

REFERENCES

1. *Samilik, L.O., Rosmaita, V.V.*, 2017, “Implementation of the Institution of Private Executives in Ukraine: Positive and Negative Aspects”, *Law and Society* 2, P. 2, 72–77.
2. *Goncharenko, Y.*, “The Advantages and Disadvantages of Implementing the Institution of Private Executors in Ukraine”, *Legal Newspaper* 16, 14–15.
3. *Saiko, L.Y., Liashenko, V.V.*, 2015, “Legal Aspects of Implementation of the Institution of Legal Entities in Ukraine”, *Young Scientist* 5 P. 3, 75–77.
4. *Gapon, Y.*, “Private Executors: Myths and Reality”. Url: http://uz.ligazakon.ua/ru/magazine_article/EA009780 (application date 12.03.2018).
5. About the Bodies and Persons Carrying out the Enforcement of Court Decisions and Decisions of Other Bodies: Bill of Ukraine No 1403-VIII dated 02.06.2016, *Bulletin of the Supreme Soviet*, 2016, No 30, Art. 542.
6. Special requirements to the level of professional competence of state executives and heads of bodies of the State Executive Service, Special requirements to persons who claim to occupy posts of state executors of territorial bodies of the State Executive Service, Special requirements for persons who are applying for the positions of public executives of decisions of the Department of State Bailiffs Service of the Ministry of Justice of Ukraine : Order of the Ministry of Justice of Ukraine dated October 21, 2016 No 3005/5. Url: <http://zakon3.rada.gov.ua/laws/show/z1444-16/paran4#n4> (application date 13.03.2018).
7. European and International Standards in the Field of Justice. Url: https://vkksu.gov.ua/userfiles/doc/perelik-dokumentiv/EU_Standarts_book_web-1.pdf (application date 12.03.2018).
8. *Bakhrushin, V.*, 2016, “What Can be Considered Legal Education?” Url: <http://education-ua.org/ua/articles/897-shcho-mozhna-vvazhati-vishchoyu-yuridichnoyu-osvitoyu> (application date 14.03.2018).
9. “About the Civil Service”: Bill of Ukraine dated December 10, 2015 No 889-VIII, *Bulletin of the Supreme Soviet* 4, Art. 43.
10. Regulations on the Qualification Commission of Private Artists: Order of the Ministry of Justice of Ukraine dated Nov 27, 2013 No 3792/5. Url: <http://zakon5.rada.gov.ua/laws/show/z1443-17> (application date 12.03.2018).
11. Lawyers Asked the Ministry of Justice about the Reasons of the Failure of the Latest Exams of Private Executives. Url: <http://bankruptcy-ua.com/news/7728>.
12. Results of Qualifying Examination of Persons Who Have Declared an Intention to Obtain the Right to Carry out Activities of a Private Executive. Url: <https://minute.gov.ua/news/ministry/rezultati-kvalifikatsynogo-ispitu-osib-yaki-viyavili-namir-otrimati-pravo-na-zdiysnennya-diyalnosti-privatnogo-vikonavtsya-24733> (application date 13.03.2018).
13. Bankers Propose to Create the Register of Incapacitated Persons. Url: <http://zib.com.ua/ua/113373-bankiri-proponuyut-stvoriti-reestr-nediezdatnih-osib.html> (application date 14.03.2018).
14. “About the Unified State Demographic Registry and Documents Confirming the Citizenship of Ukraine, Certifying the Person or his Special Status”: Bill of Ukraine dated November 20, 2002 No 5492-VI, *Bulletin of the Supreme Soviet*, 2013, No 51, Art. 716.
15. The Criminal Code of Ukraine: Bill of Ukraine dated April 5, 2001 No 2341-III, *Bulletin of the Supreme Soviet of Ukraine*, 2001, No 25–26, Art. 131.

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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, requirements.

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