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## **ADMINISTRATIVE LEGAL STATUS OF PUBLIC SERVANTS IN UKRAINE: THEORETICAL FOUNDATIONS AND DIRECTIONS OF MODERNIZATION**

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The article examines the legal status of civil servants in Ukraine and identifies the prospects for its modernization taking into account modern European standards of public administration. The essence of civil service is analyzed as a professional activity of persons who implement the tasks and functions of state bodies and local self-government bodies, ensuring the satisfaction of public needs within the legally defined legal field. The basic structural elements of the legal status of public servants have been identified: rights, obligations, restrictions on certain types of activities, guarantees and mechanisms for exercising powers, social and material security, and responsibility.

The article analyzes modern approaches to the organization of public service in Ukraine and the legal mechanisms of its functioning. The effectiveness of regulatory and legal regulation, international recommendations and practices that contribute to increasing the professionalism of civil servants, ensuring political neutrality, accountability and transparency of the activities of government bodies is assessed. The international recommendations of SIGMA/OECD on the modernization of public service are considered, including increasing the professionalism and competence of civil servants, ensuring political neutrality, accountability and transparency of the activities of government bodies, the use of modern electronic management tools and raising ethical standards.

It is emphasized that effective reform of the public service in Ukraine is possible only under the conditions of a systematic approach to the selection and assessment of employees, rational distribution of functions, professional training and the introduction of modern management technologies. Specific areas of modernization are proposed, including improving legal regulation, professionalizing the staff, increasing social and legal protection, as well as forming an ethical and transparent environment in public administration.

**Keywords:** public service, public servants, administrative and legal status, modernization of public service, public administration, professionalization, ethical standards, transparency, accountability, European standards, management efficiency.

**Formulation of the problem.** One of the most complex and at the same time the most urgent problems that have accompanied Ukraine since the declaration of independence remains the formation and development of an effective mechanism of public power. Its key task is to ensure the optimal balance between the interests of man and citizen and the needs of effective public administration. In the context of transformation processes, modern Ukrainian society has identified a strategic goal – reforming the political system of the state, taking into account the implementation of European principles of public administration. This, in turn, actualizes the need to modernize the administrative and legal status of public servants and the systemic transformation of the institution of public service.

The main task of such reform is the gradual approximation of the domestic model of public administration to European standards of good governance, increasing the professionalism of public service representatives, improving the mechanisms of its organization based on international experience and modern world trends. At the same time, it is necessary to recognize that the current system of public administration in Ukraine demonstrates deep internal contradictions, excessive centralization, a low level of openness to society and a limited orientation to the needs of citizens. Scientists and practitioners associate such shortcomings primarily with the insufficiently effective organization of public service institutions – civil service and service in local government bodies, as well as with existing gaps in the demarcation of the political and administrative levels of management.

**Analysis of the study of the problem.** Such scientists as V. Averyanov, O. Batanov, Yu. Bytyak, K. Vashchenko, O. Voronko, N. Honcharuk, S. Dubenko, V. Kolpakov, V. Kuybida, O. Lazor, N. Lypovska, V. Lugovyi, T. Motrenko, N. Nyzhnyk, O. Obolensky, O. Petryshyn, N. Sydorenko, O. Khoroshenyuk, M. Tsurkan, S. Shevchenko and others have devoted their scientific research to certain aspects of the essence of public service and its development in Ukraine.

However, the current state of scientific research in the field of the status of public servants does not fully meet modern requirements for the formation of a new concept of public service. Such a concept should become the foundation for reforming the political system of Ukraine, taking into account the best experience of developed European countries. Therefore, further scientific research on this problem should cover a wider range of issues, which will allow for a deeper disclosure of the essence and mechanisms of the functioning of the administrative and legal status of a public servant.

**The purpose of the article** is to conduct a comprehensive study of the administrative and legal status of public servants in Ukraine, determine its basic legal principles, and identify prospects and directions for modernizing the public service system in accordance with modern requirements for effective public administration and international standards.

**Presentation main material.** A prerequisite for a detailed analysis of the legal status of public servants is the definition of the scientific term "public service". In scientific theory, this category is used to determine the nature and method of people's activities, which reflects the fact of the social division of labor. Public service is organically connected with the state and local government bodies, their place and role in the life of society. The tasks and functions of the state are embodied in the activities of public servants [1, p. 215].

The authors of the educational publication "Public Service" understand the institution of public service as a system of government bodies, each of which, according to the subject of its competence, can be considered a service within which the professional activities of citizens are carried out on an ongoing basis, aimed at the realization of the people's right to exercise power in the state. According to scientists, the institution of public service ensures effective communication of executive bodies with officials and politicians, both current and those in opposition, as well as with society and its citizens. It appears as a type of social activity based on the principles of openness and transparency of the functioning of the executive branch. These principles are influential factors that determine the nature of public administration and the

structure of public service, the foundations of which are formed by legislation. In my opinion, this emphasizes the key role of the institution of public service in ensuring the stability and effectiveness of public administration in Ukraine [2, p. 28].

M. Tsurkan defines public service as the professional public activity of persons who hold positions in state bodies and local self-government bodies, regulated exclusively by the Constitution and laws of Ukraine, in order to implement the tasks and functions of the state and local self-government bodies [3, p. 9].

According to O. Popova, public service should be defined as the exercise of power by the people through the performance of tasks and functions of the state aimed at ensuring public interests by individuals on a permanent professional remuneration basis at the expense of budget funds in executive bodies, apparatuses of all branches of government, local self-government bodies on the basis of an administrative and legal act of appointment to a position. [4, p. 585].

Being a dynamic system, the public service operates in conditions of permanent changes in the external and internal environment (most often changes in the internal states of the system are caused by changes in the external environment). Subsystems and components of the public service system arise, are formed and operate in accordance with the defined goals: improving the quality of life of the country's population, achieving political and economic stability, a high level of social development, etc. [5, p. 216].

By its nature, public service is a complex institution regulated by several branches of law of the national legal system, combining both service in state authorities and service in local self-government bodies.

The generalization of the verbal construction "public service" makes it possible to understand this concept as a special type of professional activity of persons working in public administration bodies, the main task of which is to ensure the realization of public interests of an unlimited number of people.

As noted in the monographic work of O. Batanov, public interests are at the heart of public power, which must be understood as public interests enshrined in law and secured by society or the state. Public interests should be considered as a systemic property of any society [6, p. 71].

For the first time in Ukraine, the term "public service", which is commonly used in foreign scientific literature, was enshrined at the legislative level in the Code of Administrative Justice of Ukraine dated July 6, 2005. This was the first step towards formalizing the concept and creating a legal basis for regulating the activities of public servants within the Ukrainian system of public administration. According to clause 17 of article 3 of the Code of Administrative Justice of Ukraine "public service – activity in state political positions, in state collegial bodies, professional activity of judges, prosecutors, military service, alternative (non-military) service, other public service, patronage service in state bodies, service in the authorities of the Autonomous Republic of Crimea, local self-government bodies" [7].

Thus, the consolidation of the term at the legislative level determined the further directions of development of the institution of public service and created the basis for the modernization of its legal status in the context of public administration reform.

In scientific discourse, the widespread view is that public servants are officials (officials) who hold administrative positions related to the performance of organizational and administrative, consulting and advisory, control and supervisory and other management functions, as well as the provision of administrative and public services. According to N. Didenko, one of the advantages of the profession of a public servant is the opportunity to participate in the analysis and evaluation of public programs, policies, laws and management problems [8, p. 94–95].

The basis of the legal status of a public servant is determined by the following structural elements: duties of a public servant, rights, restrictions, guarantees, social and material security, responsibility, which together ensure the appropriate legal position of a person in public service relations and create conditions for the performance of tasks and functions of the state. It is quite logical to enshrine these elements in legislation, since the establishment of the duties of an official makes it necessary to enshrine his rights, and the presence of duties and rights gives rise to various restrictions on activity, as well as the need to establish guarantees and responsibility [1, p. 70–71].

If we follow the generally accepted scientific theory concept of dividing the legal status of a person into general, special and individual, then it is necessary to determine which status the status of a public servant belongs to. First of all, we note that each citizen primarily has a general (natural) status, which is the same for everyone, and can be the basis for acquiring other special or individual statuses of an individual. The general status of a person is determined by the Constitution of the state and constitutional laws. It is general, common, unified for everyone regardless of nationality, religious beliefs, social status, etc. This status is stable and stable, and is also characterized by absolute certainty for everyone. The general status provides for the equality of rights and obligations of citizens, the equality of all before the law, and is also fundamental for other types of the legal status of a person.

The course taken by Ukraine towards European integration necessitates the fulfillment of the criteria and requirements set for candidates for accession to the European Union, which, in turn, puts to the forefront of state and legal development the task of creating a highly professional public service as a key element of an effective system of public administration. Such progressive steps actualize the need to take into account the best positive experience of developed European countries in determining the main criteria for public service in accordance with the requirements of the modern period of Ukrainian statehood.

Based on foreign experience, it can be argued that the concept of "public service" in most countries is interpreted unambiguously: it includes all officials of the state administrative apparatus (civil servants), employees of municipal government bodies (municipal servants), as well as employees of the budget sector and various non-governmental and non-profit organizations. This opinion is also held by a number of Ukrainian specialists. [9].

Analysis of foreign scientific and legislative sources shows that the concept of public service is broader, as it includes civil service, service in local government bodies and service in public institutions. Public service covers work in state authorities, local government bodies and non-governmental organizations that provide public services to the population. It should also be noted that in EU countries there are different models of public service, but the division into civil service and decentralized public service is widespread.

It is necessary to pay attention to the adaptation of the experience of organizing the public service in the EU countries, which has proven the importance of not only a systemic, but also a behavioral approach, which involves deeper changes in the systems of stimulating the activities and training of public servants, where career growth directly depends on the level of competence. The issue of assessing the results of training/advancing the qualifications of public servants in the system of training, retraining, specialization and advanced training, and the issue of changing the paradigm of training in postgraduate education, where education is not only a process, but the result is a high level of competence, does not lose its relevance [10, p. 81].

Reforming the domestic public service involves various kinds of shifts and transformations of the public service system in the direction of its modernization, continuous improvement; approaching the maximum possible level of development.

Modernization of the civil service is understood as such changes in society, thanks to which modern-type relations and institutions are achieved and consolidated. In this regard, the objects of modernization, which can be updated, rebuilt, improved, changed, modernized, etc., are state authorities and local self-government bodies [5, p. 228].

In order to reform the public service in Ukraine, several strategic documents have been adopted over the past ten years, among which, in our opinion, it is appropriate to single out the Strategy for Reforming Public Administration of Ukraine for 2022–2025 [9], the Laws of Ukraine "On Civil Service" dated December 10, 2015 [12] and "On Service in Local Self-Government Bodies" dated May 2, 2023 [13], and other legal acts of a regulatory nature.

In particular, the Strategy for Reforming Public Administration determines that the reform of the public administration system is carried out taking into account the European Standards of Good Administration, developed by the Support Program for Improving Governance and Management (hereinafter referred to as the SIGMA Program) and set out in the document "Principles of Public Administration". The specified document contains a system of principles and criteria for assessing public administration, based on

international standards and requirements, as well as best practices of EU member states and countries of the Organization for Economic Cooperation and Development. This Strategy is developed taking into account the European principles and the results of the assessment of the state of public administration in Ukraine conducted in 2018 by experts of the SIGMA Program, as well as the experience gained at the previous stage of implementing public administration reform.

The expected results of the public administration reform are:

- ensuring the provision of high-quality services and the formation of a convenient administrative procedure for citizens and businesses;
- forming a system of professional and politically neutral public service focused on protecting the interests of citizens;
- building effective and accountable state institutions to citizens that form state policy and successfully implement it for the sustainable development of the state [9].

These documents define modern approaches to the organization and functioning of the public service, create a legal basis for improving its structure and ensuring the professional level of employees, and also form guidelines for further modernization of the administrative and legal status of public servants in Ukraine.

However, to ensure a comprehensive and effective reform of the public service, these basic regulatory acts alone are not enough. It is also necessary to adopt by-laws and regulations that detail the standards of service activities, methods for assessing the effectiveness of civil servants and the conditions for their professional development. Special attention should be paid to the integration of international standards and best European practices, in particular the OECD/SIGMA recommendations [14] on transparency, accountability and professionalization of the public service. In addition, the effectiveness of the reforms depends on the legislative and socio-legal framework that regulates working conditions, social guarantees and protection of the rights of civil servants.

In particular, the report analyses the performance of public administration in Ukraine using a set of standard indicators based on the Principles of Public Administration. The Principles define what good governance means in practice and outline the basic requirements that countries should adhere to during the process of integration into the European Union (EU). They consider the preconditions for good governance (appropriate laws, policies, institutional capacity and procedures) and how the administration works in practice. It is important to note that it covers six thematic areas: the strategic framework for public administration reform, policy development and coordination, public service and human resource management, accountability, service delivery and public financial management. The report also provides comparative information on the successes of reforms and remaining challenges.

Thus, a modern regulatory framework creates a foundation for reforms, but full modernization of the public service requires a comprehensive approach that combines legislative, regulatory, and international mechanisms.

In accordance with the European principles of democratic governance, the modernization of the public service in Ukraine should be carried out by: improving the legal foundations of the functioning of the public service; reforming the system of remuneration of public servants; ensuring political neutrality of public servants in the process of performing their professional duties, strengthening their legal and social protection; regulating the procedure for providing public services; improving the regulatory regulation of the requirements of professional ethics of public servants; further professionalization of the public service; improving the image and efficiency of the public service [5, p. 228].

Additionally, in our opinion, attention should be paid to the following aspects:

- introduction of modern digital management tools, which will increase transparency, accessibility and efficiency of public services provision;
- development of accountability mechanisms and control over the activities of public servants, in particular internal audit systems and performance evaluation;
- integration of international experience and standardization of procedures, which will contribute to the harmonization of the Ukrainian public service system with the best practices of the EU.

We are convinced that the implementation of these measures will not only increase the efficiency and professional level of public servants, but will also ensure public trust in government bodies, which is a key criterion of democratic governance.

Ukraine's clearly defined European integration course requires public officials to adhere to standards and principles of good governance that reflect pan-European values. These include: elections, representation and participation; effective feedback; efficiency and effectiveness; openness and transparency; rule of law; ethical behavior; competence and capacity; innovation and openness to change; sustainable development and long-term planning; sound financial management; respect for human rights, cultural diversity and social cohesion; accountability [15, p. 49–50].

Adherence to these principles will not only ensure compliance of the Ukrainian public service system with European standards, but also contribute to increasing the efficiency of management processes, strengthening citizens' trust in government bodies, and forming a professional and ethical environment in the public service.

**Conclusions.** Thus, the following structural elements should be considered as the basic characteristics of the legal status of public servants: rights of public servants; obligations of public servants; restrictions on certain types of activities; guarantees and mechanisms for exercising powers; social and material security; responsibility of public servants. It is these components that form the legal basis of activity in public service relations and create conditions for the proper performance of the tasks and functions of the state.

In this regard, we can propose the following definition of the concept of "public servants": these are persons who on an ongoing basis carry out professional activities in state bodies and local self-government bodies, implementing the tasks and functions of the state and ensuring the satisfaction of public needs within the legal framework established by current legislation.

Given the importance of these elements of legal status, it is necessary to ensure their clear consolidation at the legislative level, which will contribute to increasing the efficiency of the public service and legal certainty for public servants and society as a whole.

It should be noted that research, adaptation to the national legal system and practical implementation of the most modern approaches to the formation and principles of public service in developed countries is one of the key tasks of public administration policy in Ukraine. Only a systematic approach can ensure an effective solution to the problem of selecting personnel for public servant positions, assessing their psychophysiological abilities and conducting anti-corruption diagnostics of future employees, which will contribute to the success and effectiveness of public administration reform at a new stage of state formation.

The issue of rational distribution of functions of public servants requires special attention, which involves maximum use of the potential of each type of public service to meet the needs of citizens and society as a whole. In this context, it is advisable to propose:

- creation of a unified system for assessing the competencies and career potential of civil servants, which will be based on modern methods of assessing professional and psychophysiological abilities;
- introduction of electronic platforms for personnel management, which will allow more effective control of the distribution of tasks and monitoring of the performance of public servants;
- systematic training and advanced training, in particular on anti-corruption policy, ethics and modern management methods, which will contribute to increasing the professionalism and ethics of civil servants.

The implementation of these proposals, in our opinion, will contribute to increasing the efficiency of public service in Ukraine, strengthening the trust of our citizens in government bodies, and creating a transparent, professional, and ethical environment in public administration.

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## **АДМІНІСТРАТИВНО-ПРАВОВИЙ СТАТУС ПУБЛІЧНИХ СЛУЖБОВЦІВ В УКРАЇНІ: ТЕОРЕТИЧНІ ОСНОВИ ТА НАПРЯМИ МОДЕРНІЗАЦІЇ**

У статті досліджено правовий статус публічних службовців в Україні та визначено перспективи його модернізації з урахуванням сучасних європейських стандартів публічного управління. Проаналізовано сутність публічної служби як професійної діяльності осіб, що реалізують завдання і функції держави та органів місцевого самоврядування, забезпечуючи виконання суспільних потреб у межах законодавчо визначеного правового поля. Визначено базові структурні



елементи правового статусу публічних службовців: права, обов'язки, обмеження щодо окремих видів діяльності, гарантії та механізми здійснення повноважень, соціально-матеріальне забезпечення, відповідальність.

Проаналізовано сучасні підходи до організації публічної служби в Україні та правових механізмів її функціонування. Оцінено ефективність нормативно-правового регулювання, міжнародних рекомендацій і практик, що сприяють підвищенню професіоналізму службовців, забезпеченню політичної нейтральності, підзвітності та прозорості діяльності органів влади. Розглянуто міжнародні рекомендації SIGMA/OECD щодо модернізації публічної служби, серед яких підвищення професіоналізму та компетентності службовців, забезпечення політичної нейтральності, підзвітності та прозорості діяльності органів влади, застосування сучасних електронних інструментів управління та підвищення етичних стандартів.

Підкреслено, що ефективне реформування публічної служби в Україні можливе лише за умов системного підходу до відбору та оцінки службовців, раціонального розподілу функцій, професійної підготовки та впровадження сучасних технологій управління. Запропоновано конкретні напрями модернізації, включаючи вдосконалення правового регулювання, професіоналізацію кадрового складу, підвищення соціальної та правової захищеності, а також формування етичного та прозорого середовища в публічному управлінні.

Ключові слова: публічна служба, публічні службовці, адміністративно-правовий статус, модернізація публічної служби, публічне управління, професіоналізація, етичні стандарти, прозорість, підзвітність, європейські стандарти, ефективність управління.