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STAFF OF PUBLIC ADMINISTRATION

ПЕРСОНАЛ ПУБЛІЧНОЇ АДМІНІСТРАЦІЇ

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The paper investigates the problems of public administration staff. Examines the normative and doctrinal understanding of categories of «personnel» and «public administration». Considered administrative and legal status of persons who are in political office, the persons who are in public service, the persons who are serving in the field of local self-government.

Key words: public service, the executive branch, the staff, the political office, public administration, public with service, service to self-government.

У статті досліджуються проблеми персоналу публічної адміністрації. Аналізується нормативне і доктринальне розуміння категорій «персонал» і «публічна адміністрація». Розглянуто адміністративно-правовий статус осіб, які перебувають на політичній службі; осіб, які перебувають на державній службі; осіб, які перебувають на службі у сфері місцевого самоврядування.

Ключові слова: виконавча влада, державна служба, персонал, політична служба, публічна адміністрація, служба в органах самоврядування.

В статье исследуются проблемы персонала публичной администрации. Анализируется нормативное и доктринальное понимание категорий «персонал» и «публичная администрация». Рассмотрен административно-правовой статус лиц, которые находятся на политической службе; лиц, которые находятся на государственной службе; лиц, которые находятся на службе в сфере местного самоуправления.

Ключевые слова: государственная служба, исполнительная власть, персонал, политическая служба, публичная администрация, публичная служба, служба в органах самоуправления.

The Ukrainian law under the «Personnel» means a series of industry specific employees (or entity) who are in the organizational and legal communication and provide the relevant functions and tasks [1].

The term «personnel» is used in the regulations. Thus, under the Air Code of pilots understood people who had special professional training, with a certificate and perform flying operation, aircraft maintenance, air traffic management, technical operation of ground communications, navigation and surveillance. In aviation, it provides operational staff, the staff of aviation security, ground handling personnel [2]. Law «On Service in Local Government» of 07.06.2001 and «On Diplomatic Service» 20/09/2001 regulate the status of staff. Law «On Telecommunications» dated 18.11.2003 to the staff telecommunications service provider carries all employees who are with him in labor relations. Law «On the State Penal Service of Ukraine» from 23.06.2005 to its personnel include: a) servicemen and officers, and b) experts who have specialized degrees c) persons employed under employment contracts. [3]

Normative understanding of the concept of «personal» created the conditions for the formulation of an appropriate definition of «staff – basic staffing employees that perform the functions and tasks defined job description in order to achieve its goals [4, p. 66].

In scientific sources introduced a vision for the structure of personnel. According T.E. Kaganovska, the staff of the public body mainly consists of three parts: a personnel policy that covers those that directly serve the powers of state bod-

ies, administrative staff, covering civil servants, acting within the civil service, organizational support and technical staff belonging to categories of employees [5, p. 46].

Normative [6] and the scientific determination of public administration staff led the feasibility of scientific research on public administration staff.

As noted by Dr. Kolpakov [7, p. 36], the category of «public administration» has actually takes place, which in the Soviet administrative law belonged to the category of «governance». Today, scientific understanding and further development of the theory of public administration is one of the main areas of doctrinal updating administrative law Ukraine, an important basis for its transformation into a modern European legal area content.

Public Administration as a legal category has two dimensions: functional, organizational and structural. In the functional approach – a relevant business entities to implement features aimed at the realization of public interest. The following suggested activities denoted by the term «public administration».

At the organizational and structural approach public authorities – a collection of bodies formed for the implementation (realization) of public power. The Ukrainian law recognized public authority: a) the government of the people, as a direct democracy, and b) state government – legislative, executive, judicial, and c) local government [8, p. 196].

The above is the basis for the conclusion that the public authorities in Ukraine is carried out: 1) the Verkhovna Rada of

Ukraine (Parliament), the President of Ukraine (both government institutions), local council. These agents realize the power of the people, which is reflected in the electoral process, 2) the agencies and institutions that implement state power (e.g., executive authorities, courts, etc.) and 3) the agencies and institutions that implement the local government (e.g., executive committees of local councils).

Thus, public administration – a system of organizational and structural entities that are legally acquired powers to implement them in the public interest.

Each of the following components of public administration implements its jurisdiction over the activities of the personnel. It is divided into a) persons who are in the service of political and b) persons in the public service, and c) persons who are employed by the local government. Summarizes the activities of public administration staff in the concept of «public service».

Background determination of political life contained in the law «On Civil Service» (1993), which in Art. 9 found: «The legal status of the President of Ukraine, the Verkhovna Rada of Ukraine and his deputies, chairmen of the standing committees of the Verkhovna Rada of Ukraine and their deputies, deputies of Ukraine, Prime Minister of Ukraine, the Cabinet of Ministers of Ukraine, the Chairman and members of the Constitutional Court of Ukraine President and judges of the Supreme court of Ukraine, the President and judges of the High specialized Court of Ukraine, the Prosecutor General of Ukraine and his deputies governed by the Constitution and special laws of Ukraine. «

May 29, 2001 The President of Ukraine issued a decree «On measures for the further duty of administrative reform» [9], which states that members of the Cabinet post of Ukraine belong to political positions and do not belong to the category of civil servants. To operate the ministry introduced the post of state secretaries (they eliminated two years).

This decree is the first normative document, which distinguished between political and administrative positions and laid the basis for our political life as a form of public service.

Further regulation in this area by the Laws «On the Cabinet of Ministers of Ukraine» (2010) and «On the central authorities» (2011).

The law «On the Cabinet of Ministers of Ukraine» on the subject indicates that positions the Cabinet of Ministers of Ukraine belong to political positions, not covered by labor law and legislation on public service (Article 6).

The desire to separate the positions of members of the Cabinet of Ministers from all other public officials is consistent with existing concepts in the theory of necessity allocation policy and administration within the executive branch [10, p. 124]

The law «On the Central Executive Bodies» by political post of Deputy Minister and Deputy Minister (in the case of input), and stressed that they were not covered by labor law and civil service legislation (Section 5. 9). The same law (Section 1, Art. 10) found that the Minister is Deputy Minister – Chief of Staff, who is a civil servant.

Thus, the political office as a form of public service there is a legal reality of the legal system of Ukraine.

The political nature of the holders of public policy positions, characterized in that they determine public policy in all spheres of public life to address strategic issues of economic and social development.

In the political service as a form of public service stand out: a) Service of the President of Ukraine, and b) Service in positions of MPs, c) Service as Members of the Cabinet of Ministers of Ukraine d) Service on other political positions.

The specificity of the political status public servant is characterized by: a) special order election (appointment) of the positions that is regulated primarily by the Constitution of Ukraine, and b) a special order of dismissal and termination of the persons c) the existence of a special kind of responsibility,

such as political accountability, which manifested in activities such as removal from office, the announcement of no confidence, resignation, non-election to the post re d) remuneration for public funds.

Also note that the status of political positions: a) does not provide for compulsory affiliation of the persons of a particular political party, and b) does not exclude such a possibility. That is in contrast to administrative positions to persons holding political office is not a requirement of political neutrality in the performance of their duties.

Thus, public policy positions outside the civil service, and employees who hold them are politicians of the state (political public officials or public figures).

The main piece of legislation governing the civil service in Ukraine is the Law from November 17, 2011 «On Civil Service». [11] He defined its principles, legal and organizational principles and the conditions and procedure of the citizens of Ukraine on Civil Service Law.

Thus, the legislation was established regulatory controls on the delimitation of the public service and regular employment, regulated by the Labour Code.

The need for this distinction due to national designated service that is to provide the task execution state and promotion of human rights and freedoms, health and protection of the public interest. Their practical implementation of imposing on civil servants – individuals who are in public service. Stench is staffing for staff of public bodies and actually serve in the state on the minds of public-law agreement with it.

Their function in relation to the state ministry, concentrated in specific job duties that determine appropriate legal status of individuals in residence uh Period on the relevant post.

Based on this, the law «On Civil Service» does not regulate all services relationships Between statehood structures (bodies, institutions, enterprises, organizations) i working in these persons. It applies to deprive employees who occupy special positions. This positions that by law as a civil service position. Accordingly, the subjects' relations civil service is individuals that are in such positions designed.

Separation of the civil service from political and other positions in the functioning of the state by Art. 2 of the Law «On Civil Service». It is found that this law does not apply to: 1) the President of Ukraine, the Cabinet of Ministers of Ukraine, the first deputy and deputy ministers, and 2) people's deputies of Ukraine, 3) the Verkhovna Rada of Ukraine on Human Rights, 4) Members of the Verkhovna Rada of the Autonomous Republic Crimea, 5) Judges 6) prosecutors who have class ranks 7) employees of public bodies that perform the functions of the service, 8) employees of state enterprises, institutions and organizations; 9) military personnel and persons of the Interior and other agencies (prisons, MOE, Courier Service etc.), which have special status.

The rules of law enshrining a number of definitions in the civil service. First, the definition: a) public service, b) a civil servant, a) civil service positions. Public service – professional activity of civil servants: a) preparation of proposals for public policy, b) its implementation, and c) to provide administrative services. Civil servant – a citizen of Ukraine who: a) is a civil service position, b) are paid from the state budget, c) has established for the position responsibilities. Civil service – defined structure and staff list the primary structural unit of a public body at which the fixed portion competence of this body in the form of official duties.

Original position on the regulation of public service is to establish: 1) its principles and legal framework, 2) the terms of the right to public service, and 3) normative provision of state services, and 4) the status of a civil servant, 5) the methods and forms of public service.

The principles of public service as the basic provisions that are doctrinal and normative dimension [12, p. 35] set forth in Art. 3 of the Law «On Civil Service». They are: 1) the rule of law, 2) patriotism and service to the Ukrainian people, and 3)

the legality and 4) equal access to public service, 5) Professionalism, and 6) Integrity 7) political impartiality, 8) transparency, 9) personal responsibility civil servant.

The legal framework of public service delivers century. 4 «Legal regulation of public service.» It found that the public service is regulated by the Constitution of Ukraine, the Law of Ukraine «On Civil Service» and other laws of Ukraine, acts of the President of Ukraine, the Cabinet of Ministers of Ukraine, specially authorized central body of executive power on Civil Service (National Agency of Ukraine on Civil Service. Formed Decree of the President of Ukraine dated July 18, 2011), other central authorities issued within their authority as prescribed by law.

Conditions and procedures for citizens of Ukraine Law on Civil Service in the main defined in Art. 15 – 19 of the first chapter, «General conditions for entry into the civil service», Art. 20 – 24 Chapter Two «contest to occupy vacant civil service positions», Art. 25 – 26 Chapter Three, «The appointment of public service.»

The right of citizens of the Civil Service of Ukraine: a) the age of 18, and b) who are fluent in the state language, and c) meet other requirements of the law «On Civil Service».

An important condition to exercise their right to civil service law recognizes the level of professional competence of the person who claims the civil service (Article 16). It is defined qualitative and quantitative characteristics: a) education of the applicant, b) record of his work in) experience of his work.

Introduction to public service is by appointment of a person to a civil service position. Usually, by the appointment is to go through a selection procedure. The competition includes: a) test, b) interview. Organised competition and take decisions Competition Commission.

The Commission may make a proposal for the appointment of the civil service test. The purpose of the test – confirm the professional competence of the individual. Term tests – from 60 to 120 days.

Obligatory condition of appointment to the civil service is the first oath (Art. 18). Oath declared in the presence of government officials appropriate division state agency. On taking the oath shall be recorded in the workbook civil servant.

Regulatory support the implementation of the civil service is by definition in the law «On Civil Service»: a) classification of public service, b) the content of the civil service, and c) the suspension of the civil service, d) characteristics disciplinary civil servants.

Classification of civil service installed century. 6 of the Law «On Civil Service». According to her, all positions, depending on the nature and scope of duties are divided into five groups. In each group distinguishes four subgroups. Plant in groups and subgroups are within the administrative hierarchy. Place of positions defined legal force of its competence, influenced by: a) the content of, and b) the scope of authority, c) responsibility. The higher legal force officer competence, the higher level of the hierarchical ladder it takes. Combination of the following factors makes status signs civil service.

For example, management positions in the Administration of the President of Ukraine, the National Security and Defense Council of Ukraine, the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine referred to the first group. Positions in the subsidiary bodies established by the President of Ukraine – the second group. Positions in agencies, jurisdiction in several areas – the third group. Positions in agencies, jurisdiction in the territory of regional importance – to the fourth group. Posts that do not involve exercise managerial functions – the fifth group.

Contents of civil service capacity: a) the differentiation state officials by establishing ranks b) establishing rules for the internal service regulations, c) results of performance evaluation, and d) improve the professional competence and e) promotion f) transfer of civil servants, as) assignment h) signifi-

cant change in the conditions of service, and) public service experience, c) the personal conduct of civil servants.

At the legislative level by main components of administrative and legal status of civil servant. They are: a) the right of civil servants, and b) the duties of a civil servant, c) restrictions on the civil service.

Rights of civil servants formulated in Art. 10 of the Law «On Civil Service». According to her, he has the right: 1) to respect for his personality, dignity, fair and respectful attitude on the part of managers, employees and others, 2) a clear definition of their duties and logistical support their implementation; 3) access required to perform the duties of information, 4) pay depending on the position of public service, the results of performance, length of service and rank civil servant, and 5) improve the professional competence of public funds, 6) promotion service 7) holiday social and pension insurance according to law; 8) safe working conditions, 9) of the internal investigation, upon request, to remove unjustified in his opinion, accusations or suspicions, 10) unobstructed access to documents concerning passage of public service.

Duties of civil servants formulated in Art. 11 of the Law «On Civil Service». According to her, he must: 1) act on the basis and within the limits and in the manner prescribed by the Constitution and laws of Ukraine, 2) follow the principles of public service, and 3) to respect the state symbols of Ukraine, 4) faithfully perform its duties, 5) perform duties within the decision of the authorities and orders, and orders the leaders provided within their powers, 6) comply with the requirements of legislation on preventing and combating corruption, 7) follow the legislation rules of professional ethics of the worker, 8) to prevent conflicts of interest in the civil service, 9) follow the rules of internal service regulations, 10) raise the level of their professional competence.

Organic particles civil servant status is restrictions on the civil service. Analysis of the legislation indicates the presence of two types of constraints: first, the restriction relating to the civil service, and secondly, it's limitations associated with the service.

According to a first type of restrictions on the civil service cannot enter a person who: 1) the court adjudicated incompetent or capacity is limited, and 2) has been convicted of committing an intentional crime, if such record is not canceled or withdrawn in accordance with the law, and 3) according to the verdict denied the right to engage in activities related to the implementation of state functions, or hold similar positions, and 4) was subjected to administrative penalty for corruption offenses – within one year from the date the relevant decision of the court into force, 5) is a citizen of another state; 6) the appointment will be directly subordinated close persons, 7) is a member of the executive board or supervisory board of a company or organization that is aimed at making profit, 8) is engaged in business activities, 9) does not meet the educational qualification and experience (Article 16 of the law «On Civil Service»).

Restrictions second type divided into: a) limiting the general order and b) restrictions on Preventing and Combating Corruption.

Restrictions general procedure lies in the fact that a public officer, first, has no right to call a strike and participate in them, and secondly, in the performance of official duties shall not perform any act demonstrating his political views or evidence of particular relevance to certain political parties.

Restrictions on Preventing and Combating Corruption defined in the Act from April 7, 2011 «On the Prevention and Combating of Corruption» [13]. The law establishes the following types of constraints: 1) the use of official position, 2) the compatibility and incompatibility with other activities, and 3) to obtain gifts or donations, and 4) regarding the close persons, 5) to persons who retired from office or discontinued activities associated with the functions of state and local governments.

Service in local government is regulated by the Act of June 7, 2001 «On Service in Local Government». [14] This Law regulates legal, organizational, financial and social conditions of the citizens of Ukraine the right to serve in local government, determines the general principles of local government officials and their legal status, procedures and safeguards being in the service of local government.

It provides that service in local government – a professional on a regular basis the activities of citizens of Ukraine who hold positions in local government, which aims to implement a territorial community of their right to local self-government and individual executive powers provided by law.

Positions in local government are: 1) elective office, which shall be elected territorial community, 2) the elective office to which the person elected or approved by the appropriate board, 3) the post to which a person appointed by the respective head.

The main responsibilities of local government officials are: 1) of the Constitution and laws of Ukraine and other normative legal acts, 2) respect for the rights and freedoms of man and citizen, and 3) protection of state secrets, information about individuals, which has become known to them in connection with their official duties, and other information under the law shall not be disclosed, and 4) continuous improvement of their work, professional development, 5) conscientious attitude to duty, initiative and creativity in the 6) respect for the citizens and their applications, 7) avoid acts or omissions which may harm the interests of local government and state..

An official of the local government has the right to: 1) respect for their dignity, fair and respectful attitude on the part of

managers, employees and citizens, and 2) to pay depending on the position which it occupies rank which it was granted, quality, experience and work experience, and 3) to be promoted by professional training, performance and evaluation, and 4) to safe and necessary for effective working conditions, and 5) the social and legal protection, 6) get in the manner prescribed by law, necessary to perform their duties Materials, 6) in the manner and within the limits established by law, to obtain information about his personal record, 7) require an official investigation to refute unfounded, in her opinion, accusations or suspicions thereof; 8) protect their legitimate rights and interests.

The service of the local authorities cannot be accepted persons: 1) were found incompetent by a court, and 2) have been convicted of committing an intentional crime, if the record has been canceled or withdrawn in accordance with the law, and 3) are denied the right to occupy relevant positions; 4) that in the case of recruitment of local authorities will be directly subordinate or subordinates persons who are close relatives or close. The officials of the local governments have no right to take action under anti-corruption law.

From the analysis of the normative support of local government, it follows that the essence of their staff must be continuous social support, and ensuring the implementation of proactive measures to prevent poverty, unemployment, loss of health, etc. through the promotion of people to enhance their role in society, empowerment of choice lifestyle possibilities deciding his fate, but at the same time strengthening the responsibility for the decision and its implementation [4, p. 23].

Effective implementation of this task primarily depends on the staff of the self, its ability to properly serve the needs of the communities in the management and administrative services.

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