition, this uniqueness is generated by functional separation, determined by the tasks assigned to this body, which characterise various aspects of the competence of such body (Bilozorov, Vlasenko, Horova, Zavalnyi, Zaiats, 2017, p. 126).

T.O. Matselyk, having classified the participants in administrative relations vested with powers into collective and individual ones, defines a public authority as a collective entity of administrative law, which is a separate, organisationally defined group of people united by the unity of will, as the will of one person, which is a legal entity of public law legalised in accordance with the established procedure, which has an appropriate name and is endowed with administrative legal personality (Matselyk, 2013, p. 185).

Undoubtedly, the criterion that distinguishes one such entity (state executive body) from other authorised actors is the purpose of creation of such a body (a legal entity under public law with a special status), its scope of activities and administrative and legal status. Of course, as a legal entity under public law, it is relatively independent, unique and specific. According to T.O. Matselyk, the legal essence of such an entity includes two elements: general legal and special legal (Matselyk, 2013, p. 185). The general legal essence of a collective entity is that it is recognised as a person in law, although it is not such a person. Its legal existence is recognised on the basis of a fiction, as an admission of its "specialised legal personality" (Samoilenko, 2020, p. 89). We argue that the Main Service Centre of the MIA, which has been established on the basis of the Regulations on the Main Service Centre of the MIA and is defined by these Regulations as a legal entity under public law which is an interregional territorial body for the provision of services of the Ministry of Internal Affairs of Ukraine, has all the features of such an entity, and more-

over, it has the features of an institution, since it aims at the fullest realisation of public law interests. Of course, the definition of the Main Service Centre as an institution is conditional, made to emphasise its role and focus on fulfilling one of the state's functions of streamlining public relations in a particular sector – the operation of road transport, which, by virtue of being designated as a source of increased danger, requires control and risk management through controlled training and granting special legal personality to persons managing road transport, transporting dangerous goods, controlling the compliance of vehicle designs with technical requirements, maintaining a register of owners of such vehicles, etc.

We agree with T.O. Matselyk that executive authorities are the foundation of the system of bodies (actors) of public administration. Indeed, it is the state executive authorities that are entrusted with the implementation of public authority functions in public interests. Therefore, determining the administrative and legal status of such body is a crucial stage in addressing the issues of ensuring effective public administration in a particular field of public relations, which aims to ensure their orderliness based on the principle of legality. This status is based precisely on the legal status of a legal entity under public law as a fictitious entity, which exists by virtue of an agreement by a separate participant in relations with its inherent legal personality. Of course, this construction has been developed by the doctrine of civil law science, but as a universal construction it is acceptable and is currently used in all branches, including administrative law. Therefore, through the perception of the structure of a legal entity under public law, it is possible to determine its administrative and legal status, legal nature, peculiarities of formation, structure of the body, its rights and obligations, state-defined competence, tasks and functions, powers and, most importantly, responsibility. They are understandable and accessible to the perception of the content through the form (Matselyk, 2013, p. 189).

V.B. Averianov and N.V. Aleksandrova define a state executive body as an independent element of the state apparatus, referred by the Constitution and laws of Ukraine to the system of executive bodies, endowed with a well-defined scope of executive powers in accordance with the tasks and functions assigned to it and having in its structure subdivisions and positions held by civil servants (Averianov, Aleksandrova, 2006). According to another definition, such a body is a structural part of the state apparatus, with powers of authority granted by law, as well as the ability to make regulatory (binding) decisions and acts of individual action, ensuring their

implementation, including by means of state coercion. Each body is characterised by a specific procedure of establishment and special powers (Sibilov, 2001).

Following V.K. Kolpakov, state powers are the main legal feature of a state body. That is why a state executive body is a bearer of state executive power, exercising competence in the field of public administration determined by the state on the basis of legal regulations and has a legally defined legal status of a state executive authority (Kolpakov, 2005).

Obviously, the Main Service Centre of the MIA has such features. For example, the Regulations on the Main Service Centre of the MIA stipulate that it organises the activities of RSCs, controls their activities, provides them with organisational, methodological and practical assistance, and provides them with information, analytical, logistical and financial support. The main tasks (the scope of regulating public relations) for which the state has identified the need for public administration by recognising the need for threat control and risk management are 1) implementation of public policy on administrative and other services, road safety and transportation of dangerous goods, ensuring state control over compliance by business entities and other entities with the requirements of the legislation in these sectors, monitoring compliance by business entities and other entities with the provisions and rules and standards in the relevant sector in the manner prescribed by law; 2) control over the compliance of vehicle design, configuration and equipment, number plates of vehicles with norms and standards and approval of relevant regulatory and technical documentation; 3) ensuring the state registration of registered vehicles, issuance (exchange) of driver's licences, ADR driver training certificates, certificates of training of persons responsible for the safety of dangerous goods transport, certificates of admission of vehicles to the transport of dangerous goods and accumulation of information on these issues in the Unified State Register of the MIA and the Unified State Register of Vehicles; 4) organisation and control over the training, retraining and advanced training of vehicle drivers, registration of business entities of all forms of ownership engaged in such activities, as well as the administration of examinations to test knowledge of the rules for the carriage of dangerous goods by road and the issuance of relevant certificates of the established form; 5) keeping records of business entities engaged in wholesale and retail trade in cars, buses, motorcycles of all types, brands and models, trailers, semi-trailers, motorised sidecars, other vehicles of domestic and foreign manufacture

and their component parts with identification numbers, as well as providing them, in accordance with the established procedure, with number plates for one-time trips (hereinafter referred to as special products), forms of acceptance certificates for vehicles and their components with identification numbers (hereinafter referred to as blank products), and recorded exchange transactions; 6) keeping a register of entities involved in the mandatory technical control of wheeled vehicles and state control over compliance with the requirements of the legislation in this field by monitoring the information transmitted by entities conducting mandatory technical control of vehicles to the national database on the results of mandatory technical control; 7) formation of a nationwide database on the results of mandatory technical inspection of vehicles based on information on the results of inspection of the technical condition of the vehicle provided by the entities conducting mandatory technical inspection and information on the conclusion of compulsory insurance contracts for civil liability of owners of land vehicles subject to mandatory technical inspection provided by insurers (Order of the Ministry of Internal Affairs of Ukraine on the approval of the Regulations on the Main Service Center of the Ministry of Internal Affairs, 2015).

We determine that these "tasks" of the SSC of the MIA are nothing more than the types and directions of its activities that determine its competence. A.O. Tkachenko refers to the latest dictionary of foreign words, which defines "competence": 1) the range of powers granted by law, charter or other act to a particular body or official; 2) the range of issues in which this person has knowledge and experience (Tkachenko, 2009, p. 192). Unfortunately, this approach virtually equates two different, but close and interrelated categories, such as "competence" and "powers".

In general, there are two approaches to this issue in science: 1) to identify these concepts; 2) to distinguish them.

In a broad sense, the competence of a state body is defined as a set of subjects of jurisdiction, tasks, powers, rights and obligations of an official or a state body or a public organisation (Skakun, 2006, p. 275).

The second approach is advocated by A.O. Tkachenko, who believes that the content of competence defined by the Constitution of Ukraine, laws and other legal regulations determines the place of a state body in the mechanism of the state, and therefore concludes that competence is broader or narrower depending on the place of a state body or its official in the hierarchical system of state authorities (Tkachenko,

2009, p. 193). According to the scientist, functions, as part of the competence of a body, determine the scope of the body's activities, answering the question of what such body deals with. This leads to the natural conclusion that the body exercises its competence by performing certain functions and powers granted to it. Therefore, the scholar draws another conclusion that functions and powers are elements of competence in a broad sense, defining competence in a narrow sense exclusively as the rights and legal obligations of the body that constitute its powers (Tkachenko, 2009, p. 193).

We agree that the Main Service Centre as a participant in administrative legal relations has its own competence, which is defined in the Regulations on the Main Service Centre of the MIA as the tasks of the SSC of the MIA, as defined above. This conclusion is consistent with the position of A.O. Tkachenko that "subjects of jurisdiction" are legally defined goals and objectives set for management entities and aimed at achieving the activities of such body. Such tasks are stated to be legally defined objectives and goals, which are a normative reference point in determining the scope of its competence (Tkachenko, 2009, p. 193).

This perspective is in line with the conclusions of O.O. Mozhovi, who argues that the set of functions of the system of service centres of the MIA of Ukraine constitutes the main focus of public service activities of the latter, has a specific external manifestation and is aimed at ensuring the exercise of rights, freedoms and legitimate interests of individuals and legal entities in obtaining quality and affordable public services, and identifies the following features as inherent in the functions of the system of service centres of the MIA of Ukraine: 1) they are a means of simultaneous implementation of public service and law enforcement functions of the state; 2) certainty at the level of bylaws of the MIA of Ukraine; 3) they determine the structure of the functional and organisational system of service centres of the MIA of Ukraine; 4) as a rule, they are not of a public authority nature; 5) the implementation of each individual function involves its own legal instruments and procedure; 6) each function is independent and homogeneous, performing its own tasks within the general tasks of public policy on road safety in terms of proper handling of high-risk objects (Mozhovi, 2019, p. 94).

The author determines the expediency of understanding general and special legal personality. General legal personality is determined by the legal characteristics of the Main Service Centre of the Ministry of Internal Affairs as a legal entity under public law. The special legal personality is determined by the specifics caused by: 1) the cre-

ator and the functions and tasks assigned to it; 2) specifying the purpose of the body, the range of relations in respect of which the entity is vested with powers (competence); 3) tasks; 4) specifics of the powers granted in connection with the obligation to perform such tasks.

3. Administrative and legal status of the Main Service Centre of the MIA

In our deep conviction, A.P. Rybinska, who defines the peculiarities of the administrative and legal status of the Main Service Centre of the MIA, has actually defined the scope of competence of this body, which determines the purpose of legal personality of this body. She defines "service activities of the MIA of Ukraine" as the exercise of special powers by the Ministry of Internal Affairs of Ukraine to provide administrative and other services through the service centres of the MIA of Ukraine with the purpose of acquiring, changing or terminating the rights and/or obligations of the applicant and/or provider of information under departmental and public control (Rybinska, 2019, p. 65).

We agree that the draft law was intended to define the legal basis for the exercise of rights, freedoms and legitimate interests of individuals and legal entities in the field of service provision by the Ministry of Internal Affairs of Ukraine, but unfortunately, it does not define either the rights of the applicants for service provision or the obligations of the service providers, or the definition and list of such services. However, Article 2 of the draft Law stipulates that the requirements of this Law apply to the provision of services for the issuance of permits, identifications, certificates, references, copies and duplicates of documents, but does not specify the nature and subject matter of such services. Only subparagraph 13 of part 1 of Article 3 of the draft law proposes a definition of "service" provided by the internal affairs bodies – the result of the exercise by the service centre of the powers defined by this Law, aimed at meeting the needs of individuals and legal entities, despite the fact that such powers are not defined to the necessary extent. The situation is the same with the definition of the purpose of the service centre – to exercise the powers defined by the legislation of Ukraine, introduce modern technologies, improve services and promote the development of the system of the Ministry of Internal Affairs of Ukraine. We have already argued that the purpose of such services should not be the exercise of powers by the service provider, nor the promotion of the development of the system of the Ministry of Internal Affairs of Ukraine, nor even the introduction of modern information technologies. This purpose should be to ensure safety and control of dangers and manage risks associated with

the operation of vehicles, and therefore, through ensuring the safety of their operation, to ensure the rights, freedoms and legitimate interests of a person (private law persons) in the field of public relations under study.

From this perspective, we cannot agree with the conclusion of A.P. Rybinska regarding the understanding of service activities of executive authorities, in particular the MIA of Ukraine, as the exercise of power of the central executive body to provide administrative services enshrined in the Law of Ukraine "On Administrative Services", and other services, which should be understood as the provision of information, in particular for legal entities, trade organisations, driving schools, on specific administrative services provided by such service centres, and other information on the procedure (Rybinska, 2019, p. 167). Providing information about an administrative service is not the essence of a service. We come to this conclusion by analysing the functions of territorial service centres on the basis of the Regulations on the territorial service centre of the Ministry of Internal Affairs, approved by the Order of the Ministry of Internal Affairs of Ukraine No. 1646 of 29 December 2015 (Order of the Minister of Internal Affairs of Ukraine Regulations on the territorial service center of the Ministry of Internal Affairs, 2015). After all, it contains an exhaustive list of such services. On the contrary, according to A.P. Rybinska, the SSC of the MIA of Ukraine, with due regard to the relevant tasks, exercises functional and organisational powers regulated by clauses 4, 5, 12 of the Regulations on the Main Service Centre of the MIA of Ukraine and includes, among others: to provide paid and free services; to implement a set of measures to organise and ensure the operation of the system of service centres of the MIA of Ukraine; to keep a register of actors performing mandatory technical control and to enter information on business entities designated as actors performing mandatory technical control of vehicles into the Unified State Register of the Ministry of Internal Affairs of Ukraine; to provide actors performing mandatory technical control of vehicles with access to the national database on the results of mandatory technical control; to ensure monitoring of the information transmitted by the actors of mandatory technical control of vehicles to the national database on the results of mandatory technical control; to form and maintain an electronic register of enterprises, institutions, organisations and other business entities, regardless of ownership, engaged in wholesale or retail trade in vehicles and their components with identification numbers, and to draw up relevant documents, etc. (Rybinska, 2019, p. 77).

In addition, A.P. Rybinska's conclusion regarding the definition of a service as the exercise of the powers of a central executive body to provide administrative services enshrined in the Law of Ukraine "On Administrative Services" and other services should be evaluated. After all, the Regulations on the Main Service Centre of the Ministry of Internal Affairs define it as an interregional territorial body for the provision of service services of the Ministry of Internal Affairs. In other words, the Ministry of Internal Affairs is the central body of state executive power in charge of providing service services, and the application of the provisions of the Law of Ukraine "On Administrative Services" to the activities of the Main Service Centre of the MIA and its structural units is currently debatable, despite the desire to understand the "service" provided by a specialised body of the MIA as one of the types of administrative services. Therefore, we propose to explicitly define this issue in the Law of Ukraine "On Administrative Services" and the Regulations on the Main Service Centre of the MIA to determine their correlation as "general" and "special" (Rybinska, 2019).

We agree with O. O. Mozhovyi that the functions of the service centres of the MIA of Ukraine should be understood as a set of several areas of their activities, in particular: regulatory, public service, control, preventive, coordination and interaction, monitoring, etc., which are characterised by: systematic, related, complex, relative stability and are aimed at satisfying private and public interests in the field of road safety and are related to high-risk objects (Mozhovyi, 2019, p. 94). In general, we agree with this interpretation of the functions of the service centres of the MIA of Ukraine and determine that: 1) the object in respect of which the activities of such bodies are introduced is not any "objects of increased danger", as stated by O.O. Mozhovyi, but rather motor vehicles and their operation, the control over the safe operation thereof leads to the need to ensure road traffic. Therefore, firearms, other types of transport, animals, etc. are not within the scope of public-power and public-service activities of specialised bodies of the MIA in the provision of service.

A positive assessment of O.H. Tsyganov's study is also based on the fact that it provides a comparative analysis of the legislation on the provision of services and the specifics of their implementation in Ukraine and other foreign countries, in particular, in Poland. 1) the concept of "conciierge": it implies providing simple information assistance (filling in document forms, etc.); 2) the concept of "intermediary": it implies accepting applications and requests from

applicants, as well as documents required for the provision of services, checking them for completeness and correctness of filling in and sending the package of documents to the relevant administrative body and issuing the results of service provision to applicants. Currently, in Ukraine, this concept has been implemented in the activities of the ASCs (administrative service centres) and is called the “single window”; 3) the “one-stop-shop” concept. According to this concept, all services are provided to the applicant in one integrated service centre, which is authorised to provide the relevant services (Tsyhanov, 2018, p. 42). In Ukraine, these are the service centres of the MIA of Ukraine: The Main Service Centre as the central body of the MIA for the provision of service and territorial service centres of the MIA. We agree that the basis of legal personality is determined by the provision of services by the Main Service Centre of the MIA and its structural units within the competence defined above. Therefore, it is responsible for this, as well as for other tasks other than public service activities, such as coordinating the activities of territorial service centres and providing them with methodological assistance, maintaining unified registers, providing them with logistical support, developing safety regulations by setting standards for conducting examinations to grant special legal personality (issuing driving licences for motor vehicles, etc.). It is the specificity of these tasks that determines, unlike territorial service centres, the primary task of which is public service activities, as well as the managerial and administrative activities of the Main Service Centre of the MIA of Ukraine.

This is exactly what O.O. Mozhovyi emphasises when classifying the functions of the system of service centres of the MIA of Ukraine into: a) internal organisational (forecasting; planning; organisation of activities; staffing; financing; logistics; information support); and b) external (rule-making; permitting; registration; law enforcement; coordination; control; representative) (Mozhovyi, 2019, p. 95).

4. Conclusions

Therefore, providing a general description of the administrative legal personality of the Main Service Centre of the MIA, we define that it and its official (head), in the course of performing public administrative functions on the grounds of the powers defined by the Regulations on the Main Service Centre, implement the functions assigned to it by the MIA: public service (aimed at ensuring the provision of services by territorial service centres of the MIA by organising their activities, methodological and logistical support to implement public policy on road safety and operation

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ЗАСАДИ АДМІНІСТРАТИВНОЇ ПРАВОСУБ'ЄКТНОСТІ ГОЛОВНОГО СЕРВІСНОГО ЦЕНТРУ МВС

Анотація. Мета. Метою статті є визначення засад адміністративної правосуб'єктності Головного сервісного центру МВС. **Результати.** Загальна характеристика адміністративної правосуб'єктності Головного сервісного центру МВС визначає поставлені перед ним завдання, загальну компетенцію, функції та покладені на такий орган повноваження, метою яких є забезпечення належної реалізації функцій держави в певній визначеній сфері суспільних відносин. В умовах євроінтеграційних процесів усе частіше науковці звертаються до європейських стандартів державного управління. Звичайно, окремого акту чи документу не існує, є тільки вимоги суспільства і є реакція держав та ЄС як євроінтеграційного об'єднання на запити своїх громадян. З'ясовано, що Головний сервісний центр МВС, який було створено на підставі Положення про Головний сервісний центр МВС і визнаний цим положенням як юридична особа публічного права, котра є міжрегіональним територіальним органом з надання сервісних послуг Міністерства внутрішніх справ України, має всі риси такого суб'єкта та установи, оскільки слугує найбільш повній реалізації публічно-правових інтересів громадян. Звичайно, визначення Головного сервісного центру як установи є умовним, зробленим з метою акценту на його роль і спрямованість на виконання однієї з функцій держави впорядкування суспільних відносин в окремій сфері – сфері експлуатації автомобільного транспорту. **Висновки.** Зроблено висновок, що Головний сервісний центр МВС та його посадова особа (начальник) під час здійснення ними публічних владних управлінських функцій на підставі повноважень, визначених Положенням про Головний сервісний центр, реалізовує покладені на нього МВС функції: публічно-сервісні (спрямовані на забезпечення надання сервісних послуг територіальними сервісними центрами МВС шляхом організації їх діяльності, методичного та матеріально-технічного забезпечення, спрямованої на здійснення державної політики у сфері забезпечення безпеки дорожнього руху та експлуатації автомобільного транспорту) та управлінські владно-розпорядчі функції, які необхідні для забезпечення публічно-сервісної діяльності системи сервісних центрів МВС України.

Ключові слова: правосуб'єктність, сервісні послуги, координація, територіальні сервісні центри, публічно-сервісна діяльність.

The article was submitted 17.10.2023

The article was revised 08.11.2023

The article was accepted 28.11.2023