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DOI <https://doi.org/10.32849/2663-5313/2023.6.13>**Oleksandr Shaparenko,***Postgraduate Student at the Department of Police Law, National Academy of Internal Affairs, 1, Solomianska square, Kyiv, Ukraine, postal code 03035, oleksandrshaparenko@ukr.net***ORCID:** orcid.org/0000-0002-0156-5385Shaparenko, Oleksandr (2023). Judicial assistant's powers in organisational support for court proceedings. *Entrepreneurship, Economy and Law*, 6, 74–77, doi <https://doi.org/10.32849/2663-5313/2023.6.13>

JUDICIAL ASSISTANT'S POWERS IN ORGANISATIONAL SUPPORT FOR COURT PROCEEDINGS

Abstract. Purpose. The purpose of the article is to provide a theoretical and legal description of the judicial assistant's powers with regard to the organisational support of court proceedings. **Results.** The institution of a judicial assistant of a court of any level is aimed at regulating certain organisational issues related to the support for court proceedings. This, in our opinion, is crucial, among other things, in terms of effective, full and fair court proceedings, since the final result - bringing a person to justice or not, or the further outcome of a legal dispute in favour of a particular person - depends on the level of support for the relevant processes. The article studies a judicial assistant's powers with regard to organisational support for court proceedings. The role and place of a judicial assistant in ensuring the functioning of the court apparatus are determined, and the perspective on what constitutes organisational support and what forms of it are provided for by Ukrainian legislation and which forms arise, in the aggregate, from several legal regulations is substantiated. Powers as a theoretical and legal category have been considered by many researchers, but only a few, in our opinion, have properly substantiated their positions and synchronised the relevant concept with the legislation of Ukraine. The author argues that the content and essence of the legal category of powers creates legal grounds for determining the scope of competence of such person (official or competence of a separate body), and also enables clear performance of tasks and duties. **Conclusions.** It is proved that organisational support of the court process is a set of elements aimed at creating an environment favourable for the administration of justice by a judge of the relevant court and at enabling the exercise of such power in general. The areas of ensuring the organisation of court proceedings by a judicial assistant are: organisational- managerial and analytical. In addition, the author proves that the powers of a judicial assistant with regard to organisational support for court proceedings are formed from a set of rights of the assistant as an official of the relevant court, duties, as well as a set of elements of the administrative and legal status of the court itself as an institution, the tasks of its functioning and activities from the national and local perspectives. Further research is prospective in terms of the need for an additional analysis of the duties, rights and other elements of the administrative and legal status of a judge's assistant as the main entity which organisationally ensures court proceedings.

Key words: assistant, support, responsibility, court, activities, powers.

1. Introduction

At the present stage of formation of the institution of rights and freedoms of man and of the citizen, the functioning of mechanisms and state institutions that ensure law and order and protection of human rights and freedoms should be the focus of special attention. In addition, it should be noted that the court is the most important in this context, as the functional and structural embodiment of the judicial branch of power in the overall system of state authorities.

It is also important that at the current stage of transformation of the law enforcement and human rights system, ensuring the obser-

vance of rights and freedoms of man and the citizen and the restoration of violated rights, requires significant improvement both from the regulatory and legal perspective and from the organisational and managerial perspective. The institutions that ensure its functioning as a public authority and facilitate the administration of justice in the general sense are important in the work of the court.

As of today, it should be noted that the issues related to the functioning of the institution of judicial assistants and their powers in the context of ensuring the conduct of court hearings require improvement and new scientific research, since the large-scale Russian invasion makes significant destructive adjustments to the legal reality of society.

In addition, it should be noted that the issue of analysing the administrative and legal status of a judicial assistant and his/her powers to organise a court session was addressed in the works of scholars such as: I.B. Azemsha, Y.P. Bytiak, V.V. Zui, O.D. Hryn, A.A. Ivanyshchuk, E.Y. Podorozhnyi, O.M. Radchenko, N.P. Svyrydiuk, T.O. Chepulchenko, and others. However, given the current trends in reforming the law enforcement and human rights sector, as well as the large-scale Russian invasion of Ukraine, it is important to develop new ways to improve the relevant mechanism in the current realities.

The purpose of the article is to provide a theoretical and legal description of the judicial assistant's powers with regard to the organisational support of court proceedings. This, in turn, necessitates solving the following research tasks: 1. Characterize the powers of a judicial assistant as a general theoretical and legal category; 2. Substantiate the role and place of powers in the system of administrative and legal status of a judicial assistant; 3. Outline the main areas for improving the functioning of the mechanism for judicial assistant's powers.

The object of the article is public relations in the field of organisation of effective administration of justice.

The subject matter of the study is the powers of a judicial assistant in terms of organisational support for court proceedings.

2. Powers as a theoretical and legal category

The institution of a judicial assistant of a court of any level is aimed at regulating certain organisational issues related to the support for court proceedings. This, in our opinion, is crucial, among other things, in terms of effective, full and fair court proceedings, since the final result - bringing a person to justice or not, or the further outcome of a legal dispute in favour of a particular person - depends on the level of support for the relevant processes.

According to O. Radchenko, the position of a judicial assistant was introduced in general courts of Ukraine in accordance with the Law of Ukraine "On the Judiciary of Ukraine" (Radchenko, 2014). The scholar emphasises that the need to introduce this institution in Ukrainian courts is a result of the so-called "small judicial reform" of 2001, which led to a significant increase in the workload of courts in general and judges in particular. The main purpose of introducing the position of judicial assistant in Ukrainian courts was to relieve judges from performing routine technical work during the preparation and consideration of court cases (On the judicial system of Ukraine: Law of Ukraine, 2002). However, in our opinion,

it is possible to conceptually define the role and place of a judicial assistant in any court proceedings only through the prism of understanding his/her powers, which are actually a separate element of the relevant legal status.

Powers as a theoretical and legal category have been considered by many researchers, but only a few, in our opinion, have properly substantiated their positions and synchronised the relevant concept with the legislation of Ukraine.

Powers are an element of competence and are related to the subject matter, as they determine the extent of possible and necessary behaviour of competence subjects in certain areas of public life within their jurisdiction (Bytiak and Zui, 1996). In other words, the powers of a judicial assistant, including those related to the organisational support for court proceedings, consist of rights and duties that are clearly defined by Ukrainian legislation, including the Law of Ukraine "On the Judiciary and the Status of Judges", as well as other documents more focused on the legal status of a judicial assistant.

3. Legal and regulatory framework for the powers of a judicial assistant

For example, the Law of Ukraine "On Civil Service" defines civil service in Ukraine as the professional activities of persons holding positions in state bodies and their apparatus in the practical performance of tasks and functions of the state and receiving salaries from state funds (Law of Ukraine On Civil Service, 2015). Accordingly, given that the judicial assistant is a civil servant, the scope of his/her competence and the content of his/her powers are filled with the provisions of the relevant law and legal status in general.

According to the Regulations on judicial assistants (approved by Decision No. 21 of the Council of Judges of Ukraine on 18 May 2018), a category such as powers of judicial assistants is not regulated at all, although in our opinion the content and essence of the concept of "powers" is clearly reflected in the provisions of Section III "Tasks, Rights and Duties of a Judicial Assistant". For example, this section states, among other things, that a judicial assistant: selects legal regulations and materials of judicial practice necessary for consideration of a particular court case; participates in preliminary preparation of court cases for consideration, in the processing of court cases, and, on behalf of the judge, prepares draft court decisions, inquiries, letters, and other materials related to the consideration of a particular case; prepares copies of court decisions to be sent to the parties to the case and other participants in the case in accordance with the requirements of procedural law, controls the timeliness of sending copies

of court decisions; prepares draft court orders for the execution of certain procedural actions by courts of other states, for serving court documents in civil, commercial, administrative, criminal cases, for extradition of offenders to the territory of Ukraine; performs other orders of the judge regarding the organisation of court proceedings (Decision of the Council of Judges of Ukraine on the approval of the Regulations on Assistant Judges, 2018). The above clearly demonstrates that almost all of the defined tasks of a judge are correlated with ensuring the organisation of court hearings, preventing violations of the rights and freedoms of participants in the trial, including through non-compliance with basic procedural rules.

In addition, these Regulations stipulate that a judicial assistant shall timely and efficiently execute the assignments given to him/her, comply with the deadlines for preparing documents and executing assignments, constantly improve his/her professional level and qualifications, take care of the court property, and prevent violations of the rights and freedoms of man and the citizen in the performance of his/her duties (Decision of the Council of Judges of Ukraine on the approval of the Regulations on Assistant Judges, 2018).

In our opinion, the above clearly demonstrates that both the tasks and the rights and duties of a judge assistant, as defined by the legislation of Ukraine, clearly formulate the competence of the relevant official and construct all elements of the relevant legal status in a manner that maximises the influence of the judicial assistant on the organisation of court proceedings. Furthermore, the provisions of the Law of Ukraine "On Civil Service" require a separate study to analyse the rights and duties defined for civil servants and to establish the relationship between them and those already mentioned in this paper.

On behalf of the judge, the judicial assistant: may exercise the powers of the court registrar in his/her absence if it is impossible to replace him/her with another registrar; coordinates the work of the court registrar and provides him/her with methodological and practical assistance, including ensuring the recording of the court proceedings by technical means; checks the timeliness of court records in cases under the judge's jurisdiction; controls the timely submission of court cases heard under the judge's chairmanship to the court office and/or the court archive by the court registrar; prepares and documents statistical data; summarises court practice, generalises the number and status of court cases of all categories considered by a judge; analyses cancelled and amended decisions of a judge after review of cases by courts of appeal and cassation (Decision of the Council

of Judges of Ukraine on the approval of the Regulations on Assistant Judges, 2018).

4. Conclusions.

In the article, a judicial assistant's powers with regard to organisational support for court proceedings are studied. The role and place of a judicial assistant in ensuring the functioning of the court apparatus are determined, and the perspective on what constitutes organisational support and what forms of it are provided for by Ukrainian legislation and which forms arise, in the aggregate, from several legal regulations is substantiated.

The author proves that the content and essence of the legal category of powers creates legal grounds for determining the scope of competence of such person (official or competence of a separate body), and also enables clear performance of tasks and duties.

It is proved that organisational support of the court process is a set of elements aimed at creating an environment favourable for the administration of justice by a judge of the relevant court and at enabling the exercise of such power in general. The areas of ensuring the organisation of court proceedings by a judicial assistant are: organisational- managerial and analytical.

In addition, the author proves that the powers of a judicial assistant with regard to organisational support for court proceedings are formed from a set of rights of the assistant as an official of the relevant court, duties, as well as a set of elements of the administrative and legal status of the court itself as an institution, the tasks of its functioning and activities from the national and local perspectives.

Further research is prospective in terms of the need for an additional analysis of the duties, rights and other elements of the administrative and legal status of a judge's assistant as the main entity which organisationally ensures court proceedings.

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ПОВНОВАЖЕННЯ ПОМІЧНИКА СУДДІ ЩОДО ОРГАНІЗАЦІЙНОГО ЗАБЕЗПЕЧЕННЯ СУДОВОГО ПРОЦЕСУ

Анотація. *Метою* статті є теоретико-правова характеристика повноважень помічника судді щодо організаційного забезпечення судового процесу. **Результати.** Інститут помічника судді, суду будь-якого рівня має на меті врегулювання окремих організаційних питань, пов'язаних і забезпеченням судового процесу. Це, на нашу думку є визначальним, серед іншого й у питанні ефективного, повноцінного та справедливого судочинства, оскільки від рівня забезпеченості відповідних процесів, залежить кінцевий результат – притягнення чи не притягнення особи до відповідальності чи подальша доля певного юридичного спору на користь тієї чи іншої особи. У статті досліджено повноваження помічника судді щодо організаційного забезпечення судового процесу. Встановлено роль і місце помічника судді в забезпеченні функціонування апарату суду, обґрунтовано позицію про те, що є організаційним забезпеченням і які його форми передбачаються законодавством України, а які витікають, за сукупністю з декількох нормативно-правових актів. Повноваження, як теоретико-правова категорія розглядалися багатьма дослідниками, проте лише деякі, на нашу думку належним чином обґрунтували власні позиції та синхронізували відповідне уявлення із законодавством України. Автор обґрунтовує позицію про те, що зміст і сутність правової категорії повноважень створює юридичні підстави визначення кола компетенції такої особи (посадової особи чи компетенції окремого органу), а також уможливорює чітке виконання поставлених завдань й обов'язків. **Висновки.** Доведено, що організаційне забезпечення судового процесу є комплексом елементів, спрямованих на створення сприятливих умов здійснення правосуддя суддею відповідного суду та уможливлення реалізації такого повноваження загалом. Напрямами забезпечення організації судового процесу з боку помічника судді є: організаційно-управлінський та аналітичний. Додатково обґрунтовано позицію про те, що повноваження помічника судді щодо організаційного забезпечення судового процесу формуються з комплексу прав помічника, як посадової особи відповідного суду, обов'язків, а також комплексу елементів адміністративно-правового статусу самого суду як інституції, завдань його функціонування та діяльності в загальнодержавному та локальному розумінні. Перспектива подальшого дослідження полягає в необхідності додаткового аналізу обов'язків, прав й інших елементів адміністративно-правового статусу помічника судді, як основного суб'єкта, що організаційно забезпечує судовий процес.

Ключові слова: помічник, забезпечення, відповідальність, суд, діяльність, повноваження.

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