

ISSUES OF ESTABLISHING THE LEGAL STATUS OF A CIVIL SERVANT

Khojabekov Muftulla Jolmurza Ogli

Doctoral student Tashkent State University of Law muftulla_khojabekov@mail.ru
(the Department of Labor Law Tashkent State University of Law)

Abstract

The article analyzes the legal status of a civil servant, its features, elements and legal consolidation in a separate chapter of the draft Law "On Civil Service". However, there are certain shortcomings in the legal regulation of the status of civil servants. In this study, the author attempts to identify the problems of legal regulation of the legal status of civil servants and suggest ways to resolve them. For example, the content and the difference between the concepts of "civil servant" and "civil servant" from the point of view of normative content are disclosed. From a practical point of view, it is not the concept itself that is of greatest importance, but the constituents that form it. Traditionally, the legal status of an individual includes rights, freedoms and duties. At the same time, in relation to a civil servant, the range of elements of the legal status is much wider.

In addition, the article presents various concepts of understanding the concept of "public service". At the same time, the author draws attention to the fact that at present there is no consensus in the legislation and the normative establishment of the legal category of "civil servant".

Key words: legal status, civil service, civil servant, civil servant, civil service ranks, meritocracy, Action Strategies for five priority areas of development of the Republic of Uzbekistan, personnel policy, rights and obligations of a civil servant.

I. INTRODUCTION

Among all types of government management has a special place. It must be understood as a complex phenomenon conditioned by many interdependent reasons, factors of the development of society. In society there is nothing secondary, everything is important one: economics and politics, law and culture, psychology and management. But all this will work for a person and society only when it is brought together into a holistic harmonious system.

One of the fundamental issues concerning problems of the organization of the civil service, is the question of creating an effective management system for it. The Republic of Uzbekistan over the years of independence as a whole has managed to create an integral, more or less well-coordinated management structure. But at certain levels, this system began to malfunction, which eventually caused quite fair criticism and discontent among the population.

The legal foundation on which the public service was based was the reference rule Art. 18 of the Labor Code, adopted in 1995, which enshrined the norm that "the peculiarities of the regulation of the labor of civil servants are established by law."

The laws "On the Cabinet of Ministers Of the Republic of Uzbekistan "(1993)," On Courts "(1993), "On the Prosecutor's Office" (1992), "On the Notary" (1996), "On the State Customs Service" (1997), "On the State Tax Service" (1997), "On the rescue service and the status of the rescuer" (2008), "On general conscription and military service" (2002), "On the internal affairs bodies" (2016), "On state power at the local level" (1992), but a separate special law on civil service was never adopted (although the corresponding bill was developed several times)

Over the past quarter of a century, global economic, political and social changes have taken place in all spheres of state and public life in Uzbekistan. [1, p.73] Intensive integration of our economy into the world economy requires the introduction of new effective institutions that regulate market relations. [2, p.52] In this regard, within the framework of the State Program for the implementation of the Strategy of Action in five priority areas of development of the Republic of Uzbekistan in 2017-2021 in the "Year of Dialogue with the People and Human Interests", approved by the decree of the President of the Republic of Uzbekistan dated 7.02. 2017 No. UP-4947, as well as by the order of the President of the Republic of Uzbekistan dated February 14, 2017 No.

№ UP-4849 "On organizational measures for the implementation of the Action Strategy in five priority areas of development of the Republic of Uzbekistan in 2017-2021", provided for the development of a draft law "On public service". [3. website]

II. MATERIALS AND METHODS

The research method is an expression of solving a problem on the basis of international standards, and the peculiarities of regulating working time with the help of comparative legal, legal and technical, a method of interpreting legal norms for a comprehensive and comprehensive analysis of legal norms.

III. RESULTS AND DISCUSSION

The experience of most countries shows that when determining the legal status of a civil servant, it is necessary, on the one hand, to take into account that a civil servant, being a citizen of the respective country, must have the constitutional rights and freedoms that other citizens have. On the other hand, the performance by a civil servant of his functions requires the establishment of certain restrictions on him (prohibition to engage in other paid activities, including entrepreneurial ones; prohibition to receive royalties for publications and

performances, the preparation of which is part of his official duties; inadmissibility of using his official position in interests of political parties, public associations, etc.). Such restrictions are introduced in order to prevent abuse of office. Therefore, one of the most important tasks of the civil service reform is to ensure a combination of the legal status of an official as a citizen and as a civil servant. At the same time, maintaining the balance of interests of the state and its employees is one of the conditions affecting the effective implementation of public service.

The modern civil servant must to understand that it is necessary to adjust the mechanism of work for “efficiency”, and not for “process”. In his turn, this will lead to some decentralization management decisions and a strong emphasis on individual responsibility and performance top echelon.

A government program should be developed to attract talented people to state institutions.

Upon admission to service and promotion the career ladder should abandon the system certification and introduce a system of examinations and testing. It is necessary to strengthen the training base for the training and retraining of civil servants, in particular to develop textbooks and manuals.

Finally, there is a need for a smooth transition from individual master's thesis to team projects reflecting a systematic approach and teamwork.

The institution of civil service is an integral part of the state, with the help of its existence and functioning important goals are achieved: state administration is carried out, and the right of every citizen to take part in this administration is ensured. [4, p. 53]

The experience of most countries shows that when determining the legal status of a civil servant, it is necessary to take into account that a civil servant, being a citizen of the respective country, must have the constitutional rights and freedoms that other citizens have. Therefore, one of the most important tasks of the civil service reform is to ensure a combination of the legal status of an official as a citizen and as a civil servant. At the same time, maintaining the balance of interests of the state and its employees is one of the conditions affecting the effective implementation of public service.

A detailed examination of the general characteristics of civil servants, their classification and legal status will make it possible to more fully understand the importance and role of this institution.

In this regard, there is a need for a normative differentiation between the status of civil servants and the status of a civil servant. In accordance with clause 1 of the Decree of the President of the Republic of Uzbekistan "On measures to radically improve personnel policy and the system of state civil service in the Republic of Uzbekistan" dated October 03, 2019 No. UP-5843, a state civil servant is a citizen of the Republic of Uzbekistan who carries out his activities in the

positions introduced to the State Register of Civil Service Positions. While a civil servant in accordance with Art. 4 of the draft Law "On Civil Service" (hereinafter referred to as the Law on Civil Service) is a citizen of the Republic of Uzbekistan employed in civil service in civil service positions or in the National Personnel Reserve.

In fairness, it is worth noting that the clear line between the two is not immediately noticeable. In order to fill this gap, it is advisable to pay attention to the Presidential Decree "On measures to radically improve personnel policy and the system of state civil service in the Republic of Uzbekistan" dated October 3, 2019 No.UP-5843, which implies a fundamental structural division of the civil service into the state civil service and special services (military service and service in law enforcement agencies). [5. c.3]

As a general rule, civil servants in almost all countries are divided into civil and political. Their names, and sometimes the list of persons included in their circle, may vary (public and civil - in Great Britain, competition and patronage - in the USA, officials in private or public law relations with the Federation - in Germany, etc.)), but the essence of legal regulation remains unchanged. [6. website]

As you know, Art. 14 of the Labor Code of the Republic of Uzbekistan (hereinafter referred to as the Labor Code of the Republic of Uzbekistan) "The subjects of labor relations can be citizens of the Republic of Uzbekistan, as well as foreign citizens and stateless persons who have reached the specified age and have concluded an employment contract with an employer. L. Rakhimkulova also noted this in her research [6, c.37] However, the civil service stands out against the background of other types of service by its peculiarity, namely, its public nature, therefore, in accordance with Article 45 of the draft Law on civil servants, persons who have not reached eighteen years of age.

The issue of considering the legal status in the draft Law on Civil Service occupies the second chapter, in particular, Article 18 of this draft Law. At first glance, the content of Article 18 of the draft will seem very difficult to interpret. In this connection, there is a need for a detailed disassembly of the norms of this article. For instance:

- part one of the article states that the legal status of civil servants is considered the same for all types of civil servants, depending on the civil service positions held (higher, main, leading, senior and junior civil service positions);
- part two of the article notes the status of a civil servant includes general rights, privileges and guarantees of a civil servant within the career system;
- part three provides for the conditions and requirements for granting the status of a civil servant established by this Law and other legislative acts;
- part four focuses our attention on the moment from which the legal status of a civil servant

arises (from the moment of appointment (election) to a public office or enrollment in the National Personnel Reserve) and is lost with the termination of the civil service of the Republic of Uzbekistan.

- and finally, the last part highlights the moment from which the legal status of a career civil servant arises and ceases.

After analyzing the norm of Article 18 of the draft, we came to the conclusion that the legal status of a civil servant is proposed to be understood as a complex and complex institution, which includes a number of elements, including guarantees and privileges, as well as moments of the emergence and loss of the status of a civil servant.

The legal status of civil servants is generally characterized by:

1. their rights and obligations are established, as a rule, within the competence of the bodies in which they are in the civil service;
2. the activity of civil servants is subordinate to the implementation of the tasks assigned to the relevant body and is of an official nature;
3. the exercise by employees of official rights and duties is guaranteed by law;
4. legal instructions and requirements of civil servants are subject to execution by all to whom they are addressed;
5. they have the right to promotion, that is, to an official career (the procedure and conditions for exercising this right are established by regulatory enactments);
6. they are provided with certain benefits, as well as increased responsibility for omissions

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