

***Muzychuk Oleksandr M. –***

*doctor of juridical sciences,  
professor, head of the Faculty for Training Investigators of  
Kharkiv National University of Internal Affairs  
(27 prosp. 50-richya SRSR, Kharkiv, Ukraine)*

## **Content and Features of Economic Activity as an Object of Administrative and Legal Regulation**

*Development of Ukraine as an independent, sovereign, democratic and legal state is provided by the widespread implementation of the market economy in our country as a guarantee of building highly developed country. This factor contributes to the development of various types and forms of economic activity and, therefore, the implementation of new areas of the state policy, including legislative one, which should provide a regulatory settlement of business entities' activity, control over keeping the current legislation by them, as well as revealing and suppression of any violations of the current legislation in the studied area.*

*The objective of this article is to determine the content and features of economic activity as the object of administrative and legal regulation. To achieve this objective, the author believes, that it is necessary: to define the concept of economic activity; to analyze its main features; to study the features of legal regulation of economic activity; to determine the features of this activity as an object of administrative and legal regulation.*

*It is concluded that the economic activity in Ukraine is regulated not only by the norms of commercial law. Nowadays, there are many legal acts in various branches of law in our country that may affect this type of activity. Special place among them occupy norms of administrative law that define the legal basis of economic entities' activity in relations with public authorities or their officials, reinforce the strategic directions of the production sector development and solve a number of other issues related to executive and administrative activities of the state.*

**Keywords:** *economic activity, legal act, regulation, legal regulation of economic activity, administrative law.*

Development of Ukraine as an independent, sovereign, democratic and legal state is provided by the widespread implementation of the market economy in our country as a guarantee of building highly developed country. This factor contributes to the development of various types and forms of economic activity and, therefore, the implementation of new areas of the state policy, including legislative one, which should provide a regulatory settlement of business entities' activity, control over keeping the current legislation by them, as well as revealing and suppression of any violations of the current legislation in the studied area.

The issues of legal regulation of economic activity were the interest of such famous scholars as: V.B. Averianov, O.F. Andreiko, Yu.P. Bitiak, O.P. Hetmanets, I.P. Holosnichenko, R.A. Kaliuzhnyi, S.V. Kivalov, T.N. Kravtsova, E.B. Kubko, A.N. Kulish, B.M. Lazarev, K.B. Levchenko, N.H. Nizhnik, V.P. Petkov, A.V. Selivanov, Yu.N. Starilov, S.S. Studenikin, Yu.A. Tikhomirov, N.M. Tishchenko, Yu.M. Todyka, V.M. Shapoval, Yu.S. Shemshuchenko and others. However, the problems of administrative and legal regulation of economic activity in these studies are not enough covered.

The objective of this article is to determine the content and features of economic activity as the object of administrative and legal regulation. To achieve this objective it is necessary: to define the concept of economic activity; to analyze its main features; to study the features of legal regulation of economic activity; to determine the features of this activity as an object of administrative and legal regulation.

Nowadays, economic activity is regulated by the norms of not only economic law, but also by administrative, environmental, agricultural, land and other laws. This is due to its diversity and multiplicity of legal relations that arise in its implementation.

Before considering the peculiarities of economic activity as the object of administrative law, it is necessary to determine its content and features. The Art. 3 of the Economic Code of Ukraine defines it as the activity of business entities in the field of social production, aimed at the production and sale of goods, works or services of the value nature with price certainty [1]. The Art. 1 of the Law of Ukraine "On Foreign Economic Activity" indicates that economic activity is any activity, including entrepreneurial, associated with the production and

exchange of tangible and intangible benefits, which are in the form of goods [2]. Having analyzed these two definitions we can see that they do not cover all the features of economic activity. More detailed it is treated in the scientific literature. For example, some scientists determine economic activity as a socially useful activity of business entities on the systematic production of products, fulfilling works or provision of services in order to implement them for a fee (as goods) [3]. This definition is not entirely true and is more suited to characterize entrepreneurial activity, rather than economic activity, because it enshrines its purpose as the sale of goods for a fee, which is typical for the latter. S.I. Yershova believes that economic activity is an activity in the sphere of public, mainly material production on organization of the property use for manufacturing and sale of goods, fulfilling works or providing services as goods, is carried out systematically, on a professional basis, where private and public interests are organically combined [4. 120]. Several features come out from this definition, which are not regulated, but they are important for the characterization of economic activity, particularly in terms of its administrative and legal regulation. These features are systematic character, its implementation on a professional basis and the combination of public and private interests in it.

R.V. Hrihorovich, studying the content of economic activity has defined the following its main features:

- a special subjective structure (economic activity is implemented by business entities);
- special sphere of implementing economic activity (the sphere of social production);
- the content of economic activity (production and sale of products, works and services. All this is done not for the personal needs of the manufacturer, but to meet the needs of others - customers in a broad sense);
- cost nature of the results of economic activity that have price definition (sold for a fee, functioning as goods);
- professional principles of economic activity;
- combination of private interests of a manufacturer and public interests (state, public, etc.) [5].

Having analyzed this point of view we may note that the author has not considered some important features, which are character for the economic activity as a form of social activity. First of all, this feature is

mandatory compliance with the current legislation, as well as the presence of the authorized by the state subjects of regulation.

According to other scholars' points of view the features of economic activity are:

- sphere of implementation – social production (economic sphere);
  - content – production and sale of products, works and services is not for personal needs of a manufacturer, but to meet the needs of others – customers in a broad sense (citizens as final customers, business entities and various organizations that use these benefits to meet their business or other needs);
  - transfer of the benefits to others on a fee basis, i.e., their functioning in the form of goods;
  - professional principles of economic activity;
  - special subject, which should normally have the status of a business entity;
  - combination of private interests of a manufacturer (in getting profits or other benefits (advantages) from economic activity) and public interest (society in the form of a wide range of customers – in getting certain benefits; the state – in getting profit and other obligatory payments from business entities; territorial community – (1) in providing employment of the community members by involving them by the principles of individual businesses or hiring by business entities into the economic activity, (2) to meet the needs of the society according to the specific products, services, (3) participation of the entities in solving the problems of territorial community in the sphere of beautification, (4) in the payment of local taxes and fees, etc.) [6]. This list also does not include such an important feature of economic activity, as the presence of a regulatory entity in the form of public authorities and their officials. Furthermore the author does not take into account the fact that such an activity is carried out systematically.
- Thus, summarizing all of the above stated, we can define the following features of economic activity. They are:
- activity of economic entities;
  - implemented in the field of social production;
  - realized in accordance with the norms of the current law;
  - aimed at achieving results (manufacture and sale of products, works or services) that have terms of value, finds expression in the relevant price;
  - systematic character;

- carried out in a professional manner;
- combination of public and private interests;
- presence of regulatory impact by the competent public authorities.

Considering these features of economic activity, we can conclude that it is a systematic activity of economic entities in the field of social production, carried out in accordance with the norms of the current law and in a professional manner, aiming at obtaining results having value or price terms.

Economic activity is regulated by regulations at all levels starting from the Constitution of Ukraine up to subordinate legal acts. Fundamental importance for the settlement of this type of social relations has the Economic Code of Ukraine, which is aimed at providing the growth of business activity of the business entities, development of enterprise [1]. However, it should be noted that the point of view that the economic legal relations are regulated exclusively by economic and legal norms is not quite true. Thus, some issues in the studied field are solved by the rules of other branches of law (administrative, environmental, agricultural, land, etc.). Each of these areas of law regulates economic relations on the issues that affect not only the process of production, but also other kinds of social relations, which are regulated by other branches of law. For example, when subjects enter into relations with public authorities the relationships arising between them are regulated not only by economic legislation, but also by administrative one. The same is applied to all procedures implemented by the business entities within public authorities (registration, licensing, etc.).

Relationship of economic activity with administrative and legal regulations can be traced through the definition of administrative law, under which we used to understand a set of legal norms aimed at regulating social relations that arise in the field of executive and administrative activities of the executive authorities, the internal organization activity of other public authorities, enterprises, institutions, organizations, management activity of local government in the process of fulfilling delegated powers of the executive authorities by NGOs, the application of administrative measures and bringing to administrative liability, as well as the implementation of the administrative judiciary [7, p. 28].

Economic activity is the subject of administrative and legal regulation in connection with the fact that under the current legislation specially authorized state authorities are responsible for carrying out state regulation of some production processes. Certain types of such activities can be started only with the permission of competent authorized subject. Besides, for committing illegal acts in the economic activity sphere, the guilty subjects can be brought to administrative liability.

Thus, we can define the features of economic activity as the object of administrative and legal regulation:

1) state regulation through specifically authorized public authorities or their officials can be carried out in respect to economic activities. Such a regulatory policy can be realized in the following ways: defining the strategic directions of the economy development and their consolidation in the appropriate state programs, establishment of state orders for certain products, the definition of regulatory requirements to the quality of the production, issue of legal documents and licenses for certain types of economic activity;

2) presence of state support for entrepreneurship, is manifested in the establishment of incentives or other measures that will encourage the development of any production sphere;

3) control by the public authorities over the compliance of the requirements of the current legislation by business entities;

4) legislative consolidation of the bases and the procedure of administrative liability of business entities for committing an offence while realizing the studied activity.

Summarizing, we can conclude that the economic activity in Ukraine is regulated not only by the norms of commercial law. Nowadays, there are many legal acts in various branches of law in our country that may affect this type of activity. Special place among them occupy norms of administrative law that define the legal basis of economic entities' activity in relations with public authorities or their officials, reinforce the strategic directions of the production sector development and solve a number of other issues related to executive and administrative activities of the state.

### References

1. Economic Code of Ukraine : Code of Ukraine, Law, Code dated January 16, 2003 No. 436-IV // Vidomosti Verkhovnoi Rady Ukrainy (the Official Bulletin of the Verkhovna Rada of Ukraine). – 2003. – No. 18, No. 19-20, No. 21-22. – Art.144.
2. On Foreign Economic Activity : the Law of Ukraine dated April 16, 1991 No. 959-XII // Vidomosti Verkhovnoi Rady URSR (the Official Bulletin of the Verkhovna Rada of the Ukrainian Soviet Socialist Republic). – 1991. – No. 29. – Art. 377.
3. Vasilieva T. S. Economic Activity as an Object of Administrative and Legal Regime / T. S. Vasilieva // Forum Prava (Law Forum). – 2011. – No. 1. – [Online resource]. – Access : <http://archive.nbuv.gov.ua/e-journals/FP/2011-1/11vtcapr.pdf>.
4. Yershova S. I. The Definition of Economic Activity, its Features / S. I. Yershova // the State and Regions. Series Law. – 2012. – No. 2. – P. 118-123.
5. Hrihorovych R. V. Concept and Types of Economic Activities Associated with Water Use / R. V. Hrihorovych // SME (Law, Government, Economics). – 2011. – No. 3-4. [Online resource]. – Access : [http://archive.nbuv.gov.ua/portal/soc\\_gum/misb/2011\\_3-4/Grygorovych.pdf](http://archive.nbuv.gov.ua/portal/soc_gum/misb/2011_3-4/Grygorovych.pdf).
6. Vinnyk O. M. Business Law : lectures [Online resource] / O. M. Vinnyk. – K. : Atika, 2004. – 624 p. – Access : <http://textbooks.net.ua/content/view/1756/25/>.
7. Mosondz S. O. Administrative Law of Ukraine in Definitions and Diagrams : manual / S. O. Mosondz. – K. : Pretsident, 2006. – 176 p.