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LEGISLATIVE BASES OF PROFESSIONAL-QUALIFICATION COMPLEX FORMATION OF HUMAN POTENTIAL IN THE SYSTEM OF CIVIL SERVICE OF UKRAINE

Abstract. The article shows the legislative framework of the professional qualification component of human potential formation in the system of civil service of Ukraine. In particular, the laws of Ukraine on public service, decrees of the President of Ukraine, subordinate legal acts, which created conditions for the development of the national civil service system in 1991-2018, were analyzed. The analysis of Ukraine legislation about government service gives an opportunity to find out not only the conditions of development of national government service system in 1991-2017, but also conceptualize an experience of human potential formation in the system of government service of Ukraine. The author showed the transition from the labor to the public concept of relations in the civil service system of Ukraine, which implies a different view of the identification of workers and employees. This was typical of the countries with the socialist system of law, according to the doctrine of which, every person participates in society, regardless of the scope of his/her work. It was justified that the process of further development of the civil service in Ukraine requires the attention of scientists and legislators on such issues, as strengthening legal guarantees, social and moral protection of civil servants in their professional duties, improving the mechanism of accountability of civil servants, consistent with the rules of administrative, civil, financial, labor and criminal law. The next reform tasks are to improve the system of criteria for evaluating the activities of civil servants. The author also analyzes the means and capabilities of reports on the civil service system in Ukraine. This allows to get statistics and conduct quality analytics. The article contains statistical data on the number of civil servants.

Keywords: civil service, human potential, law on civil service, state, civil servant, qualification
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JEL Classification: H19, I28, J58

Introduction. The effective functioning of government agencies is possible on condition of system work from forming, development, and use of human potential in the system of government service. The terms of forming of human potential in the system of government service of Ukraine are created by legislative basis. A legislation lines up a structure for the professionally-qualifying constituent of forming of human potential. The analysis of Ukraine legislation about government service gives an opportunity to find out not only the conditions of development of national government service system in 1991-2017 but also conceptualize an experience of human potential formation in the system of government service of Ukraine.

Literature review and the problem statement. The problem of personnel policy in the system of state administration in Ukraine was examined in the scientific articles by A. Zamarayev, S. Dubenko, V. Lukyanenko, T. Motrenko, D. Nelypa, O. Obolensky, V. Oluyko, I. Radionova, N. Rymashevskaya, N. Tomchuk, A. Chuhno, V. Schetinin.

Zamaraev A. has shown the features and the main tasks for the development of human resources management in the public administration system in Ukraine - it is necessary to adopt clear criteria and practical human resource capacity assessment and necessary to have a model use of human resources as an integrated system [Zamaraev 2016].

Averyanov V., Dubenko S., Nizhnik N. consider the issue of disciplinary liability of civil servants in the monograph "Public service: organizational and legal bases and ways of development" [Aver'ianov, Dubenko, Nyzhnyk 1999]. The authors are convinced that a more detailed and comprehensive legislative regulation of the disciplinary liability of civil servants should contribute to strengthening the rule of law and discipline primarily in executive bodies and to prevent corruption.

Motrenko T. and others experts organized an assessment of the civil service system in 2003 based on OECD / SIGMA 3 benchmarks that were used for the annual evaluation of the civil service in the candidate countries for accession to the European Union [Motrenko, Luhovyi, Nyzhnyk 2004]. As a result, T. Motrenko identified the main issues of civil service in Ukraine. This is a matter of stability and professionalism and political impartiality. In the conclusions and main recommendations, it was proposed to carry out significant work in these areas in order to create a civil service in Ukraine based on European values and principles. Obolensky O. researched the theory of this issue and recognized the principles of civil service as such fundamental ideas, guidelines, provisions that reflect objective laws and justified directions for the realization of the goals, tasks, and functions of the state, bodies of all branches of power, powers, and responsibilities of civil servants [Obolensky 1998].

Nyzhyk N., Oluiko V., Yatsiuk V., investigated the possibilities of improving the training of civil servants. The authors created the methodology of advanced training, showed its organizational and legal aspect [Nyzhnyk, Oluiko, Yatsiuk 2003]. More systematically the problem of human development management in the regions of Ukraine is presented in the monograph of O. Amosha, O. Novikova, L. Shaulska [Amosha, Novikova, Shaulska 2010]. Mainly, in these researches, human potential in the system of government service is examined firstly, as efficiency of activity of personnel of government service, secondly, from positions of management efficiency in formation and realization of human potential in society on the whole. The issue of the human potential based on professional-qualification complex is a one of the key problems on enterprises' management also in the eu and worldwide [Dźwigoł 2013; Dźwigoł 2015a; Marszałek-Kawa, Chudziński, Miśkiewicz 2018; Dźwigoł 2014; Dźwigoł 2015b; Dźwigoł 2015c; Dźwigoł 2016; Dźwigoł 2018; Dzwigoł, Dzwigoł-Barosz 2018].

Identifying of unknown aspects of the problem. In spite of various researches devoted to human potential formation, no analysis of legislative bases was made dedicated to providing of professionally-qualifying constituent of human potential formation in the system of government service in Ukraine in 1991-2018 in development of the stages of his conceptualization. Purpose and main tasks - to elicit the maintenance of professionally-qualifying constituent of human potential formation in the system of government service in Ukraine in 1991-2017 based on an analysis of the regulatory framework.

Research results. «Government service is public, professional, politically impartial activity from practical implementation of tasks and functions of the state» [Law of Ukraine «On Civil Service» 2015]. The Law of Ukraine «On government service» from 1993 defined the government service system formation in Ukraine and her skilled potential [Law of Ukraine «On Civil Service» 2015]. The legislative and normatively-legal base of government service got development in numerous normatively-legal acts (seven laws of Ukraine and over 750 other acts).

All of them represent the certain constituents of conceptual chart - to the set of primary theoretical concepts («government agencies», «government service», office «worker», «stuff potential», «stuff reserve», «human potential», «rank of civil servant», «qualification», other), that represents the basic construction of the investigated segment of reality. Let's get to know the main ones. In 1995 were accepted the decrees of President of Ukraine dedicated to improvement of work with stuffs in government agencies, with the leaders of enterprises, establishments and organizations, ratified position about Council of work with stuff. The Law also provides for the creation of the system of training and professional development of civil servants [Decree of the President of Ukraine 1995, 2000]. Thus, there are the main ways of practical realization of Law of Ukraine «About government service» and other normatively-legal acts of Cabinet of Ministers of Ukraine [Resolutions of the Cabinet of Ministers of Ukraine 1994, 1996, 1996, 2002] which provided: stuff reserve formation, professional development of civil servants, establishing of competition order for holding on a vacant positions of civil servants, creation of centers of professional development of civil servants and leaders of state enterprises, establishments and organizations, attestation of civil servants of executive agencies. Such is a conceptual framework of structural and social responsibility in Ukraine.

A special place among the strategic documents on the development of human resources provision of public services is carried out by Decree of the President of Ukraine dated November 10, 1995 No. 1035/95 [Decree of the President of Ukraine 1995], which approves two programs on work with personnel and senior staff [Resolution of the Cabinet of Ministers of Ukraine 1995]. On the development of these policy documents, which in fact identified the ways of the formation of a new generation of civil servants, the Main Department of the Civil Service of Ukraine prepared and implemented the Training Program for the heads of district state administrations, as well as heads of rayon councils and their executive departments [Resolution of the Cabinet of Ministers of Ukraine 2004].

The issue of the formation of a professional civil service is directly related to the system of training and professional development of civil servants. By the Decree of the President of Ukraine of March 4, 1992 [Decree of the President of Ukraine 1992], the Institute of Public Administration and Self-Government under the Cabinet of Ministers of Ukraine was created, on the basis of which the Ukrainian Academy of Public Administration under the President of Ukraine was formed by the Decree of the President of Ukraine of May 30, 1995 [Decree of the President of Ukraine 1995]. The Ukrainian Academy of Public Administration under the President of Ukraine has received the status of the National Academy since 2003 and its four affiliates became the regional institutions. Today, institutions prepare staff for work in the I-IV categories; provide advanced training for government officials. The training of masters of public administration under the state order is also conducted by the leading higher educational institutions of the IV level of accreditation, in particular, since 2011 - the Taras Shevchenko National University of Kyiv. Today, in all regions of Ukraine, there are centers of professional development for employees of state agencies and local self-government agencies, as well as heads of state enterprises, institutions and organizations. With the proclamation in 1998 of the necessity of reforming the system of public administration through the holding of administrative reform in Ukraine, the question arose about the need for simultaneous reform of civil service. In particular, the Concept of Administrative Reform [Concept of Administrative Reform 1998] provided for the development and introduction of a new classification of state agencies and civil servants.

The special status of the service in local self-government agencies was determined, also the only procedure for conducting the competition and internship with the compilation of the exam,

the system of objective evaluation (certification) of the civil servants, based on the productivity, efficiency, quality and timeliness of work. The main feature of the activity of civil servants was the prioritization of the rights and interests of the person. In 1998, the Program of training and development for heads, deputy heads, heads of structural divisions of district state administrations, persons from their personnel reserve was approved with the purpose of proper training of the district level leadership staff, formation of a personnel reserve among specialists working in rural areas [President of Ukraine 1999].

After that, the main directions of the Concept of Administrative Reform identified the content of the Strategy of Reform of the Civil Service System in Ukraine, approved by the Decree of the President of Ukraine of April 14, 2000 No. 599/2000 [Decree of the President of Ukraine 2000]. This document became the basis for the development of a professional civil service, and also invited voters in the Decree of the President of Ukraine «On Integrated Programs of Training Civil Servants» of November 9, 2000 [Decree of the President of Ukraine 2000]. According to this Program, vocational training of civil servants envisages obtaining higher education in the specialties of the educational branch «Public Administration», training in the programs of functional specialization «Civil service» in the specialties of other branches directed on the activity in a certain area of Public administration, as well as training in professional programs advanced training and post-graduate and doctoral studies. For implementation of the tasks of the Civil Service Reform Strategy, a number of other important normative acts were adopted, among which the key idea was to highlight the Concept of Adaptation of the Civil Service Institution in Ukraine to the standards of the European Union [Concept of Adaptation of the Civil Service] and the Civil Service Development Program 2005-2010 [Civil Service Development Program 2005-2010] which is determined by the reform of the civil service in order to approach the world's democratic models.

The Program noted that the civil service is an integral part of the state administration, aimed at satisfying the needs of society, ensuring the protection of the fundamental rights and freedoms of man and citizen, the consistent and sustainable development of the country and its gradual integration into the European community. Since 2004, in Ukraine there is a regional network of subdivisions of the central agency for civil service, the tasks of which are to provide consultative and methodical assistance to executive authorities and local self-government agencies on issues of civil service and service in local self-government agencies, participation in administrative reform, coordination training and qualification improvement of civil servants and officials of local self-government, ensuring measures on informatization the civil service system, etc.

To introduce a more effective mechanism for ensuring the realization by the citizens of Ukraine of the constitutional right to equal access to the civil service, the prevention of privileges or restrictions on any grounds, and to legislatively establish higher requirements for candidates for positions of civil servants, in particular regarding their professionalism, knowledge of Ukrainian legislation, the ability to work with citizens, their associations, local governments, the media in an open and transparent manner, possessed In 2005, the Concept of Development of Civil Service Legislation was developed and approved in the state language. The Concept states that «the entry into civil service and promotion of persons who speak foreign languages, foreign experience in the relevant field» is especially supported [Decree of the President of Ukraine 2005]. Also, it was said that the legislative guarantees of implementation of gender policy in the field of civil service should be strengthened, and opportunities for youth work in state authorities should be improved.

In order to introduce systemic changes and modernize the public administration model which will make the government accessible, transparent and effective the administrative reform will be restored in Ukraine in the end of 2010. Improving the efficiency of public administration through reforming the civil service and the executive branch is one of the directions of strategic transformations identified by the Presidential Economic Reform Program «Prosperous society, a competitive economy, an effective state» [Economic Reform Program for 2010 - 2014].

One of the innovations of the Law of Ukraine «On Civil Service» dated November 17, 2011, № 4050 [Law of Ukraine 2011] is the application of human resources management based on the competence approach, which is the basis of personnel policy in the public services of the United Kingdom, Austria, Canada, the Netherlands, Germany, the United States, Australia and other countries. By the Decree of the President of Ukraine of July 18, 2011 № 769/2011 [Decree of the President of Ukraine 2011] about the improving of the civil service management, the Main Department of the Civil Service of Ukraine reorganized and created the National Agency of Ukraine for Civil Service (SADS of Ukraine).

With the changes in legislation in 2014, in particular, on the Law of Ukraine «On Civil Service», the legal regulation of the civil service was improved in accordance with the European principles of good governance and in connection with reforms [Law of Ukraine 2014].

Agency of Ukraine on Civil Service approved the procedure for determining the special requirements for work experience, requirements for the direction of training (received by the specialist) and other requirements to the level of professional competence of persons applying for the employment of the civil service of groups II, III, IV and V, approved the standard profile of professional competence of the position of the head and the minimum requirements to the level of professional competence of persons who are applying for this position, revised the basis of activity of the state taking into account the competencies necessary for the expected quality of public services provided by public servants [Order of the National Agency for Civil Service 2012].

In order to coordinate the formation of public service profiles, methodological recommendations for the development of profiles of professional competence of civil service positions in state bodies [Order of the National Agency for Civil Service 2012] were prepared and approved, which established the procedure and principles for the development of approval of profiles in public authorities. Civil service personnel management is constantly being improved. To this end, the Government has approved the Concept of the State Target Program for Civil Service Development for 2016 [Concept of the State Target Program for Civil Service Development for 2016, Government 2016].

The content of this program is aimed at strengthening the capacity of the civil service system to develop and implement public policy. In order to fulfill the obligations set out in the Association Agreement between Ukraine and the European Union [ratified by the Law of Ukraine 2014], in cooperation with the public authorities, including the SADU of Ukraine, and with the participation of the Delegation of the European Union to Ukraine, international experts and representatives of the public have been developed and approved The strategy of reforming the state administration of Ukraine for 2016-2020 and the plan of measures for its realization [Order of the Cabinet of Ministers of Ukraine 2016]. The strategy is in line with European standards of good governance and the European principles of public administration of the SIGMA program [Support for Improvement in Governance and Management].

Also, with the participation of international experts and representatives of the public, a new Law of Ukraine «On Civil Service» was drafted and adopted, which came into force on May 1,

2016 [Law of Ukraine 2015]. In accordance to the plan of measures for implementation of the Strategy and in order to effectively implement the new model of the civil service of Ukraine's OAS, in cooperation with international experts, in particular SIGMA experts, ensure adoption of all by-laws prescribed by the Law - «only 41, including 24 decrees and 1 order of the Cabinet of Ministers Ukraine and 16 orders «The main ones are the «Regulation on the Commission on the Issues of the Senior Civil Service,» «The Procedure for Contesting for the Civil Service,» «Typical Requirements for persons applying to the Civil Service Categories of «A»; «The procedure for determining the special requirements for persons applying for the civil service of categories «B» and «V»; «Procedure for conducting attestation of persons who apply for admission to the civil service, about the fluency of the state language»; «Typical regulations on the personnel management service of a state agencies», «Issues of Remuneration of Civil Servants» [New Civil Service: European Model of Good Governance for Ukraine 2018].

The portal for automated data collection on the quantitative composition of civil servants implemented from 2016 in order to ensure the definition of the optimal number of civil servants, taking into account the functions and organizational structure of the public administration, optimizing the number of employees of the public administration of the SADC Ukraine. «The online data collection system, developed for the first time in Ukraine, operates almost in real time and covers 898 state agencies (129 executive authorities and 769 judiciary authorities).

The development and implementation of the National Agency for Civil Service was carried out with the help of the iGov teams and the Project Office of the National Council for Reforms, without the cost of public funds» [New Civil Service: European Model of Good Governance for Ukraine 2018]. This allows you to get statistics and make quality analytics, as shown in the table 1.

Table 1 – «Quantitative composition of civil servants»

Government Agencies	The quantitative composition of civil servants			Accepted for service	Dismissed from service
	Number of posts by staffing	Vacancies	The actual number of employees		
Government agencies which ensure the exercise of the powers of the President of Ukraine, the Supreme Council of Ukraine and the Cabinet of Ministers of Ukraine	2 363	308	2 022	177	118
Ministries	29 554	3 100	25 844	5 440	4 263
Central authorities (including their territorial orebodies)	118 722	15 610	101 411	24 394	15 236
Central authorities with special status (including any of their territorial bodies)	4 337	1 212	3 151	970	375
Affiliates	1 509	251	1 185	146	139

The judicial authorities and the prosecutor's office	5 479	1 193	4 205	757	798
Other government agencies (including their territorial orebodies)	2 454	401	1 999	186	245
Coordinating, research, advisory and consultative bodies (including their territorial or bodies)	181	40	141	31	40
Region, Kyiv City State Administration (including district state administrations)	61 998	6 619	54 357	9 008	7 523
Courts of special subordination (appellate, district, administrative, economic)	7 077	1 626	5 390	3 040	2 774
City, district and city courts are district courts	10 931	727	10 080	1 202	992
Total	244 605	31 087	209 785	45 351	32 503

Source: NADS Report 2018

In addition, in order to ensure effective human resources management in the field of civil service, control over employment in the civil service, and promote transparency of personnel costs with the support of the World Bank, the «Concept for implementation of the information system for human resources management in state bodies and the plan for implementation of the measures» [Order of the Cabinet of Ministers of Ukraine 2017]. The concept defines the directions, mechanism and timing of implementation of the information system of human resources management in government agencies. In order to ensure effective implementation of civil service reform, discussion of problems and challenges in its implementation, dissemination of best practices in personnel management in public authorities and the development of practical recommendations, the Council for the human resources management of the civil service have formed under the OASU of Ukraine [Order of the National Agency of Ukraine on Civil Service of Ukraine 2017] which will include the heads of departments personnel management of central executive authorities.

In addition, the Government approved the Concept for the introduction of specialist posts on reform issues in order to achieve the objectives of the Strategy [Order of the Cabinet of Ministers of Ukraine 2016]. Implementation of the Concept, which is scheduled for the period up to 2020, should ensure the updating and strengthening of the staffing capacity of state agencies, significantly increase the effectiveness of their work on the preparation and implementation of key national reforms aimed at improving the living standards of Ukrainian citizens and increasing the position of our country in world competitiveness ratings.

Updating and strengthening the staffing capacity of public authorities will take place through the recruitment of qualified and competent specialists in the field of reform to the civil service. To do this, the ministries and the Secretariat will introduce the post of reform specialists to the Cabinet of Ministers. The posts of reformist specialists are «A», «B» and «V» civil service positions with official

authority that provide for the responsibility for the preparation and implementation of key national reforms (identifying problems in the sector / sphere, preparing proposals and action plans for them), resolution, development of relevant legislative acts, organization and participation in implementation of action plans, assessment of the results of their implementation), which are subject to special conditions for remuneration within the framework of the general system of remuneration of public servants work. Specialists in reform are civil servants assigned to such positions on the basis of an open competition in accordance with the requirements and in the manner prescribed by the Law of Ukraine «On Civil Service». Citizens who currently hold civil service positions are eligible to take part in vacancies for reform specialists. The creation of such positions is foreseen by the Strategy of Public Administration Reform of Ukraine for 2016-2020 [Order of the Cabinet of Ministers of Ukraine 2016].

A tool for identifying and disseminating best practices of administration - both individuals and institutions is the launch of All-Ukrainian competitions «Friendly Administration» and «Best Civil Servant». The participation of civil servants in competitions is formally taken into account as a professional qualification improvement.

Conclusions. During the years of existence, the state service of Ukraine in its development has undergone the following main stages as: creation of organizational and legal foundations of the modern civil service, the creation of an authorized civil service authority, the consolidation of functional powers, the definition of ranks, the procedure for calculating seniority, conducting competitions, internships, conducting personal cases of civil servants, forming a personnel reserve, the formation of a system of professional training, definition of the directions of reforming and further development of the civil service, the launch of a scientific research program on the development of the civil service, changes in the procedure for conducting an official investigation, the formation of a personnel reserve, holding a competition for vacant positions, introducing an annual assessment of civil servants, and improving the work of personnel services.

Thus, the transition from the labor to the public concept of relations in the civil service system of Ukraine took place, which implies a different view of the identification of workers and employees, which was characteristic of the countries of the socialist system of law, according to the doctrine of which every person participates in society, regardless of the sphere application of his work.

Today, the involvement of young people in the civil service and the creation of conditions for its professional growth is taking place. The new Law of Ukraine «On Civil Service» establishes the principles on which a new system of civil service is being established - the rule of law, legality, patriotism, integrity, professionalism, political neutrality, loyalty, publicity, transparency, stability, responsibility and equal access to public service.

In the process of further development of the civil service in Ukraine, attention is needed from the part of scientists and lawmakers such issues as strengthening legal guarantees, social and moral protection of civil servants during their professional duties, needs to improve the mechanism of responsibility of civil servants, coordinated with the norms of administrative, civil, financial, labor and criminal law. The system of criteria for evaluating the activities of civil servants needs a detailed elaboration.

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