

CONCEPTUAL FOUNDATIONS OF LEGISLATIVE TERMINOLOGY REGARDING THE EXERCISE OF THE RIGHT TO WORK BY CIVIL SERVANTS IN UKRAINE

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Annotation. The article examines the conceptual foundations of the legislative terminology that defines the mechanisms for the implementation of the right to work by civil servants in Ukraine. The stages of development of the regulatory and legal regulation of the civil service are analyzed, starting with the Law of Ukraine “On Civil Service” dated 16.12.1993 No. 3723-XII, which defined a limited range of basic concepts, such as “civil service” and “position”. The problems caused by the lack of a definition of the concept of “civil servant” in the first law are emphasized, which complicated the formation of the doctrine of civil service as a special type of labor activity.

The qualitative improvement of legislative terminology in the Law of Ukraine “On Civil Service” dated 17.11.2011 No. 4050-VI is considered, where a number of new definitions were fixed, including: “civil servant”, “head of civil service”, “level of professional competence of a person” and others. It is determined that the expansion of the conceptual apparatus laid the foundation for the systematic regulation of labor relations in the field of civil service, ensuring legal certainty and reducing the risks of ambiguous interpretation.

The article also examines the impact of terminological uncertainty on the effectiveness of the implementation of the right to work of civil servants during the period of the first Law of Ukraine “On Civil Service”. The lack of unified definitions of basic concepts created legal conflicts that complicated the application of norms in the field of civil service. It is determined that the insufficiency of legal regulation of this period negatively affected the formation of the institution of civil service and inhibited its development as a separate branch of labor law.

The author emphasizes the importance of unifying terminology and adapting it to European standards in order to ensure transparency, efficiency, and professionalization of the civil service. It is argued that improving legislative terminology is an important factor in increasing citizens’ trust in state institutions, ensuring social justice, and integrating Ukraine into the European legal space.

Key words: civil service, civil servant, legislative terminology, right to work, public service, professional competence, legal regulation, European standards.

1. Problem statement.

The relevance of studying the conceptual foundations of legislative terminology regarding the implementation of the right to work by civil servants is determined not only by the current challenges of reforming the civil service in Ukraine, but also by the deep problems of its legal regulation. The vagueness, fragmentation and conflicting nature of the terminological apparatus of the current legislation create risks of unequal access to work, discrimination on professional or social grounds, and also worsen the quality of the implementation of fundamental labor rights.

In this context, it is necessary to take into account that the right to work of civil servants is not only their constitutional guarantee, but also one of the foundations of the sustainable development of the institution of civil service. Labor relations in the field of public service have their own specifics,


since they are regulated simultaneously by the norms of general labor legislation and special norms aimed at taking into account the public interest. It is this duality that determines the need for special attention to the terminology that ensures the legal regulation of labor in this area.

In the current conditions of reforming the civil service system in Ukraine, the problem of ensuring the right to work of civil servants is becoming particularly urgent. The civil service is the basis of the functioning of public authorities, and the quality of the implementation of this institution largely depends on the legislative provision of the rights of its subjects. One of the key aspects is the improvement of legislative terminology, which defines the legal foundations and mechanisms for implementing the right to work. The lack of a single conceptual base of terms and concepts in the legislation creates ambiguity in law enforcement, which negatively affects the effectiveness of protecting the social rights of civil servants.

The importance of the right to work for civil servants is determined by its impact on ensuring social stability, professional development, as well as socio-economic protection of this category of employees. In practice, problems arise due to the lack of regulation of many aspects, in particular in the field of contractual basis of work, competitive selection, guarantees of equal opportunities and social protection. In addition, the legislation of Ukraine on civil service is dynamic and constantly undergoing changes, which further complicates the unification of terminology and ensuring its compliance with modern challenges.

2. The state of development of this issue.

The problems of the right to work for 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, N.M. Neumyvaychenko, V.O. Petryshyn, P.D. Pylypenko, S.M. Prylypko, O.I. Protsevsky, G.O. Reshetilov, D.I. Sirokha, G.I. Chanysheva, O.M. Shtyryov, V.I. Shcherbyna, N.M. Khutoryan, O.M. Yaroshenko and others. However, the issue of legislative definitions regarding the implementation of the right to work by civil servants has not yet been given proper comprehensive attention, which determines the relevance of our study.

 **3. The purpose of the article** is to analyze the legislative terminology regarding the exercise of the right to work by civil servants in Ukraine.

4. Presentation of the main material.

Analyzing the content of the Law of Ukraine "On Civil Service" dated 16.12.1993 No. 3723-XII [1], it can be noted that the legislator provided a definition of only two basic concepts: "civil service in Ukraine" and "position". This approach to defining key categories created significant gaps in legal regulation at the initial stage of the formation of the institution of civil service in independent Ukraine.

The absence of a definition of the concept of "civil servant" in the legislation made it impossible to clearly distinguish this category of employees from other subjects of labor relations, which significantly complicated the application of the law. In particular, this led to problems in the regulation of specific labor rights and obligations, the features of social protection, as well as the uncertainty of the status of a civil servant in the public administration system. This situation significantly complicated the development of the doctrine of civil service as a special type of labor activity focused on the performance of public authority functions.

The insufficiency of the regulatory framework also had negative consequences for the theoretical and legal substantiation of the civil service as a separate legal institution. The lack of a clear legislative definition of the main concepts actually hindered the formation of a systematic approach to the

regulation of the civil service, which was reflected in numerous conflicts, the vagueness of the legal status of civil servants, and complications in law enforcement practice.

It is worth noting that the problem of unregulated basic terminology persisted in all editions of the first Law "On Civil Service". Even after numerous amendments to the law, the issue of defining the concept of "civil servant" remained outside the legislator's attention, which led to a fragmented and unsystematic approach to the legal regulation of the civil service as a whole.

Only with the entry into force of the Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII, an attempt was made to solve this problem by means of a clear legislative definition of key concepts. However, the long-term period of uncertainty in the basic categories left a significant imprint on the formation of the modern civil service system, which requires further improvement of legal regulation, in particular, unification of terminology, harmonization with international standards and ensuring unity of approaches to the interpretation of basic concepts.

Thus, the initial stage of the formation of civil service legislation in Ukraine is characterized by significant terminological uncertainty, which had a negative impact on both law enforcement and doctrinal understanding of civil service. This problem is a vivid example of how imperfect legal regulation can hinder the development of the civil service institution, which emphasizes the importance of careful elaboration of legislative definitions in the future.

The content of the Law of Ukraine "On Civil Service" dated 17.11.2011 No. 4050-VI [2] in this context qualitatively differed from the content of the Law of 1993. In Article 1, the legislator defined the concepts of "civil service", "civil servant", "head of civil service in a state body, a government body of the Autonomous Republic of Crimea or their apparatus", "civil service position", "job duties", "professional competence profile of a civil service position", "level of professional competence of a person", "working hours of a civil servant", "staff service of a state body, a government body of the Autonomous Republic of Crimea or their apparatus", "service discipline of a civil servant", "service duties", "subject of appointment" and "service functions".

That is, a number of definitions of concepts important for the implementation of the right to work by civil servants have received their legislative consolidation. These new definitions have significantly expanded and specified the conceptual apparatus of the legislation on civil service. For the first time, the conceptual foundations for a more systematic approach to the regulation of labor relations in the civil service were laid, which ensured legal certainty, reduced the risks of ambiguous interpretation of legislative norms and increased the effectiveness of law enforcement.

The consolidation of concepts such as "level of professional competence of a person" or "profile of professional competence of a civil service position" has become particularly important in the context of improving personnel policy. This has made it possible to more objectively assess the professional qualities of candidates for positions, ensuring competition and increasing the level of professionalism of the state apparatus. The definition of "working time of a civil servant" and "official duties" has contributed to the regulation of labor relations, in particular in terms of labor rationing, which is a key element in ensuring the right to work.

Another important innovation was the consolidation of the definition of "appointing entity", which determined the mechanism of responsibility for making personnel decisions and contributed to the implementation of the principle of transparency in the process of appointing and dismissing civil servants.

Thus, the Law of Ukraine "On Civil Service" dated 17.11.2011 No. 4050-VI was a significant step forward compared to the legislation of 1993, laying the foundation for further professionalization of the civil service and ensuring legal certainty in regulating the right to work of civil servants.

The current Law of Ukraine "On Civil Service" dated 10.12.2015 No. 889-VIII [3] did not acquire this extension, because in essence, Articles 1 and 2 of this regulatory legal act defined the same number of definitions of concepts as in the previous Law, including such concepts as "civil service", "civil servant", "direct manager", "head of civil service" and "subject of appointment".

However, as our research has shown, further development of legal regulation of the procedure for exercising the right to work by civil servants requires additional definition of such concepts as the terms “employee of a state body” and “employee of a state body who is not a civil servant”, and these definitions do not limit the need for proper legal regulation of employment relations.

Insufficient distinction between these concepts creates legal uncertainty and may lead to practical problems in regulating employment relations. A clear definition of these categories will not only avoid legal conflicts, but will also ensure transparency and fairness in employment relations between civil servants and other employees of state bodies.

Moreover, these definitions are only part of a broader problem that requires proper legal regulation. For example, it is also necessary to take into account issues related to the rights and obligations of these workers, their social protection, working conditions and professional development opportunities. The lack of proper legal regulation in these aspects can lead to violations of workers’ rights, a decrease in the efficiency of the civil service and a loss of citizens’ trust in state institutions.

Thus, our study emphasizes the need for a comprehensive approach to the legal regulation of service-labor relations in state bodies. This includes not only a clear definition of key concepts, but also the development of detailed regulatory acts regulating all aspects of the labor activities of civil servants and other employees of state bodies. Only in this way can the effective functioning of the civil service be ensured and the rights of all its employees be protected.

Therefore, we believe that further development of legal regulation of the procedure for exercising the right to work by civil servants in the context of Ukraine’s European integration requires expanding the range of legally defined key definitions for exercising the right to work by civil servants.

In particular, in the context of European integration processes, it is important to adapt Ukrainian legislation to European standards and requirements, which will contribute to improving the quality of civil service and its compliance with international norms.

The analysis shows that current legislative norms do not always clearly define the status and rights of civil servants, which leads to legal uncertainty and can become an obstacle to the effective work of state bodies. In the context of European integration, when Ukraine is obliged to comply with certain standards and norms, it is important that the legislation is adapted in such a way as not only to ensure the rights of employees of state bodies, but also to promote their professional development and effective performance of duties.

Expanding the scope of legally defined definitions should include not only basic concepts such as “civil servant” and “employee of a public authority”, but also other important aspects related to labor rights, social protection, working conditions, advanced training and career growth. This will create a more transparent and fair legal field, in line with best European practices.

In addition, it is also important to implement mechanisms to monitor compliance with these rights and ensure an adequate level of training for civil servants. This includes regular training and advanced training that will meet modern requirements and challenges facing the civil service in the process of European integration.

5. Conclusions.

So, we can summarize that a balanced and clear legal definition of concepts will contribute to the creation of a predictable and transparent regulatory environment that will ensure the stability of law enforcement, minimize legal conflicts and contribute to the effective protection of the rights of civil servants. This will not only increase the efficiency of the functioning of state bodies through the optimization of procedures and improvement of personnel policy, but will also become the foundation for the formation of a highly qualified, professional and motivated corps of civil servants. Ukraine’s integration into the international legal space involves bringing national legislation into line with European Union standards, in particular in terms of ensuring equal access to civil service, preventing discrimination and ensuring gender equality. The lack of harmonized terminology makes

it impossible to fully implement such standards, which, in turn, jeopardizes the effectiveness of international cooperation in the field of public administration.

The impact of constant changes in legislation on the quality of legal regulation of the right to work of civil servants also requires special attention. Frequent changes in regulatory and legal acts lead to the fact that the norms become internally contradictory, and their terminology is inconsistent. This creates additional difficulties for law enforcement, reduces trust in state institutions and complicates the implementation of civil servants' labor rights, especially in the context of reforms.

Thus, the issue of conceptualizing legislative terminology regarding the implementation of the right to work of civil servants is a multifaceted and systemic task. It requires taking into account not only legal aspects, but also socio-economic, international and managerial factors. Unification and standardization of terminology will contribute to creating the prerequisites for effective protection of labor rights of civil servants, improving their professional status, as well as strengthening the human resources potential of the civil service as a key element of public administration.

References:

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