

Peculiarities Of Legal Bases of State Civil Service

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Abstract

the article considers the legal foundations of state civil service, its features, the organization of state civil service, including the legal status of state civil servants, the most important issue, which should be regulated by the relevant normative legal acts, in the scientific observation of the problematic sides of this issue, that is, various issues related to labor legislation, as well as opinions and views on its improvement, have been analyzed by the author from the scientific-theoretical point of view.

Keywords- *public service, state civil service, labor discipline, official duties, service, disciplinary penalty.*

INTRODUCTION

In the modern world, one of the most important tasks of any state is the implementation of important rational policy, the formation of an effective system of state power as a whole. This, in turn, requires further development of the state civil service, creation of an open, competitive and high-level civil service aimed at effective activities to ensure the competence of state bodies.

On this basis, the State civil service should become an important link in the practical implementation of State policy in the socio-economic, cultural and educational spheres.

After the Republic of Uzbekistan gained State independence, it became necessary to establish a State civil service aimed at the formation and development of a sovereign democratic State governed by the rule of law. In this case, the main task was to train highly qualified personnel and to provide the civil service with up-to-date knowledge and qualified staff.

The adoption in the country of the Decree of the President of the Republic of Uzbekistan "On Approval of the Concept of Administrative Reforms in the Republic of Uzbekistan" No. PF-5185 dated 8 September 2017 is aimed at the formation of an effective system of professional public services as an important direction of reforming the system of public administration. In accordance with this decree, the organisation of public service is defined, including the legal status,

classification of civil servants; the importance of regulating such important issues as transparent mechanisms of recruitment to military service (on a competitive basis), formation of a personnel reserve, maintenance of service, ensuring compliance with ethics and morality was emphasised.

At the same time, it should be noted that in the modern conditions of globalisation, the main place is given to the civil service in solving complex tasks facing the state, especially in achieving the goals set out in the Constitution of the country. Many norms and principles of the Constitution are priority principles for the organisation of the civil service. In particular, under article 114 of the Constitution, the Cabinet of Ministers exercises executive power. Also, the Cabinet of Ministers carries out its activities within the framework of the main areas of activity of the executive power determined by the President of the Republic of Uzbekistan. Of course, these tasks are performed by civil servants of the State, who contribute en masse to the establishment and development of a democratic State governed by the rule of law and occupy an important role in the life of the State and society.

In turn, the issue of further enhancing the role of the state civil service is now one of the pressing issues of our time. At present, in market conditions, timely and effective solution of relevant tasks of the state civil service, their professional skills, especially timely and effective solution of public administration tasks, ability to provide quality public services, are undoubtedly an important factor in maintaining social stability in society, developing the economy, as well as protecting human rights

It is well known that the model law "On the Fundamentals of Public Service"¹, adopted at the eleventh plenary session of the Council of Ministers of the Republic of Belarus. adopted at the eleventh plenary session of the Interparliamentary Assembly of the Commonwealth of Independent States on 15 June 1998, has its own specificity. Since this model law establishes the legal basis for the organisation of state civil service, formed in accordance with the Constitution and national laws of the CIS member states, as well as legal regulation of public relations of citizens associated with the creation of organisational, legal, socio-economic conditions for the exercise of their rights to public service.

At the same time, it should be emphasised that the state of the state civil service shapes the perceptions of the country's population towards the state that is being evaluated. Therefore, it is very important how the state civil service is formed in each state. Today, the state civil service of the state is developing at a new stage of significant reforms and development. It is important that the decree of the President of the Republic of Uzbekistan of 3 October 2019 "On measures for radical improvement of personnel policy and the system of state civil service of the Republic of Uzbekistan" No. PF-5843 is aimed at improving the effectiveness of the state civil service of the state, meeting the needs of state bodies and organisations for qualified personnel, as well As part of this decree, it is important that the approval of the programme of priority measures for radical improvement of personnel policy and the system of state civil

A noteworthy aspect is that the concept of State civil service is clearly defined within the law. In particular, in accordance with the State Civil Service Act, State civil service is a type of civil service, which is a professional paid activity of citizens of the Republic of Uzbekistan to ensure the exercise of the powers of State bodies in positions of State civil service

A citizen of Uzbekistan will also have the legal status of civil servant from the moment of appointment to a civil service post. In essence, the civil service of the State is the professional

¹ https://iacis.ru/baza_dokumentov/modelnie_zakonodatelnie_akti_i_rekomendacii_mpamodelnie_kodeksi_i_zakoni/420

(vocational) activity of civil servants of the State, which is also legally regulated by constitutional, administrative, financial, labour and other branches of law.

Moreover, the adoption of this law served the formation of a new institution in our country, which is extremely complex, and its purpose is to regulate relations in the sphere of state civil service. In this case, the State Register of State Civil Service Positions will consist of groups and categories of State Civil Service positions, which are unified and classified in accordance with qualification requirements, depending on the level of the state body, i.e. national, republican, territorial and district levels, and as qualification levels of State Civil Service positions. The State register of State civil service posts is approved by the President of the Republic of Uzbekistan and maintained by a specially authorised State body. An essential aspect is that the State register of State civil service posts, as well as amendments and additions to it, is published on the official website of the specially authorised State body. Thus, the State civil service is an important element of the system of State administration.

There is a lot of debate among legal scholars about in which area of law the state civil service is more regulated as a legal relationship. As a reason, it is worth noting that there are norms of both mass and labour law on this matter. Thus, while some experts argue that the civil service is regulated by administrative (public) law, some experts argue that this issue is permissible for it to be regulated by labour law².

Other scientists suggest studying public service from the point of view of theoretical structure and, also, from the point of view of legislative (normative) practice of such relations related to service. For example, the scientist Y.N. Starilov believes that in the broad theoretical understanding of public service it means the fulfilment by state bodies of the employee-specific management function and practical activities of all individuals who receive wages from the state budget and occupy permanent or temporary positions in the apparatus of state bodies³. That is, from the legislative point of view, public service is a professional activity, which consists in ensuring the fulfilment by public bodies of the powers of civil servants and persons holding public office.

In this regard, it should be noted that public service refers to the activities of service sector employees who carry out activities provided for in official instructions and other documents defining their career powers, official duties and responsibilities, and, moreover, faithfully perform their official duties and comply with the rules of etiquette established by the state body the procedure for working with a Civil servant - This is not only an ordinary employee holding a certain public position, but also a person, a person who acts on behalf of the state, on its behalf and in its interests, receives appropriate remuneration from the state budget for his work, a person of the state image, material, political, spiritual and moral self-expression and a defender of state interests⁴.

It is also important that the determination of the belonging of a certain system of legal norms to a certain area of law should be based on appropriate criteria. In general, there is an opinion that the legislation on state civil service should be studied in a separate branch of law, while it is necessary to study the legislation on state civil service as a branch of constitutional, administrative and labour

² Hayitov H.S. Davlat fukarolik hizmati xukukuiy asoslarini takomillashtirish masalalalari // Izhtimoi-humanitarian fanlarning dolzarb muammolari. - 2020. - № 1(1). - B.138-148. <https://doi.org/10.47390/A1342112020N16>

³ Starilov, Y.N. Administrative Law, Part 2, Book 1/Y.N. Starilov. - Voronezh. - 2001. C. 225.

⁴ Said-gazieva N.Sh. Theoretical and practical problems of reforming the civil service in Uzbekistan: diss. ...Dr. Legal.sciences. 2010. - P. 260. Said-Gazieva N.Sh. Ўзбекистонда даталарини ислоҳ килишнинг назарии ва амалийу муаммолари: Jurid. Fan. doc. ... diss. 2010. -Б. 260. // Said-gazieva N.Sh. Theoretical and practical problems of reforming the civil service in Uzbekistan: diss. ...Dr. Legal.sciences. 2010. - P. 260.

law. It is in this regard that Sh. Ismailov believes that "the Labour Code of the Republic of Uzbekistan and other labour legislation apply to the regulation of labour of civil servants. Consequently, only administrative legislation does not apply to the regulation of the labour of civil servants. Another important reason for this is that administrative legislation is not able to cover all regulated labour relations"⁵.

Therefore, continuous improvement of legislation in the field of state civil service in the current period is a requirement of time. Moreover, since discipline refers to professional aspects of civil servants, certainly, the task of strict compliance with the established official discipline should remain one of the main tasks of a modern civil servant. This, in turn, creates prerequisites for the conscientious fulfilment by the civil servant of his official duties, compliance with the rules of etiquette established by the state body, the order of work with information related to the service, as well as other rules related to the conduct of public service in the state. There is no doubt that a healthy environment will determine the state civil service, further improve the quality of public services and lay a solid foundation for the sustainable development of this system.

Also the method of modernisation of the state civil service of the state currently requires an innovative approach, which is why it is important to ensure the participation of the scientific community in solving the problems of optimisation and reform of the civil service.

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⁵ Ismoilov Sh. Features of legal regulation of labor of civil servants // Materials of the republican scientific-practical conference "Prospects for the development of public service in Uzbekistan". – Tashkent: "ADAD PLUS", 2020. – P. 34-36.