TRENDS OF DEVELOPMENT CIVIL SERVICE LEGISLATION IN UKRAINE

The regulatory support modernization of the public service management in implementation of the new Law of Ukraine «On public service» is analyzed and also examined the way to improve it. The modern trend of the development of law in sphere of the public service and its impact on reform and further development of the institution are considered.

Key words: modernization public service, law, regulatory and legal providing, public administration, public service.

The essence of the terms «modernization of public service», «law», «regulatory and legal providing», «public administration», «public service» is given in the article.

Public Service formation in Ukraine that would meet to the requirements of the present time and be integrated into future has actively been continuing in conditions of European integration processes. Public administration in Ukraine today is at an important stage of its transformation, this is confirmed by the adoption of regulatory and legal papers that regulate the authorities activities and the new wording of the Law of Ukraine «On Public Service», which regulate fundamentally new approaches to public service staff, institutional and functional load of the state authorities, which determine the necessity, urgency and importance of the analysis of the state and prospects of public service development in Ukraine.

The theoretical basis for investigation of the public service in Ukraine was done the works of scholars such as N. T. Goncharuk, S. D. Dubenko, N. A. Lypovska, T. V. Motrenchko O. Y. Obolensky, T. I. Pakhomova O. S. Petrenchko, S. M. Serjogin, V. M. Oluyko, S. K. Hadzyraydyaeva, I. V. Shpektorenko et al. V. B. Averyanov, Y. P. Bytyak, V. Y. Zakharchenko, A. F. Miller, P. V. Nabokov, N. R. Nyzhnyk have paid attention on the study of normative and legal framework of public administration in their works. However, the issue of public service modernization in terms of implementation of the new Law of Ukraine «On Public Service» is still unexplored in the scientific literature.

The aim of this paper is to analyze the tendencies of legislation development in public service and peculiarities of modernization of public service management in the conditions of the implementation of the new wording of the Law of Ukraine «On Public Service».

The normative model of public administration, formulated in the Constitution, laws and other documents, as well as the normative model of public and social life displayed in them and should to be implemented through public administration, become of great importance, provided that they do become a reference point, and component factor in mind, behavior and activity of the people. To make effective the regulatory and legal acts it is necessary to develop a mechanism to ensure their practical implementation.
The perfection of state authority and local self-government actions is defined by how they provide:

– practicality expediency of power, preventing its separation from the interests, needs and opinions of the nation;
– legitimacy actions of power, not allowing it to any significant deviations from the pre-statutory and publicly announced actions;
– the power of government, not allowing it to become powerless [1].

Legal regulation of any process, relationships, and events, any of their relationships is meaningless if it is not backed by force of power, authority, tradition, habit, opinion and more. Law (in the broad sense) can not exist without law-mechanism and means of embodying it into life.

The real challenge is to learn, on the one hand, to develop topical and perspective laws (law-objectify), but on the other hand, – consistently and persistently implement the laws of life (objectify legislation).

In a democracy the law is the result of some compromise and a balance of interests, it contains certain goals and interests, common (abstracted and concentrated) the needs of society. In this regard, the practical implementation of law is a way of resolving contradictions and conflicts of interests. In this aspect, mechanisms and tools to ensure the practical implementation of an objective need to maintain stability in society. Without a doubt for development and understanding of new approaches to the process of modernization of the public service the normative documents, which are determined by areas of improvement of mechanisms of its functioning and development, affect. At the present stage of development of public services the process of legislature improvement of this institution becomes more active.

In this sense, it is worth mentioning a number of decrees of the President of Ukraine, first of all the Decree of the President of Ukraine of 14 April 2000 «On the strategy of Public Service reforming in Ukraine» [11]. The realization of economic and social changes, achievements and economic growth and the provision of administrative services to citizens of the state at a high level, moving in the direction of European integration are possible only under conditions of the effective system of public administration that meets the standards of a democratic constitutional state with a socially oriented market economy. To achieve that in Ukraine a large-scale administrative reform is being carried out, which is an integral part of public service reform, namely: the improvement of personnel potential, creating a renewed, strong and capable state apparatus of professional, politically neutral and authoritative public service.

Great importance for the professional development of public service has the Decree of the President of Ukraine «On Comprehensive training program for public servants» of 9 November 2000 [6], which clearly defines the goals and tasks of bodies of state and local governments for the development of professional personnel potential for public administration and local self-government through qualitative improvement of the functioning of the national system of training, retraining and advanced training of specialists for the professional activity in these bodies.

To further develop and improve the functioning of the public service the Decree of the President of Ukraine of 20 February 2006 approved the «Concept of Public Service
The concept of public service legislation in Ukraine is aimed at solving the problems of the legal system in the civil service on the basis of national and international experience, including improving the legal regulation of public service.

In order to implement system changes and modernization of public administration that will make power accessible, transparent and effective at the end of 2010 the administrative reform started in Ukraine. Improving the effectiveness of public administration by reforming public service and the executive branch is one of the areas of strategic transformation defined by the presidential program of economic reforms «Prosperous Society, Competitive Economy, Effective State» [3].

The Decree of the President of Ukraine of 9 December 2010 «On the optimization system of the central authorities» gave the start of the administrative reform [9]. Structural reorganization of the executive branch at the central level has already done today. The results of the reorganization of the system are: optimized authorities, reformed system of decision-making, reformed system of control and supervision. The principles of local government reform are decentralization, coordination of public administration with market economy, institutionalization of service in local government.

In the framework of the «Plan of modernization of public administration: proposals as to bringing the public administration and public service of Ukraine in accordance with the principles and practices of democratic governance» [2] the key objectives in relation to implementation of the idea of state service in Ukraine are analyzed and suggestions on mechanisms to reform public administration and public service in order to bring them to meet principles and practices of democratic governance are offered. Attention is focused on tasks of implementing the idea of the service of the state in Ukraine; mechanisms for reforming key areas of public administration and public service are proposed.

An important step towards the modernization of the public service in order to improve management of the civil service in Ukraine by the Decree of the President of Ukraine of 18 July 2011 «On Approval of the National Agency of Ukraine on public service» [4] is the creation of a unified body, which provides formation and implementation of the state policy in the sphere of civil service and provides functional management of the public service. The set of measures for the improvement of the civil service will be provided by adopting a resolution of the Cabinet of Ministers of Ukraine of 27 June 2012 «On approval of the Concept of the state purpose-oriented program of public service development for the period up to 2016». [12]

One of the main directions of changes is the use of a competency-based approach laid the new Law of Ukraine «On Public Service» to all processes of human resource management in the public service. This approach is the basis of the personnel policy of Great Britain, Austria, Canada, the Netherlands, Germany, the USA, Australia, which takes into consideration the knowledge, skills and personal qualities of a public servant that make possible to put the professional potential into practice.

The result of the implementation of the State Target Program will improve the public service and enhance its ability as to development and implementation of public policy with the best international practices using, improvement of the professional competence of public servants and strengthening public confidence of public service. The aim of the «Strategy of Personnel Policy of Ukraine for 2012 – 2020 years»,...
approved by the Decree of the President of Ukraine of 1 February 2012 [10] is to ensure all areas of society with qualified personnel that is necessary for the realization of national interests in the context of Ukraine’s development as a democratic, welfare state in developed market economies. The issues that should be solved are defined in the strategy: the need to ensure interconnection between the market of educational services and the labor market, bringing the volume and quality of vocational education and training with the needs of employers; enhancing the role of social partners in realization of the strategy of learning during all life.

In order to develop the comprehensive approach to the creation of human capital, the state personnel system and ensure all spheres of the state by qualified personnel that are necessary for realization of national interests in the context of Ukraine as a democratic, social and effective state, National Agency of Ukraine on Public Service developed the draft of the resolution of the Cabinet of Ministers of Ukraine «On Approval of the Concept of the State program on formation and implementation of personnel policy» [13]. The main objective of this program is to create an integrated approach to formation and implementation of personnel policies and ensure effective implementation of the Strategy of personnel policy for 2012 – 2020.

Not less important in the development of legislation process is the Decree of the President of Ukraine of 5 March 2004 «On the Concept of Adaptation of the Public Service of Ukraine to the EU standards» [7], the purpose of which is to identify and implement a set of measures, directed primarily at further improvement of public service as part of its adaptation to the EU standards, which will contribute to the full realization of constitutional rights, freedoms and legitimate interests of citizens, providing them with the proper amount of quality of public services. So, on the way to improve the regulatory and legal framework of public service in recent years, the government headed by the President of Ukraine has made decisive steps in the context of its institutional, functional, personnel modernization.

Today, the reform of the civil service, which is the basis for a new law «On Public Service», signed by the Head of the State on 10 November 2011 [5], is carried out. The aim of the new law is perfection of legal regulation of public service according to the European principles of good governance and due to systemic reforms initiated by the President of Ukraine.

The basic principles of public service, unlike the previous version of the law include the rule of law, political impartiality and transparency activities. The law defines fundamentals of public service, conditions of joining to the public service, the procedure of its passing and termination, the legal status of public servants, the principles of social and legal protection.

Presented tasks are solved sequentially according to the law, which provides the creation of legal preconditions in order to:

– form politically neutral public service institution;
– raise the prestige of public service;
– regulate the status of public servant;
– improve the quality of services provided by public servants;
– launch a transparent mechanism for public service;
– launch an effective mechanism to prevent corruption;
– create conditions for transparent activities of public authorities;
– improve social and financial protection of public servants.

The law contains principal innovations, including:
– clear separation of administrative public law and private law;
– the introduction of systematic classification according to the nature and scope of official duties;
– single standards for recruitment;
– new approaches to staff management and evaluation service activity;
– innovations regarding the training of public servants, payment, bonuses and motivation, disciplinary and material responsibility.

The processes of modernization in public administration (defined now together as «administrative reform») can be seen as the application of a specific combination of basic tools that can be called «institutional», «personnel», «functional» and presented in the scheme (Figure).

![Scheme of Modernization of Public Service](image)

<table>
<thead>
<tr>
<th>Modernization of public service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Institutional changes</td>
</tr>
<tr>
<td>Personnel changes</td>
</tr>
<tr>
<td>Functional changes</td>
</tr>
</tbody>
</table>

- Law of Ukraine «On Public Service»
- Decree of the President of Ukraine «On the optimization of the central authorities»
- Decree of the President of Ukraine «On Approval of the National Agency of Ukraine on Public Service»
- Decree of the President of Ukraine «On Comprehensive training program for public servants»
- Decree of the President of Ukraine «The concept development of Public Service legislation»
- Decree of the President of Ukraine «The concept development of Public Service legislation»
- Decree of the President of Ukraine «On the strategy of Public Service reform in Ukraine»
- Decree of the President of Ukraine «Strategy for the development of the Public Service of Ukraine to the EU standards»
- Regulation of the Cabinet of Ministers of Ukraine «On approval of the Concept of the state purpose-oriented program of public service development for the period up to 2016»
- «Plan of modernization of public administration: proposals as to bringing the public administration and public service of Ukraine in accordance with the principles and practices of democratic governance»
- The program of the economic reform by 2010–2014 «Prosperous Society, Competitive Economy, Effective State»

The modern development of public service legislation

Thus, the public service modernization takes place on the basis of the recently adopted normative and legal acts that regulate the activity of the whole system of governance, in particular:

1. Institutional changes expect the creation of stable institutions of the public participation in the preparation and adoption of state administrative decisions,
adjustment of these decisions and procedures of their implementation by the authorities and formation of accepted and supported by society feedback mechanisms.

2. Personnel changes are focused on maintenance of stability control system through the appointment heads oriented on working with the current management team and have a clear set of tasks of development in the areas that are under their control. This means redistribution of posts and responsibilities between governments, including the creation of new ones, without changing the essence of their activities within existing functions (powers).

3. Functional changes are a set of managerial techniques, streamline internal procedures of the authorities’ activities, but do not affect the level and quality of political (strategic) decisions and the way of execution of the orders «from the top level» most economically.

The public service system in Ukraine reaches a new level and to its parameters will be close to public service in many European countries. The analysis of regulatory and legal providing affirms that despite the presence of a large number of normative and legal acts regulating the public service it does not mean that the present state of the Law of Ukraine «On Public Service» is complete. There is a need to introduce some basic amendments to existing legislation, in particular as to completion of normative and legal support in the implementation of the new wording of the Law of Ukraine «On Public Service».

After the accomplishment of the contemporary tendencies analysis of Ukrainian legislation development on public service, the basic vector directions of its development can be distinguished: institutional changes, personnel changes and functional changes.

Public administration improvement is a continuous process associated with socio-economic changes in the country, transition processes to the market economy and sustainable development. Hereby the problem of efficiently functioning public administration system development that has established a mechanism of interaction of its bodies, organizational flexibility, targeted and functional optimality of the management structure as a whole and its parts and profitability, is solved.

Thus, trends of development of Ukraine are impossible without rethinking the principles of the new wording of the Law of Ukraine «On Public Service» and forming fundamentally new legal principles for further development of democratic and social constitutional state and harmoniously developed public society.

List of references


Submitted to Editorial Board 10/30/13

Maria KUZNETSOVA, a postgraduate student, Dnipropetrovs’k Regional Institute of Public Administration, National Academy for Public Administration under the President of Ukraine