



## PROCEDURE OF DELIVERY: LEGAL FRAMEWORK

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### SUMMARY

This paper analyzes the procedure of delivery, namely legal framework. Among the grounds for bringing appropriate differentiated detection in individuals with signs of forgery of documents or documents which it has illegally. In order to establish a person suspected of an offense, the authorized person shall have the right to inspect public documents certifying their identity and other documents necessary to clarify the question of the observance of rules, supervision and control over the implementation of responsible, in particular, the police.

**Key words:** delivery, detention, drive, administrative coercion, police, offender, citizens, administrative district.

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В статье проанализирована процедура доставки, а именно правовые основы. Среди оснований доставки целесообразно выделять выявление у лица документов с признаками подделки или документов, которыми оно обладает неправомерно. С целью установления лица, подозреваемого в совершении правонарушения, уполномоченные лица имеют право проверять у граждан документы, удостоверяющие их личность, а также другие документы, необходимые для выяснения вопроса о соблюдении правил, надзор и контроль за исполнением которых возложен, в частности, на милицию.

**Ключевые слова:** доставление, задержание, привод, административное принуждение, милиция, нарушитель, гражданин, административный участок.

*Resolution of the problem. Administrativists include bringing the offender to the police measures of proceedings in cases of administrative offenses, which are ancillary measures. Their use provides the conditions for bringing offenders (in some cases criminal). In the etymological sense of the term «delivery» is accepted as a means of treat at the destination.*

*Of course, there are some difficulties in the definition of delivery as measures of administrative coercion and outlining its legal nature, because, after reviewing the interpretation of terms such as «detention» and «occasion», we see that the explanation of nature by means of and through the term «delivery». The aforesaid leads to the fact that some scientists believe that there are specific types of bringing administrative detention and in no way separate independent coercive measures. Others, however, point out that it – quite different and radically different from each event.*

*In turn, it is necessary to distinguish between bringing both phases (phase) of other coercive measures and an independent set of administrative coercion. In the first case, for example, can we talk about administrative detention, drive and so on.*

offender if his identity can not be established on the site of the offense, and in some cases – in stopping crime. Violators may be brought in (to):

- The police;
- Division of the Military Service of the Armed Forces of Ukraine;
- Authority of the State Border Service of Ukraine;
- Staff of a public building to protect public order and the state border;
- Place the district police;
- The Security Service of Ukraine;
- Building the executive body of a village, town or city council;
- Office of a militarized security.

The subject of delivery, ie the person authorized to use delivery, as the case may be:

- A police officer;
- Official Military Police in the Armed Forces of Ukraine;
- Service member or employee of the State Border Service;
- A member of a public building to protect public order and the state border;
- Security Service of Ukraine;
- Employee of the state forest protection;
- Employee Forest Guard collective farms;
- Authorized official body that carries out state supervision over the observance of the rules of hunting, fisheries authority;
- Other official body that carries out state control over protection and use of wildlife;

### Analysis of recent research and publications.

In this regard we consider plausible position Y. Pomogalov whereby administrative detention involves the process and brought before the institution of the offending person. This action is purely structural element of apprehension, the presence of which also forms a «model institution of administrative detention.» And at the same time indicates that delivery as a separate compulsory action is characterized by the measures aimed at the actual detention. But the latter is not an administrator. Therefore, in no case should not be confused actual detention and administrative detention of.

Scientists to the basic elements of delivery include:

- 1) it is a compulsory accompaniment;
- 2) apply to individuals;
- 3) the purpose of its use is the protocol on administrative violation;
- 4) is applicable only in case of failure the protocol on administrative offense site is subject to mandatory assembly.

As basic requirements and the application of such measures of administrative coercion as bringing the offender, they are enshrined in Art. 259 of the Administrative Code of Ukraine.

**The main purpose of the paper** is the protocol on administrative violation if it is impossible to make it in the act of committing an offense if the protocol is required.

**The main material of the study.** It consists in the identification of the



- Service employees territories and protected areas;
- Public Health Inspector nature;
- Public hunting inspector;
- Public inspector of fisheries;
- Public forest inspector;
- Authorized official body of cultural heritage;
- Authorized official of the administration of Historical and Cultural Reserve;
- Authorized official of the administration of historical and cultural protected area;
- Inspector of Public control of land use and protection;
- Employee militarized security.

In normative act establishes a list of persons who are not subject to either administrative detention or delivery. We remark is the fact that the list of such persons is not fixed in the Administrative Code of Ukraine, and departmental regulation. In our opinion, this situation needs legislative solution. So, for people who can not be brought and detained include:

- President of Ukraine during the exercise of their powers;
- Commissioner of the Verkhovna Rada of Ukraine on Human Rights;
- People's Deputies of Ukraine;
- Judges at all levels;
- Employees of diplomatic and consular missions and representatives of international organizations and their family members who have appropriate immunity;
- Persons who are unconscious, have life-threatening injuries, symptoms of acute internal diseases, poisoning alcohol substitutes, taken by toxic or potent substances hazardous to health infested surrounding infectious diseases, are in poor condition due to intoxication alcohol, drugs or other intoxicating substances, have lost the ability to walk or can harm others or yourself pregnant women with symptoms similar birth.

As for the timing of delivery, they are not clearly defined legislator. In particular, Art. 259 Administrative Code of Ukraine states that the offender should be brought within the shortest possible time. Being delivered to the person at the headquarters of a public building for the protection of public order, or the district boundary point

police premises of the executive body of village council can not last longer than one hour, unless otherwise noted.

In particular, the Charter states that the outfits have the right to deliver to the police citizens who have committed administrative offenses in order to prevent violations, if all other sanctions have been exhausted, and for the identification of the offender and the protocol of the Offences. In paragraph 136 of the Charter states the following reasons brought police patrol suspected of a crime:

- a) if the person was caught in the commission of a crime or immediately after its commission;
- b) when witnesses, including victims, directly identify the person as the one that committed the crime;
- c) when the person who is suspected of committing a crime or her clothes with her or her home found clear evidence of a crime.

Specific unlawful situation which can then be considered an administrative offense or crime, unlawful behavior, suspicion of an offense is basic, mandatory application of the grounds for administrative suspension. To use most of them, there are only these circumstances is not sufficient, that the law provides, along with the main reasons more and more. Among these conditions are impossible to make on-site protocol on administrative violation or identify the offender (bringing the offender, administrative detention and other measures to ensure the proceedings), the offense continued after the application form prior exposure (special arrangements suspension).

Failure to file a report on administrative offense in place of its commission may be grounds for bringing the offender. Failure to file a report could be due to misconduct of the offender or others that prevent them from performing their duties by a police officer. It may also be technical reasons (lack of space, weather conditions, etc.). Finally, a police officer who discovered the offense may not have the right to draw up their own protocol.

Failure to identify the offender and prevent the protocol, although this fact can be considered as a separate additional ground application of the

termination event. This situation can occur when the offender is no document of identity, and no witnesses who could report the required data on it. In addition, the offender may waive the production of documents, then it must be delivered to the police and subjected to personal observation.

Among the grounds for bringing appropriate differentiated detection in individuals with signs of forgery of documents or documents which it has illegally. In order to establish a person suspected of an offense, the authorized person shall have the right to inspect public documents certifying their identity and other documents necessary to clarify the question of the observance of rules, supervision and control over the implementation of responsible, in particular, the police. So when checking documents to:

- 1) deal with the documents carefully;
- 2) in the case of the money in a document, certain notes or other securities, to offer the owner to remove them from there;
- 3) pay attention to:
  - Compliance with existing photographs of the document and of the citizen;
  - Correctness of all details of the document;
  - The integrity of the protective grid paper;
  - Validity of the document;
- 4) put the owner of the document control issues, comparing answers with the data of the document confirming their identity;
- 5) Take precautions when checking documents in person suspected of committing a crime;
- 6) keep a safe distance.

As already mentioned, bringing the offender is applied to the protocol, if it is impossible to do on-site detection of the offense and if the protocol on administrative violation is required.

Protocols on administrative violations is required, except that enshrined in Art. 258 of the Administrative Code of Ukraine. Thus, the protocol on administrative violation is not in the case of offenses under:

- 1) Articles 70, 73, 77, Part 3. 85, p. 153 of the Administrative Code of Ukraine (unauthorized mowing and grazing cattle, unauthorized gathering



wild fruits, nuts, mushrooms, berries, forest waste littering, violation of fire safety in forests, fisheries violations, destruction or damage to vegetation or other objects planting settlements):

- If the amount of the fine does not exceed three times the income of citizens;

2) Part 1 of Art. 85 Administrative Code of Ukraine – a violation of the rules of hunting (hunting without proper permission in prohibited places, forbidden time prohibited tools or methods for getting banned on animal dopuskannya dogs in hunting grounds without supervision, hunting in violation of established for a certain area ( region, hunting, bypass, etc.) the exercise of hunting), which had the result of extraction, destruction or injury to animals, as well as transportation or transfer of captured animals or their parts without mark this fact in the record of taken control card game and violations of hunting and permission to extract:

- If the fine is not more than seven times the income of citizens;

3) c. 107 of the Administrative Code of Ukraine (violations of the quarantine of animals and other veterinary-sanitary requirements):

- If a penalty is charged on the spot with the citizens of the three tax-free minimum incomes, with officials – at the rate of nine income tax exemption;

4) Part 3. 109, p. century. 110, 115, Sections 1, 3, 5. 116, Part 3. 116-2, Sections 1 and 3. 117 (throwing garbage and other objects out of the windows and doors of the train, pass on the railway tracks in undesignated areas, the use of this means of railway transport, the use of this means of sea transport, violation of the order and safety of river transport vessels and small craft; throwing overboard or small boat river debris and other items; abuse of the river and small boat):

- The imposition of an administrative penalty in the form of notice to the act of committing an offense;

5) Articles 118, 119, 134, 135, 185-3 Administrative Code of Ukraine (violations maintenance bases (structures) Parking sized vessels, the use of this means of road transport and electric, manual transportation of

baggage exceeding established norms and unpaid luggage; stowaway passage, a sign of disrespect the court):

- If the person is not contesting the violation and the administrative penalty that is imposed upon it.

Bringing in a wheelchair motorcycle is allowed in exceptional cases, it is necessary to make sure that the person could not vykynutysya a stroller while driving or interfere with management motorcycle.

Among the basic requirements for delivery agenda should include the following:

1) it is two or more employees of the competent authorities or by members of the public formation of public order, Janitorial and individuals; 2) the need to constantly monitor the actions of the person delivering; 3) to provide all the measures in the event of attempts by associates to create conditions for the release or escape of the person delivering; 4) to prevent the possibility of a person to get rid of things, documents that may be material evidence; 5) does not prevent the adoption of a person associates weapons or other items that can be used as a weapon of attack; 6) is used for public transport bringing people (tram, trolley, bus, subway), special purpose vehicles (ambulance, fire, collector) and transport belonging to diplomatic and consular missions.

Bringing the person who committed an administrative offense, aims to stop the illegal action and ensure bringing a person to justice. Since the delivery of a limitation of personal freedom offender, you need before you apply this measure to do everything you need to on the spot thoroughly investigate the circumstances of the offense and to take appropriate measures: require termination of the offense and make on the spot verbal warning. If conditions do not allow to take effective measures in place to apprehend the offender and bring it into the body of internal affairs in compliance with the requirements set out in Articles 205-212 of the Charter relating to the rules of special tools. Person being transported, you must explain and therefore deliver it to the appropriate authority.

Order direct delivery varies depending on whether against whom

it is used. Accordingly, there are some differences that make up the delivery of specific individuals in a state of intoxication. Thus, the identification of those who were in public while intoxicated if they look offended human dignity and public morality or if they have lost the ability to walk or could harm the environment or themselves, they are transferred to special medical facilities or delivery to the residence, and persons who are in public places in a state of intoxication, with injuries, unconscious, or other symptoms of acute internal diseases, acute alcohol poisoning substitutes, drugs, after an epileptic seizure with infectious diseases, women with obvious signs of pregnancy, and in other cases serious condition such persons in place immediately called ambulance to decide on their admission to medical health care.

Stop look at certain aspects of bringing the offender to the police. The first unit that directly «in contact» with violators are delivered the next part of the body or of Internal Affairs of Ukraine. And another part is the division that provides operational control of forces and means and units of the Interior, clock is in constant readiness to respond to criminal offenses, emergencies and other events and is the coordinating body of the installing of persons suspected of having committed a criminal offenses.

The situation where there is a need of bringing the offender to the police, often associated with the violation of public order and public security, as well as committing other violations of the law. As a result, on that person as a reaction to her actions take a certain action, so to speak, «in response.» This action is inherent overbearing and coercive. In addition, these actions originate from outside authorized bodies (officials). These people are also workers of district police officers. The main tasks of the past are:

- An overall and individual preventive work among the inhabitants of the administrative district;

- The protection of public order and public safety in the area served;

- Outreach and community formation in the administrative district



for the protection of public order and public safety, crime prevention and combating of crime;

- Participation with other agencies and departments of the Interior in detecting, preventing, combating administrative offenses and crimes, as well as in solving crimes committed in the administrative section.

Particularly among human district inspector to ensure implementation of their tasks and functions should be defined as follows:

- Call the citizens and employees in business, and materials that are in its proceedings or investigative (on his behalf);

- In the cases and in the manner prescribed by the Criminal Procedure Code of Ukraine and the Code of Ukraine on Administrative Offences, to drive citizens and officials who, without reasonable excuse refuse to appear when summoned;

- To deliver miskrayorhanu and detain people who have committed an administrative offense if exhausted other interventions;

- Draw up reports on administrative offenses and impose administrative penalties on citizens who have committed administrative offenses;

- Free to use vehicles belonging to companies, institutions, organizations and individuals (other than vehicles of diplomatic, consular and other representatives of foreign states and international organizations, special purpose vehicles) to travel to the event or natural disaster, brought to hospitals persons in need of emergency care, prosecution of offenders and bringing them to the Interior.

To ensure public order and public security, the prevention of crimes and administrative offenses district police officers have the right to engage citizens. This activity of members of community groups to protect public order and community helpers local policeman governed by the laws of Ukraine «On Police», «The participation of citizens in the protection of public order, border,» the President of Ukraine Decree «On measures to protect the personal safety of citizens and Combating Crime «, Ministry of Internal Affairs of Ukraine» On Approval of the service district

police officers in the Ministry of Internal Affairs of Ukraine, «. These subjects volunteer assist and promote local policeman in taking measures to protect public order, crime control, prevention of offenses, including persons who are registered in the internal affairs and other tasks.

Where delivery of the signs of poor health, ill health, hypothermia, injuries, etc., once bound medical emergencies or health facility staff, provide ongoing supervision of such person and to report such event the chief law enforcement cases. Accordingly, a decision on the possibility of keeping these persons once taking on the advice of a doctor, which is recorded in the logbook of care to persons detained in the next part, and by order of the chief of the Interior. If such persons referred to health facility for treatment, the log book delivered, visitors and guests to the police is an entry, and the health institution sent a letter asking advance notify the interior of expiration treatment of the individual and its extracts.

Results of any official event should be reflected in the corresponding document. Specifically, the statute states the obligation of bringing the offender registration results in the form of the report to the Chief law enforcement agencies.

We adhere to the position according to which the results of any measures of administrative coercion, including delivery, must be recorded in the relevant protocols. Therefore, the progress and results of bringing the offender shall be made in the minutes of the delivery.

**Conclusions.** Therefore, it is necessary to distinguish as delivery stage (stage) of other coercive measures and an independent set of administrative coercion, which is accompanied by a person forced to place administrative proceedings in the case and in the manner prescribed by the legislation of Ukraine.

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