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FEATURES LEGAL RESPONSIBILITY AS AN ELEMENT MECHANISM PROTECTION SOCIAL RIGHTS OF CIVIL SERVANTS

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Annotation. The article provides a comprehensive analysis of the role of legal liability in ensuring and protecting the social rights of civil servants. Particular attention is paid to the publicity of disciplinary procedures, which contributes to improving discipline, reducing violations of social rights and strengthening citizens' trust in state institutions. The analysis of the regulatory framework shows the need to improve the mechanisms of legal liability, taking into account European integration requirements and modern socio-economic conditions of Ukraine.

Constitutional liability is considered as the basis of the legal status of civil servants, establishing general principles and principles for the protection of social rights. Criminal liability is analyzed from the point of view of preventing serious violations that may have systemic consequences for state institutions and society. Material liability focuses on compensation for damages caused by violations of social rights, ensuring economic protection of civil servants.

Administrative liability is considered as an effective tool for regulating the behavior of civil servants in their daily activities, contributing to compliance with legislative norms and standards. Disciplinary liability, in particular, is analyzed in the context of increasing the level of professionalism and ethical behavior of civil servants through the publicity of disciplinary procedures, which strengthens public trust in state institutions. Civil liability is considered as a mechanism for protecting the individual social rights of civil servants, providing legal protection in cases of unlawful actions or inaction.

The findings of the study confirm the need to apply a differentiated approach to legal liability, which takes into account the specifics of each type of liability and their interaction in ensuring comprehensive protection of the social rights of civil servants.

Key words: legal responsibility, social rights, civil servants, protection mechanism, disciplinary responsibility, publicity, European integration.

Problem statement. The relevance of studying the topic of legal liability for violations of social rights of civil servants is due to the importance of ensuring the stability and efficiency of the functioning of the civil service in conditions

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of constant social and economic challenges. The social rights of civil servants, such as the right to decent working conditions, social protection, pension provision and other guarantees, are fundamental components of an effective and fair civil service system. Violation of these rights not only disrupts the balance in labor relations, but also undermines the authority of the state, reduces the motivation of civil servants to perform their duties qualitatively, and also affects the level of public trust in state institutions. The lack of clear and effective mechanisms of legal liability for such violations creates a legal vacuum that complicates the protection of the rights of affected persons and prevents the establishment of justice.

Thus, scientific research into the specifics of legal liability for violation of social rights of civil servants is important not only from a theoretical point of view, but also has practical significance for improving mechanisms for protecting the rights and freedoms of civil servants, strengthening the rule of law and developing democratic principles in Ukraine. Analysis of existing regulatory legal acts, identifying gaps and proposing ways to overcome them will contribute to the creation of a more transparent and predictable civil service system, which, in turn, will increase the level of trust of citizens in state institutions and contribute to social stability.

Therefore, the relevance of the research topic is determined by the need to ensure a comprehensive and systematic approach to the protection of the social rights of civil servants, which is an integral part of the effective functioning of the civil service and the development of the legal system of Ukraine as a whole. The research will contribute not only to the theoretical understanding of the problem, but also to the practical implementation of recommendations for improving the mechanisms of legal responsibility, which, in turn, will ensure a high level of social protection of civil servants.

The state of development of this issue. The issue of the mechanism for protecting the social rights of civil servants and individual elements of such a mechanism was covered in the scientific works of such scientists as: V.A. Bahriy, O.O. Barabash, N.V. Bocharova, Yu.P. Bytyak, O.M. Grishko, O.A. Degtyar, K.V. Dubych, M.I. Inshin, N.M. Kovalko, N.V. Kolenda, O.O. Kravchuk, M.O. Leonova, R.O. Maksymovych, O.M. Nepomnyashchy, M.V. Panchenko, S.M. Seryogin, N.S. Sydorenko, V.V. Skorikov, B.I. Stakhura, R.V. Topolya, I.Yu. Khomyshyn, N.L. Shevchenko, G.O. Yakovleva. Although the mechanism for protecting social rights has been repeatedly studied, the special legal status of civil servants determines its distinctive nature and the need to establish the specifics of legal liability as a component element.

The purpose of the article is to analyze the features of legal liability for violation of social rights of civil servants in Ukraine.

Presentation of the main material. The complexity of the study of legal liability for violation of social rights of civil servants is explained by its non-specialization. Skorikov proposes to divide the responsibility of civil servants into social (moral and civil) and legal (constitutional, criminal, material, administrative, disciplinary and civil law) [1, p. 150]. Social responsibility affects only the level of legal awareness of all participants in relations on

the implementation of social rights by a civil servant, however, in modern conditions it cannot significantly affect the legal position of only those civil servants. Legal liability for civil servants also cannot be determined at the constitutional level, since the type of punishment or restoration of social rights is not established. Therefore, it would be more appropriate to adhere to the principles of applying legal liability and conducting protection, which are established in the Constitution of Ukraine.

Separately, the problem of identifying legal liability and means of punishment for offenses should be considered, although the latter is far from always the purpose of the mechanism for protecting the social rights of civil servants. In the context of the topic under study, protection should be carried out in terms of restoring violated social rights, providing compensation for material damage, and ensuring the possibility of continuing to hold positions in the civil service. Accordingly, legal liability, as a tool of punishment, is used additionally to prevent unlawful behavior in the future, illustrating the inevitability of the occurrence of negative consequences for violating social rights. Therefore, it is possible to divide legal liability into that used to protect the social rights of civil servants and that used for punishment. Although both types are coercive in nature, the latter type has more diverse means of bringing to justice, and the funds paid by the offender go to the state, and do not compensate for the damage caused. It is important that the above types of legal liability can be applied simultaneously and do not contradict each other.

First of all, a violator of the social rights of civil servants may be subject to disciplinary liability, as established in Chapter 2 of the Law of Ukraine "On Civil Service" [2]. Disciplinary liability is internal in nature, that is, the offender also has a special legal status of a civil servant. The offense itself may concern the provision of inaccurate data, the demand for obtaining an illegal benefit, the threat of dismissal or the occurrence of other social risks for a civil servant. Investigating the process of disciplinary liability, A.P. Gorzov notes that the application of disciplinary sanctions is not sufficiently public. Providing the public with information about disciplinary offenses of civil servants will contribute to improving their discipline and increasing public trust [3, p. 52]. Publicity in this context means transparently informing the public about disciplinary offenses committed by civil servants. Ensuring public access to such information contributes to increasing the level of discipline among civil servants, since the transparency of disciplinary procedures acts as a preventive mechanism against violations. In addition, the publicity of the process strengthens the public's trust in state institutions, demonstrating that the state takes violations seriously and is ready to be held accountable for its actions.

Introducing publicity into the disciplinary process has the potential not only to improve the disciplinary culture among civil servants, but also to reduce the number of violations of social rights. Transparent disciplinary procedures create an environment where employees are aware of the consequences of their actions, which encourages them to comply with established norms and

standards of behavior. At the same time, publicity makes it impossible to use disciplinary sanctions to pressure or intimidate employees, as the openness of the process limits the possibilities for abuse.

It is worth noting that disciplinary liability for violations of the social rights of civil servants is aimed at eliminating obstacles to the exercise of these rights and is used exclusively in cases where no administrative or criminal offense has been committed. This is a differentiated approach that allows for adequate protection of the social rights of civil servants without turning them into subjects of criminal prosecution. This approach emphasizes the importance of a balanced response to violations that takes into account both the interests of the state and the rights of the civil servants themselves.

The publicity of disciplinary procedures also contributes to raising the legal awareness of both civil servants themselves and the public in general. When information about disciplinary sanctions becomes available, this creates an additional incentive for civil servants to adhere to ethical and professional standards, and the public gets the opportunity to monitor the activities of state institutions. Thus, the transparency of the disciplinary process is an important element of the mechanism for protecting the social rights of civil servants, contributing at the same time to increasing the efficiency of law enforcement practice and strengthening the rule of law.

Another type of legal liability aimed at restoring the social rights of civil servants or compensating for damage caused by an offense is civil law. Analyzing the Civil Code of Ukraine, in addition to the general provisions on compensation for property and moral damage, in Art. 1173–1175 it provides for compensation for damage caused by a public authority, the normative activities of such an authority or its officials [4]. That is, civil law liability can also be applied in public law disputes if there is material damage to a civil servant or members of his family. Civil law liability can be brought exclusively by a court and the amount of compensation is also proven in court. The presence of compensation for the damage caused allows a civil servant to restore the usual level of material support and cover the costs associated with such restoration. A feature of civil liability is that it can be applied together with criminal or administrative liability, if the civil servant expresses such a desire and files a lawsuit in court. A problematic aspect of its application is the excessive duration, which can aggravate the negative consequences, as well as the difficulty of obtaining supporting documents by a civil servant, since they are in the public authorities. It is worth clarifying that compensation for damage for violation of the social rights of a civil servant must be commensurate with the offense committed. Therefore, compensation for moral damage for violation of social rights is controversial, which is far from always present, and its proof requires an indication of the actual negative consequences.

Officials authorized to ensure and protect their social rights, and support their implementation, may be held administratively liable for violations of social rights of civil servants. Thus, the Code of Ukraine on Administrative Offenses provides for the following types of violations: “violation of the

legislation on compulsory state social insurance in case of unemployment (Article 165-3); insurance against accidents at work, occupational diseases (Article 165-4); insurance due to temporary disability (165-5); obstruction of authorized persons of the Pension Fund of Ukraine, the Compulsory Social Insurance Fund, revenue and collection bodies in conducting inspections [5]. It should be noted that such violations are mostly not typical for heads of the civil service, since the calculation of wages and subsequent insurance contributions is carried out officially. Accordingly, violations may concern the appropriation of property. As for obstruction of inspections, such a situation may be caused by a violation of labor rights regarding safe and comfortable working conditions, which is often a consequence of managers' improper performance of their duties.

According to Chapter 13 of the Code of Ukraine on Administrative Offenses, offenses related to corruption are considered to be "violation of the restrictions established by law on receiving gifts (Article 172-5); failure to take measures to combat corruption (Article 172-9); violation of requirements for preventing conflicts of interest (Article 172-7)" [5]. Corruption administrative offenses can be committed by both the civil servant himself and his manager. The commission of corruption offenses is caused by shortcomings in the legislation that unreasonably increase subjectivity in making decisions regarding the implementation of social rights, for example, the implementation of the right to official housing or social and household security depends on the decision of the head of the civil service, as well as a low level of legal awareness, the ability to illegally influence the behavior of a civil servant.

Criminal liability for violation of social rights of civil servants is the most severe. The Criminal Code defines the following types of offenses in this area: "embezzlement, embezzlement, taking possession of property through abuse of official position (Article 191); abuse of power or official position (Article 364); abuse of power or official authority (Article 365) [6]. The main difference in the grounds for applying criminal or administrative liability is the amount of damage caused, which for criminal liability must be significant, that is, exceed the amount of the tax-free minimum of citizens by a hundred or more times. Another difference is that only a court can bring civil servants to criminal liability for violation of social rights, and among the types of punishment, both a fine and arrest or imprisonment. At the same time, the fine is paid in favor of the state, not the civil servant.

Therefore, legal liability, as an element of the mechanism for protecting the social rights of civil servants, has the following features:

1. Legal liability for violation of social rights of civil servants is mandatory. That is, the application of legal liability is without alternative and is carried out regardless of the consent and will of the violator. At the same time, the powers of application are special and their limits are clearly defined by law, which prevents excess or abuse.

2. Legal liability for violation of social rights of civil servants is material. This situation is due to the possibility of restoring social rights only with the

help of funds and the dependence of the ability to implement social rights on the material support of the civil servant and his family members. At the same time, material legal liability may be supplemented by other types of protection and punishment depending on the type of offense.

3. Legal liability for violations of the social rights of civil servants is aimed at both protection and punishment. The application of punishment is necessary to prevent further unlawful actions and reduce the number of violations of the social rights of civil servants in general. Protection consists in the restored opportunity to exercise their social rights by the civil servant or members of his family.

Conclusions. So, based on the conducted research, it is possible to conclude that the mechanism for protecting civil servants has several forms of implementation, the choice between which is determined by the legislation and the will of the civil servant. The legal regulation of the action of the protection mechanism should be improved in terms of detailing the powers of the subjects of protection and increasing their profile specifically on the protection of the social rights of civil servants. In addition, greater protection is required to preserve the special legal status of a civil servant in the context of a complaint against the actions of management. An analysis of the elements of the mechanism for protecting the social rights of civil servants indicates equality in their interaction and their interdependence, and therefore the shortcomings of the action of at least one of them affect the overall effectiveness. It was also established that the mechanism for protecting the social rights of civil servants, in addition to the protective one, also performs a preventive function, since it prevents the commission of offenses by illustrating the negative consequences and their inevitability for the offender.

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