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THEORETICAL AND LEGAL CHARACTERISTICS OF THE PROBLEM OF BLANKETNESS OF THE NORMS OF THE LAW OF UKRAINE "ON CIVIL SERVICE" REGARDING THE EXERCISE OF THE RIGHT TO WORK BY CIVIL SERVANTS

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Annotation. The scientific article carries out a comprehensive theoretical and legal study of the problem of blanket norms of the Law of Ukraine "On Civil Service" in the context of the implementation of the right to work by civil servants. The author analyzes the essence of blanket norms, their impact on the legal regulation of labor relations and social guarantees of civil servants. Particular attention is paid to the problems of legal uncertainty that arise as a result of references to other regulatory legal acts without proper detailing of the mechanisms for implementing the law. The negative consequences of such gaps are highlighted, in particular, the risks of ambiguous interpretation, corruption manifestations and restrictions on the legal protection of civil servants.

The work emphasized that constant changes in legislation in the field of civil service without a systematic scientific approach lead this instability of law enforcement , reducing the predictability of the regulation of labor relations . Specific recommendations are proposed for improving legislation aimed at eliminating the blanket nature of norms , in particular by detailing their content , developing transparent algorithms for implementing the right this work and strengthening social guarantees .

The author explored the relationship between the blanket nature of norms and the level of professional motivation of civil servants , emphasizing that legal uncertainty not only reduces the effectiveness of work , but also negatively affects the image of the civil service as a whole . The lack of clear mechanisms for law enforcement creates space for administrative barriers and unequal access this labor rights , which is especially important in the context of reforming national labor legislation.

Key words: civil service, right this work, European integration, labor rights, legal regulation, social guarantees, competition, professional development.

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Problem statement. The civil service is an integral part of the functioning of the rule of law, ensuring the implementation of public interests, the stability of administrative processes and the protection of the rights and freedoms of citizens. In this context, the right to work of civil servants plays a key role, because it not only guarantees proper conditions for the performance of official duties, but also forms the basis of social justice and legal protection of employees. However, the analysis of the Law of Ukraine "On Civil Service" reveals a number of significant problems, in particular those related to the blanket nature of its norms, which creates legal uncertainty in the regulation of labor relations of civil servants.

The vagueness of legislative norms, which consists in referring to other regulatory legal acts without specifying their content or mechanisms for their implementation, is a systemic problem that complicates law enforcement. Such uncertainty often leads to uneven application of the law, creates space for ambiguous interpretation of norms, and sometimes to violations of the rights of civil servants, in particular their right to work. The lack of proper detailing of legislative provisions becomes a source of both administrative barriers and corruption risks, which negatively affects the efficiency of state bodies and reduces the level of citizens' trust in the civil service.

The above-mentioned problem is becoming particularly acute in the context of ongoing reforms of the civil service, which are aimed at its modernization, increasing efficiency and bringing it into line with European standards. Constant changes in legislation, in particular in the field of labor relations, often increase legal uncertainty, reducing the predictability of regulation and complicating the implementation of the right to work. As a result, the civil service remains an area where the balance between the rights of employees and the public interests of the state is not always achieved.

A detailed and thorough study of the theoretical and legal aspects of the blanket nature of the norms of the Law of Ukraine "On Civil Service" is of utmost importance for the development of both legal science and law enforcement practice. A comprehensive analysis of this problem will allow not only to identify systemic gaps in the current legal regulation, but also to develop scientifically based recommendations for improving the legislation. In particular, this will contribute to the creation of clear and transparent mechanisms for the implementation of the right of civil servants to work, which is a necessary condition for ensuring the effectiveness of public administration, strengthening social justice and increasing the level of legal protection of civil servants.

The state of development of this issue. The problems of regulating the right to work by civil servants have been considered to one degree or another in their works by such legal scholars as: V.B. Averyanov, V.A. Bahriy, Y.P. Bytyak, L.Yu. Velichko, V.S. Venediktov, I.P. Grekov, I.V. Zub, M.I. Inshin, K.O. Kyzymenko, M.M. Klemparsky, V.L. Kostyuk, I.V. Kudryavtsev, D.E. Kutomanov, D.R. Leshchukh, O.E. Lutsenko, V.Ya. Matsyuk, N.M. Neumyvaichenko, V.O. Petryshyn, P.D. Pylypenko, S.M. Prylypko, O.I. Protsevsky, G.O. Reshetilov, G.I. Chanysheva, O.M. Shtyryov, V.I. Shcherbyna, N.M. Khutoryan, O.M. Yaroshenko. Nevertheless,

despite the significant contribution of the scientists we mentioned to the development of the doctrine of labor relations in the civil service, it is appropriate to note that the issue of the blanket nature of the norms in the Law of Ukraine "On Civil Service" regarding the exercise by civil servants of their right to work has not yet been a separate comprehensive topic of research, which determines the relevance of our issues.

The purpose of the article is to analyze the blanket norms of the Law of Ukraine "On Civil Service" regarding the exercise of the right to work by civil servants.

Presentation of the main material. Let us agree with O.M. Kurakin that although the work of civil servants has its own specifics, this does not mean that this work should not be regulated by labor law, since serving the state is work, labor activity of citizens [1, p. 38]. Thus, Part 3 of Article 5 of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII [2] provides that civil servants may be subject to the provisions of labor legislation in relation to relations not regulated by the legislation on civil service. This means that the implementation of the right to work by civil servants is carried out simultaneously by the provisions of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII [2], as well as by the provisions of the Labor Code of Ukraine [3] and other acts of labor legislation of our state. On the one hand, this procedure for regulating the exercise of the right to work by civil servants is positive, since it allows not to overload the legislation on civil service with norms that are already established by the current legislation of Ukraine. However, on the other hand, we agree with M.I. Inshin that the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII [2] is the main regulatory legal act that regulates employment relations, and therefore its meaning for civil servants is identical to the meaning of the Labor Code of Ukraine [3] for all categories of employees [4, p. 143]. Therefore, in our opinion, it would be advisable to limit the presence of such norms in the content of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII as much as possible, and transform this regulatory legal act into a single law devoted to the regulation of employment relations of civil servants.

We propose to dwell on the content of this problem in more detail. As we noted above, from the content of Part 3 of Article 5 of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII, we can conclude that the exercise of the right to work by civil servants is regulated by the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII, the Labor Code of Ukraine and other acts of labor legislation of our state. At the same time, the priority of the application of the norms of the legislation on civil service over the provisions of labor legislation is evidenced both by the content of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII, and by judicial practice.

Analyzing the content of the Law, let us pay attention to some of the formulations used by the legislator. Let us agree with O.M. Kurakin that the civil service is a complex legal institution that integrates administrative-legal and labor norms, and that the connection between labor and managerial

legal relations is necessary and natural [1, p. 38]. Therefore, in Part 3 of Article 5, which we have already mentioned above, the legislator emphasized that labor legislation may be applied to service-labor relations exclusively in the part not regulated by the legislation on civil service. In other words, service-labor relations of civil servants are regulated by the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII, and only in the case when the relevant norms are absent in this regulatory legal act, the norms of the Labor Code of Ukraine may be applied to such legal relations [3].

For example, Articles 57 and 58 of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII define the essence and content of annual basic, annual additional and other leaves of civil servants. However, Article 59 establishes that the procedure and conditions for granting annual leaves are determined by labor legislation (in this case, not only the Labor Code of Ukraine, but also the Law of Ukraine "On Holidays" dated 15.11.1996 No. 504/96-VR [5]). Another example of the priority of civil service legislation over labor legislation in the exercise of the right to work by civil servants is enshrined in Part 2 of Article 5 of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII, which establishes that relations arising in connection with the entry, passage and termination of civil service are regulated by the legislation on civil service, "unless otherwise provided by law". To explain the content of this norm, let us turn to the following example. Thus, Article 83 of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII defines the grounds for termination of civil service. This list is exhaustive, and, for example, the National Agency of Ukraine for Civil Service Issues in its clarification dated February 20, 2020 No. 86 "Regarding the procedure for dismissing civil servants in connection with the termination of civil service at the initiative of the appointing entity (Article 87 of the Law of Ukraine "On Civil Service") explained that the procedure for dismissing civil servants in connection with the termination of civil service at the initiative of the appointing entity is regulated by the Law of Ukraine "On Civil Service" dated December 10, 2015 No. 889-VIII, and therefore its norms should be applied to the termination of employment relations with a civil servant. That is, despite the fact that Article 36 of the Labor Code of Ukraine establishes the grounds for terminating an employment contract, the grounds specified in Article 83 of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII [6] should be applied to terminate civil service. At the same time, the legislator in Part 2 of Article 5 of this Law used the wording "unless otherwise provided by law", and thereby still assumed the possibility of applying the provisions of other regulatory legal acts, including labor legislation acts, to these procedures (for example, Part 3 of Article 86 establishes that in cases provided for by labor legislation, the appointing entity is obliged to dismiss a civil servant within the period specified in the application submitted by him.

Also, the conclusion on the priority of the provisions of the legislation on civil service over the provisions of the legislation was made by the Supreme Administrative Court of Ukraine (today this judicial institution is called the Cassation Administrative Court) in the letter "On the resolution of disputes

arising from public service relations" dated 26.05.2010 No. 753/11/13-10 [7]. Despite the fact that this letter was prepared during the period of validity of the Law of Ukraine "On Civil Service" dated 16.12.1993 No. 3723-XII, as our research shows, the problems of exercising the right to work by civil servants with the adoption of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII have partially survived, although the latter has become much closer in content to the Labor Code of Ukraine due to much more detailed regulation of service-labor relations in this regulatory legal act. Thus, in the above-mentioned letter, the Supreme Administrative Court of Ukraine, in the context of the application of the norms that determine the grounds for dismissal of civil servants, came to the conclusion that if a special law does not provide for or directly prohibits the application of the norms of labor legislation, then in practice it is possible to apply exclusively the norms of special legislation. In other words, the norms of labor legislation are applied in two cases: first, if the norms of special laws do not regulate labor relations; second, if the need to apply labor legislation is directly determined by a special law. At the same time, we emphasize that in order to apply exclusively the norms of special laws to regulate service-labor relations, it is necessary either not to provide for the possibility of applying labor legislation in the special legislation at all, or to directly prohibit such a possibility.

Therefore, taking into account our analysis, we see the solution to this problem in making comprehensive amendments to the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII, and transforming it into a single regulatory legal act that regulates service-labor relations in our state.

Conclusions. Thus, the study of the problem of blanketness of the norms of the Law of Ukraine "On Civil Service" regarding the implementation of the right of civil servants to work has shown the need for a comprehensive rethinking of the current legislative approach. The blanket nature of the norms of this law creates legal uncertainty, which significantly complicates law enforcement and violates the principle of predictability of law. Such uncertainty, in particular, negatively affects the implementation of the right of civil servants to work, since the absence of clearly defined mechanisms creates space for ambiguous interpretation of norms, administrative barriers and corruption risks. This not only complicates access to social guarantees, but also reduces the professional motivation of civil servants, which, in turn, undermines the effectiveness of the public administration system. In the context of constant reform of the civil service, the problem of legal uncertainty is exacerbated. Frequent changes in regulatory acts without proper analysis of the consequences lead to instability of legal regulation, complicating the practical implementation of labor relations. This is especially dangerous in the context of Ukraine's aspirations for European integration, where legal certainty is a fundamental principle of the legal system. Therefore, we can summarize that the reform of the civil service should be accompanied by the improvement of legislation, which should provide for a clear definition of the algorithms for the implementation of the right to work to ensure social stability and legal protection of employees.

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