

THE CONCEPT AND CONTENT OF PUBLIC ADMINISTRATION PROCEDURES IN THE FIELD OF INTELLECTUAL PROPERTY IN THE COUNTRIES OF THE EUROPEAN UNION

Pavlo V. Makushev, Doctor of Law, Professor, Professor of the Department of Theory and History of State and Law, University of Customs and Finance (Ukraine)

E-mail: mpv12@i.ua

Andriy V. Khridochkin, Doctor of Law, Associate Professor, Professor of Entrepreneurship, Production Organization and Theoretical and Applied Economics, Ukrainian State University of Chemical Technology (Ukraine)

E-mail: khridochkina@ukr.net

DOI: 10.32342/2709-6408-2021-1-2-15

Key words: *European Union, intellectual property, WTO, intellectual property, intellectual property law, procedure, public administration, TRIPS.*

The article considers the features of public administration in the field of intellectual property and the conceptual basis for the formation of its procedures in the European Union. The conceptual bases of formation and development of procedures of public administration in the field of intellectual property in the countries of the European Union are opened. The pluralism of approaches to the definition of public administration procedures in the field of intellectual property in the countries of the European Union is analyzed. The normative-legal base of procedures of public administration in the field of intellectual property in the countries of the European Union is given. The acts of the Court of Justice of the European Communities on public administration in the field of intellectual property are analyzed. It is proved that the formation of European private law is due to the purpose of creating and functioning of a common market. It is established that in the national legal systems of European countries the regulation of public relations in the field of intellectual property is given considerable attention. The process of improving the procedures of public administration in the field of intellectual property in the European Union is analyzed and the legal framework of this process is given.

A feature of European Union law is to strengthen the protection of intellectual property rights through two main mechanisms: harmonization of legislation of member states of the European Union and the introduction of European Union protection documents for various intellectual property. Thus, other partner countries of the European Union, in addition to measures to approximate legislation, may decide on the signing of agreements on entry into the regional European system of protection of certain intellectual property. The member states of the European Union pursue a coherent policy in the field of legal protection and use of intellectual property. Guided by the principle of free movement of goods and services, they focus their efforts primarily on the unification and harmonization of legislation in the field of intellectual property and prevention of the use of intellectual property rights in unfair competition. Within the European Union, a system of direct regulation of the processes of unification and harmonization of legislation in the field of intellectual property, which is especially characteristic of the field of copyright and related rights. The Court of Justice of the European Communities plays a significant role in the unification and harmonization of the legal regulation of relations in the field of intellectual property. In the absence of appropriate harmonization of national legislation in the field of intellectual property with the principles of free movement of goods and services, as well as freedom of competition, proclaimed by the European Union, the importance of the case law of the European Court of Justice is difficult to overestimate. The beginning of unification and harmonization activities in the field of intellectual property protection is preceded by a stage of case law enforcement practice, which allows to identify existing gaps in legal regulation and solve relevant problems. At present, it is a question of the existence of a special system of intellectual property rights of the European Union, formed in its general features, built on principles different from the traditional national ones, with a special subject of regulation. At the same time, this system is a new legal phenomenon that is developing quite dynamically and rapidly along with national and international legal systems. The legal regulation of intellectual property relations in the European Union aims to ensure a high level of protection of these rights, as they are the legal basis for the protection of the results of creative activity.

The conclusion about the urgency of research of problems of public administration in the field of intellectual property in the countries of the European Union is made.

References

1. Dakhno, I.I., Aliieva-Baranovska V.M. (2017). *Pravo Yevropeiskoho Soiuzu* [European Union Law]. Kyiv, Center for Educational Literature Publ., 413 p.
2. Ennan, R.Ie. (2012). *Pravova okhorona intelektualnoi vlasnosti v Yevropeiskomu soiuzi: peredumovy formuvannia, suchasnyi stan, tendentsii rozvytku* [Legal protection of intellectual property in the European Union: preconditions, current state, trends of development]. Kyiv, Center for Educational Literature Publ., 120 p.

Union: prerequisites for formation, current status, development trends]. *Chasopys tsyvilistyky* [Journal of Civilization], no. 13, pp. 110-119.

3. Kovalchuk, O.O. (2014). *Pravo intelektualnoi vlasnosti na heohrafichne zaznachennia v Ukraini ta krainakh Yevropeiskoho Soiuzu* [Intellectual property rights to geographical indications in Ukraine and the European Union]. Monograph. Kyiv, Yurinkom Inter Publ., 199 p.

4. Mazurenko, C.V., Ennan, R.Ie. (2006). *Pravove rehuliuвання intelektualnoi vlasnosti v Yevropeiskomu Soiuzi* [Legal regulation of intellectual property in the European Union]. *Aktualni problemy derzhavy i prava* [Current issues of state and law], no 27, pp. 378-384.

5. Medvediev, Yu.L., Soroka H.Ie. (2014). *Pravo Yevropeiskoho Soiuzu* [Law of the European Union]. Luhansk, RVV LDUVS them. E.O. Didorenko, 287 p.

6. Mykhailiuk, H.O. (2016). *Pravo Yevropeiskoho Soiuzu z komertsiiynykh poznachennia* [European Union law on commercial designations]. Monograph, Kyiv, Research Institute of Private Law and Entrepreneurship named after acad. FG Burchak NAPRN of Ukraine, 325 p.

7. Smyrnova, K.V. (2015). *Pravove rehuliuвання konkurentsii v Yevropeiskomu Soiuzi: teoriia i praktyka* [Legal regulation of competition in the European Union: theory and practice]. Monograph, Odessa, Phoenix Publ., 429 p.

8. Soroka, N.Ie. (2016). *Mizhnarodno-pravovyi zakhyst avtorskoho prava v ramkakh Yevropeiskoho Soiuzu* avtoref. Diss. kand. yuryd. nauk [International legal protection of copyright within the European Union. Author. Cand. Diss.]. Kyiv, 20 p.

9. Stadnyk, O.I. (2016). *Realizatsiia Uhody pro asotsiatsiiu mizh Ukrainoiu ta Yevropeiskym Soiuzom u sferi intelektualnoi vlasnosti* [Implementation of the Association Agreement between Ukraine and the European Union in the field of intellectual property]. *Molodyi vchenyi* [A young scientist], no. 3, pp. 206-211.

10. Kapitsa, Yu.M. (2020). *Pravo intelektualnoi vlasnosti Yevropeiskoho Soiuzu: formuvannia, instytuty, napriamy rozvytku* [Intellectual property law of the European Union: formation, institutions, directions of development]. Kyiv, Akadempriodika Publ., 664 p.

11. Zavhorodnia, V.M. (2015). *Poniattia yevropeiskoho ta administratyvnoho prostoru ta kontseptualizatsiia yoho standartiv u pervynnomu pravi Yevropeiskoho Soiuzu* [The concept of European and administrative space and the conceptualization of its standards in the primary law of the European Union]. *Pravovyi visnyk Ukrainiskoi akademii bankivskoi spravy* [Legal Bulletin of the Ukrainian Academy of Banking], no.1, pp. 91-95.

12. Anakina, M., Komarova, T.V., Trahniuk, O.Ia., Yakoviuk, I.V. (2020). *Pravo Yevropeiskoho soiuzu (v pytanniakh i vidpovidiakh)* [The law of the European Union (in questions and answers)]. Kharkiv, Pravo Publ., 174 p.

13. Anakina, T.M., Komarova, T.V., Trahniuk, O.Ia., Yakoviuk I.V. (2019). *Pravo Yevropeiskoho Soiuzu: osnovy teorii* [European Union Law: Fundamentals of Theory]. Kharkiv, Pravo Publ., 360 p.

14. Petrov, R.A. (2019). *Pravo Yevropeiskoho Soiuzu* [The Law of the European Union]. Kharkiv, Pravo Publ., 442 p.

15. Kadietova, O.V. (2019). *Uhoda pro asotsiatsiiu Ukrainy z Yevropeiskym Soiuzom v systemi dzherel prava intelektualnoi vlasnosti* [Agreement on the Association of Ukraine with the European Union in the system of sources of intellectual property law]. Monograph. Kyiv, Yurynkom Inter Publ., 648 p.

16. Ovechkina, O.S. (2017). *Harmonizatsiia natsionalnoho zakonodavstva iz pravom Yevropeiskoho Soiuzu u sferi intelektualnoi vlasnosti* [Harmonization of national legislation with the law of the European Union in the field of intellectual property]. *Pravo.ua* [Pravo.ua], no. 2, pp. 35-41.

17. Bratsuk, I.Z. (2016). *Teoretyko-pravovi zasady implementatsii prava Yevropeiskoho Soiuzu v natsionalne pravo derzhav-chleniv* [Theoretical and legal principles of implementation of European Union law in the national law of member states]. Monograph. Lviv, LNU named after Ivan Franko Publ., 229 p.

Одержано 24.01.2021.