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**ANALYSIS OF APPROACHES TO UNDERSTANDING THE CIVIL SERVICE
IN THE RUSSIAN FEDERATION AND FOREIGN COUNTRIES**

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Abstract

The article analyzes the legal norms establishing the institution of the state civil service in the Russian Federation and a series of foreign countries. In the course of the analysis, the characteristic features inherent in this institution were identified in accordance with the legislation of each of them. The significance of the study is an attempt to unify the characteristics inherent in the civil service as a legal institution for effective reform taking into account world experience.

Keywords

State civil service – Public administration – Public service – Comparative analysis

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Introduction

The Institute of Public Administration has a central place in ensuring the functioning of the state and its interaction with society. Changes in public relations, regulated by the legislation on public service, entail changing the requirements for public service as a legal institution.

The concept of public service was formed as a political, social and legal phenomenon associated with the implementation of measures to ensure the execution of state functions.

The full and effective functioning of society as an institution is ensured by identifying socially significant interests and determining the place and significance of the institution of public service. The Institute of public service acts as an element necessary for the organization of society's life. Transformations in society are impossible without dynamic and rapid changes in the institution of public service and the identification of opportunities for purposeful regulation of processes in the interests of society's members. Strengthening the state, ensuring the functioning of the state and its structural elements, strengthening state power and ensuring compliance with legislation are possible on the basis of an effectively functioning institution of public service¹.

Currently, in most countries of the world, efforts are being made to improve not only the organizational structure of public administration, but also the mechanisms for exercising the powers of civil servants. Problems from the management point of view relate to the principles and methods of implementing public administration, determining priority areas for development, and the effectiveness of public service legislation².

The Institute of public service as a socio-political and legal institution requires the organization of the process of evolution in terms of active changes in the system of public administration within the framework of world experience.

The tasks of optimizing the public service system and providing public services to the population, preserving and improving the professional level of employees are set in most countries of the world, but only in some of them are successfully solved.

Currently, there are a number of problems that complicate the process of theoretical research and law enforcement, which leads to a dead end in law enforcement and research practice. The lack of a unified approach to defining definitions in the field of regulation of the institution of public service is also a serious problem. It should be noted that this problem is relevant not only in the framework of international regulation, but also in the framework of regulation within the same legal system. Effective implementation of comparative law is possible only if the content of terms and concepts is precisely defined. Inconsistency of legal terms makes it difficult to understand and compare legal phenomena, which cannot be established without their definition³.

¹ I. E. Andreevskiy, *Russian state law* (St. Petersburg: M. O. Volf, 1866) y J. Adler, *Constitutional & Administrative Law* (London: Macmillan Press LTD, 1994).

² S. V. Pronkin y O. E. Petrunina, *Public administration of foreign countries* (Moscow: Aspekt Press, 2001).

³ N. N. Marchenko, *The versatility of the state and the problem of determining its concept. Problems of the theory of state and law* (Moscow: Prospekt, 1999).

Unlike the Russian Federation, in many foreign countries the term "public service" is not widely used, and the term "public service" is used as a general term. The system of categories associated with this concept is unique in every state. In the countries of the continental legal family (France, Germany, Italy, Spain, Switzerland, etc.) the term "public service" is used, and the notion of "public service" (*fonction de l'état*) became its component. In the countries of the Anglo-Saxon legal family (the United Kingdom, the United States of America, Canada, New Zealand, etc.) the term "public services" is used, which includes such services as servicing in state institutions, servicing in paramilitary organizations of servicemen and others. The concept of "public service" is not applied, but is replaced by a number of concepts: the concepts of "service to the crown" in the United Kingdom and Commonwealth countries, "civil service", "internal public service of Her Majesty", "state service of the state", military service and paramilitary organizations.⁴

Despite the existence of these differences, most modern States have adopted regulations on the organization and functioning of public service, defining the principles of organization, methods of regulation of public service activities and its types. This, in turn, indicates the existence of uniformity in approaches to legal regulation and the establishment of public service as a special activity.

Results

In the comparative analysis of the legislation of the Russian Federation and foreign countries reveals certain patterns, the consideration of which appears to be most evident through the prism of the civil service. As it is through the functioning of the civil service in the state effectively implements the dialogue between the state and society.

In the Russian legislation the concept of civil service prior to 1995 was not used, but in fact it existed. And if organization of service in law enforcement agencies regulated by law, neither the General law on civil service, nor special laws on the civil service of the Union of Soviet Socialist Republics was not adopted. In contrast to countries in Europe and North America, where the pillar of political power and State apparatus became the civil service, the political elite in the Soviet Union relied mainly on the paramilitary service. Apparently so then and there was no need for the notion of public service.

Throughout the period of formation in different countries of the world institutions of State and civil service of their concepts have undergone significant changes.

A common feature in the formation of the concept of civil service for Russia, Anglo-Saxon countries and countries of continental Europe was the separation of the civil service from the state and the underlined politically neutral, "non-violent" character, giving it elements of a special legal status other than simple employment.

Modern Russian law uses the notion of "civil service" and defines it as "a kind of public service that represents the professional activity by citizens of the State civil service

⁴ Federal Law of the Russian Federation No. 58-FZ "On the Civil Service System of the Russian Federation". May 27, 2003; United States Code: Title 5 - Government Organization And Employees. Current through Pub. L. 114-38; A. Z. Turisbek, State service in the Republic of Kazakhstan (theory and practice): the dissertation on competition of a scientific degree doctor of law (Moscow, 2012); The Constitutional Reform and Governance Act 2010 of United Kingdom (Commencement num 3. 2010 y Tomlin report. Report of the Royal Commission on the Civil Service 1929-1931. Cmd. 3909, 1931 (London: H.M.S.O., 1931).

posts for the enforcement powers of federal State agencies government agencies of constituent entities of the Russian Federation, persons employed in public positions of the Russian Federation, and persons employed in public positions of the constituent entities of the Russian Federation".

From this definition, we can distinguish the following characteristics that characterize the civil service in the Russian Federation:

1. The civil service has a public character.
2. The civil service is a professional activity of citizens. Person exercising the civil service must meet the established qualifying requirements. Call of the nature of the civil service, stressed its difference from employment regulated by labour law.
3. The civil service is carried out on the positions of the civil service, defined in relation to the executable functions.
4. The civil service provides the enforcement powers of the organs and officials of the State and does not involve the direct exercise of State power.

The existence of a civil service is conditioned by the existence of an institution of the state. The official nature of this institution is determined by the priority of the interests of the state and society, and not of the organization or individual. If a non-governmental organization starts and stops its activities at the behest of its founders, then civil service institutions are subject to formation and abolition only under the instruction of law⁵.

Discussion

Civil service law of France, considered as a form of public service, is vested with all the characteristics of the latest.

English scientist j. Adler identifies the following features of civil service:

1. Civil servants are legally are employees of the Crown acting in its behalf, but in fact they are accountable to Ministers and to act in the public interest;
2. The Civil Service administers state property;
3. Civil servants take individual legal acts under the permission delegated to ministers;
4. Civil service carries out the day-to-day management of government departments- the Central specialized agencies of the executive competence.

The civil service is characterized as the activity of civil servants in favor of the Crown (and through it in the public interests) in the sphere of state property, law enforcement, day-to-day administration and legislation, carried out within the framework of delegated competence⁶.

⁵ A.B. Vengerov, Theory of Government and Rights (Moscow: Yurisprudentsiya, 1998).

⁶ A.P. Gerasimov, State competence, in: The general theory of law and the state (Moscow: Yurist, 1996).

Within the framework of the near abroad, the problems of public service were studied in the most detail by A. Z. Turisbek, whose position seems very clear and justified. So, in his opinion, the signs of civil service include:

- Civil service is carried out within the framework of the state's volitional influence on various areas of life;
- The process of implementing this institution is directly related to meeting the needs and interests of society, i.e. it has a public character;
- The political nature of the civil service is manifested in the implementation of the functions of the state, since the state itself acts as the basis of the political system of society;
- The civil service is financed from the state budget;
- State civil service is implemented by civil servants – persons who hold positions in state authorities;
- To implement this activity, it is necessary to have such components as: professional knowledge, skills, professional experience, compliance with the qualification requirements for persons applying for or holding public service positions;
- Public service involves the exercise of power, within which the publication of acts of a mandatory nature is carried out, extending not only within the framework of power-subordination relations, but also to individuals and legal entities;
- Implementation of all stages of this activity is possible only on the basis of compliance with the law.

In this case, the author focuses on the administrative characteristics of the civil service, largely reproducing the approaches of the Soviet period, when this is not enough stopping the social characteristics of civil service. Not taken into account that the public service in general and civil service in particular, interacts with society, and in fact operates to provide services to citizens.

The legislation of the Anglo-Saxon countries is characterized by a functional definition of civil service and employees. Due to the peculiarities of Anglo-Saxon law, the legislation lacks a single concept of public service, each act defines its object of regulation and treats the concepts used in its text, taking into account specific objectives. It is no accident that the classical definition of a civil servant is given not in law, but in the report of the Royal Commission of Tomlin: "Civil servants are persons in the service of the Crown, not related to political, military and royal officials who hold civil offices and whose remuneration is entirely Is paid out of funds voted by the Parliament".

In the countries of the Islamic world, Sharia is recognized as the main source of law. It is not seen only as a collection of divine institutions, but rather as one of the regulators of the normative behavior of members of society and the functioning of society as a whole. The main purpose of regulating the activities of officials in the Sharia system is to establish the duties of religious servants with the indirect significance of social institutions recognized by citizens.

Public service in the people's Republic of China and the Republic of Cuba is based on the principles of Partition, nomenclature, administrative hierarchy and centralisation. The activity of officials is regulated by party decisions, and administrative activity is somewhat dependent on party activity. Above defines features of Public Service, and in many cases public service equals overall work. Thus identifies the legal status of civil servants and employees, especially as employees.

Law in Islamic States, despite its archaic nature, is able to adapt very flexibly to changes in society. Over a long period of time, scholars have pointed to the transformation of the basis of public Islamic law. These transformations occur through the implementation of religious customs in certain situations, as well as through the direct intervention of state authorities. The labor model of the civil service here occupies a special place among other administrative and legal systems, which remotely echoes the main features of the organization of the Romano-German model.

Conclusion

Taking into account the stated positions of the authors who represent different approaches to the definition of civil service, the following characteristic features inherent in the institution of state civil service of most modern states can be distinguished:

1. Civil service - a special type of activity, it has a public legal nature and is carried out on behalf of the state;
2. Civil service is carried out in accordance with the norms of the law and on their basis;
3. Civil service is a professional activity carried out by a special category of persons - civil servants, who possess special practical skills and theoretical knowledge obtained as a result of their professional training.
4. Civil service is carried out in state bodies, as well as organizations that are vested with publicly-authoritative powers.
5. Civil servants are given power, the amount of which is determined by the position held.

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