

Historical and Legal Aspects of Development of Institute of Civil Service in Ukraine (from the Time of the Existence of Kievan Rus to the Establishment of the USSR)



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Abstract. *In article, on the basis of scientific literature, historical and legal analysis of the development of the Civil Service Institute of Ukraine from the time of the existence of Kievan Rus to the formation of the Soviet Union. It was established that in the defined historical period, the service itself was not so much a professional hired activity as a manifestation of duty, a submission to the ruler (the prince), which embodied both legislative, executive and judicial power. It is stressed that from the end of the eighteenth and the beginning of the nineteenth century, the public service began to gain more and more signs of special professional activity, and certain aspects of its implementation are increasingly reflected in the relevant legal acts.*

Keywords: *civil service; historical and legal aspect; emergence; development; state apparatus.*

Problem statement

Today, active reform of the civil service institution is taking place in Ukraine, which is a logical and necessary step in the context of the European integration processes taking place in our country. At the same time, the improvement of this institute is impossible without conducting a historical and legal analysis of the development of the civil service institute in Ukraine, since knowledge and analysis of history allow to avoid mistakes of the past in the future. It is worth noting that the formation of the civil service in its modern form in our country began after the declaration of its independence. However, the organizational and legal foundations of this institute were laid much earlier. The sprouts of the civil service, as O. Obolensky noted, can be recognized in the very first state education in the territory of Ukraine. The nature of the state system of each of the state formations determined the content of the activities of state bodies and persons serving the state in the person of these bodies [1, c. 64].

Analysis of recent research and publications. Some historical and legal aspects of the emergence of the civil service institute paid attention in their studies: O. Bandurka, I. Holosnichenko, A. Kulish, A. Matsiuk, K. Melnyk, O. Mykolenko, O. Protsevskiy, V. Tolkunova, T. Zanfirova and many others. However, the overwhelming majority of scholars

usually pay more attention to the development of this institute during the period of the USSR's existence and when Ukraine became an independent state without deepening its detailed analysis of history. The above, in our opinion, is wrong, since the first foundations of legal regulation of the civil service were laid down during the existence of Kievan Rus, which

in the future definitely influenced the formation of the institute in modern conditions.

The purpose of the article is to study the issue of development of the civil service institute since the time of existence of Kievan Rus before the formation of the USSR.

Presentation of the main research material.

The peculiarity of the formation of civil service in Kievan Rus was determined by the specifics of its state system and the form of government in it. Current civil servants served the state in the person of the ruling power. In Kievan Rus it was a Grand Duke [1, p. 65]. As a whole, it is quite understandable, since the court of the sovereign was the heart of any European state in the Middle Ages, and Russia did not form an exception [2, p. 57]. O. Obolensky notes that one of the factors that united the great feudal state of Kievan Rus was “the community of the ruling dynasty, in which the prince of Kiev was only older and more venerable.” The Grand Duke possessed legislative, judicial power, controlled the work of officials, led the army, organized international relations. The execution of these powers was provided by princes and zemstvo officials. Princes officials who were in Kiev and were dependent on the prince in fulfilling the tasks of state power. They oversaw the princely court, his servants and the household. In their subordination was financial government officials, through which was carried out another function of the prince – the receipt of funds for the maintenance of the family of the prince, his court, troops, courts, administration. Zemsky government officials were elected by the people, later appointed by them the prince. Gradually they turned into princely government officials [1, p. 65]. One can not but pay attention to the fact that the persons who were in service at the princely court did not have a clearly defined legal status, and their relationship between themselves and the prince was bundled, as a rule, in informal ties. This situation led to the fact that all officials, especially the higher rank, de facto fulfilled their duties for a long time. In general, this corresponded to the realities of political life in the Middle Ages, which forced the emperor often to entrust not to certain persons, but to those who were at hand [2, p. 57].

One of the main legal documents of the time was “*Russkaya Pravda*”, which was mainly formed on the basis of the rules of customary

law. This codified legal collection is considered the crown of Old Russian law. The original Russian Truth did not survive. She came to us in 106 lists – in chronicles and legal collections of the XIII-XVII centuries. These lists are divided into three editions – Short, Extended and Reduced. The oldest is the Short Edition of the Russian Truth, which reflects the state organization and the Old Russian law of the period of the formation of the feudal system. It consists of the Truth of Yaroslav, Truth Yaroslavich, Pokon vyrnogo, Lesson Bridgegeers. The subject of legal protection in the Short Edition is the life and physical integrity of the feudal lords and the prince’s warriors; it regulates issues of ownership, possession, succession [3, p. 37].

O. Leist notes that the norms of the n truth are largely formulated by describing a case of an offense indicating the corresponding punishment [4]. Specific indications regarding the mechanism of public administration in general and the civil service institute in particular were not in the text of the Russian truth. Although one should pay attention to the fact that the damage caused to persons belonging to princely executives, imposed more severe penalties. Thus, in this legal document it was stated that “when the husband of a husband dies, then the brother of the slain, whether his father or son, or the brother of the eldest son, or other brothers, has to take revenge. If there is no one to carry out blood vengeance, then make UAH 80 when the prince’s husband or prince’s thium will be killed. If a bourgeois, a grind, a merchant, a boyar thion, a swordsman, a disciple, or a novice, would be killed, then 40 hryvnia would be paid for him. After Yaroslav, his sons were gathered: Izyaslav, Svyatoslav, Vsevolod and their voivods – Kosnyachko, Perenig, Nikifor, and abolished blood revenge, and set up a kune for bribe to kill. And everything else to judge, as Yaroslav judged. So his sons have established it. If they kill a prince’s husband during a robbery, and do not look for a killer, then pay a verve of 80 hryvnia to the verve in which the head of the murdered lie, and when the common man, then 40 hryvnia. When a certain verse begins to pay wild faith, then a few years pays that guilt, because they pay for an unidentified offender. If the perpetrator is from their verve, and in it the will was given to the offender, then the

accomplices should help the offender, paying for the wild *vipa*. But to pay them a total of 40 hryvnias, and for the crime of the same perpetrator to pay from 40 hryvnias their share of the payment of his wife. If he committed a murder either in a quarrel or at a feast, then he would pay him in a *verve* if he paid the crime for a plank” [5]. At the same time, it is clear that the increased legislative guarantees of the status of the upper strata of the population can not be directly related to the fact that a significant part of their representatives were in service in the apparatus of the princely court and fulfilled the corresponding state tasks and functions. After all, this state of affairs was typical for the feudal state and law.

It is worth paying special attention to the Galician-Volyn Princedom, which has been preserved in the Ukrainian lands during the whole century after the collapse of Kyiv as a political center in the full force of the tradition of the great-power politics and life of the princely-druid regime, socio-political forms and culture, founded by the Kiev state. The prince embodied the legislative, executive and judicial power. With higher executive power, the prince instructed administrative affairs “to his officials whose positions had different origins: some originated from earlier times, the rest were created to perform certain administrative functions of the princely power” [1, p. 65]. I. Lavrinchuk notes that it is during the period of the Galician-Volyn state that the service in public office is gaining more intrinsic significance. Endowed with extensive administrative, military, judicial legislative powers, the prince appoints officials in cities and townships, established by a legal act on various issues of governance – grants them land titles as a form of remuneration for service in the public sphere of activity. In addition, he noted that the lawyer, Tymoshenko and the Hundreds gradually relocated to the Prince’s yard-patrimonial apparatus, occupying the establishment of the provincial governor and local authorities for this purpose. Thus, a certain circle of people, due to their main function, which they perform on a regular basis, for a separate remuneration, begin to create a more isolated legal organization, which is considered in the modern period as a public service [6, p. 38–39]. After the entry of Ukrainian lands into the

Grand Duchy of Lithuania for the management of the state borrowed the existing system of governance. Moreover, borrowed not only the very structure of administrative management, but also the content of power of each of the representatives of this power [7, p. 85].

As for the state apparatus of the Grand Duchy of Lithuania, the primary authority with which the prince exercised control over his subjects was a wife. It was in its composition included a land aristocracy. In fact, its representatives simply recognized the power of the Grand Duke over himself and his subjects. By the degree of expansion of the borders of the Grand Duchy of Lithuania and the accession to its composition of other lands, which in many respects differed in ethnic, cultural and socio-economic character, the wife also evolved. She transforms into the Grand Prince’s courtyard [3, p. 77]. O. Arkusha and O. Boyko emphasizes that the court itself was the structure from which the state apparatus of the Grand Duchy of Lithuania began to form. Generally during the XIV century the state apparatus did not go beyond the court, because the state was built on separate principalities. Under such conditions, the Lithuanian ruler did not need to have a ramified staff of officials [3, p. 77]. In this regard, Kovbasyuk notes that the great Lithuanian prince not only lacked the need for an extensive state apparatus, but also because of the dominance of natural taxation, especially in the 14th and 15th centuries, it was not possible to hold a large staff of managers on the scattered lands of the country [7, p. 90].

At the same time, the yard demanded the emergence of functional posts that could hold it from the middle. The first officials under the prince may be voivodes and ventures. Voivods initially functioned only as military leaders. As for the others, the ventures were administered by the Grand-Volunteer Volunteers [2, p. 77].

With the elimination of single principalities, the Grand Prince’s court took over their functions on their own, which led to its growth. If in the first third of the XIV century the number of nobles is unlikely to exceed several hundred people, then in the XV century it has increased to 1,5 thousand, and in the XVII century – up to 2,5 thousand people. Accordingly, there was a need for the emergence of new posts: Marshal, country house, cannibals, etc. Appearing as

landlords, these posts spread to the entire state. Ultimately, the state apparatus of the Grand Duchy of Lithuania was formed in the second half of the 15th century and was divided into a central one, which directly operated by the government, and a regional one whose task was to ensure the functioning of the Grand Duchy of power on the ground. To the central part of the apparatus belonged about 35 governments, which according to the organization can be divided into three groups: the military apparatus, the office of the Grand Duke and courtyard posts [7, p. 90].

On the ground in the Lithuanian Principality there were also officials: the case, the governors, the mayors, the castellans, the marshals, the Decki, the survivors, the interlocutors, the osmniki, and others. They followed mainly the collection of taxes, repairs of roads and fortifications. Personnel for these positions voivods and old men usually replenished from their surroundings [7, p. 91]. After the Union of Lublin in 1569, Ukrainian lands within the Commonwealth of Poland became the property of its main part – Poland. The supreme state power in the Commonwealth belonged to the king and the great sejm and the senate (as part of the Sejm and at the same time the Royal Council). They were complemented by provincial Voivodship and county seimak. It is these higher authorities that elected or appointed government officials of different levels [2, p. 133]. Within the whole country there were about 40 thousand different official and titular positions – “governments”. The local authorities in the districts of Kyiv, Volyn, Bratsk, Podillya, Rus, Belz and Chernihiv, divided into counties, were still concentrated in the hands of voivodes, castells, elders and other city and county officials: the city elder, who was in charge of the court the nobility in criminal cases; Zemsky subcommittee, which resolved border disputes; judges, convictions; county secretary and others. The elderly, whose position became lifelong, he picked up his helpers: substroop, burggrass, etc. All local state governments occupied the nobility, whose number in the Ukrainian lands was about 2,5% [7, p. 91].

A special place in the history of state-building of Ukraine belongs to the Ukrainian Cossack state, which was the first “democratic

republic of the time of the world”. Although it was militaristic in view of the wars in which it was constantly drawn, both monarchist and democratic elements were combined in its state system. The Cossack state possessed all the characteristic features of the state: a territory, a clear administrative-regimental structure, an institution of state power headed by a hetman elected by the Cossack council and, together with the military council, personified the highest legislative body; division into judicial and executive power: the general court and the judicial process; general (Cossack) officer; financial system, army, international recognition [1, p. 66]. As for the legal system of the Ukrainian Cossack state, it was mostly customary and did not have a clear internal structure. Nevertheless, it had a significant impact on the formation of the judicial authorities in the Ukrainian Cossack state, which arose during the years of the National Liberation War of the middle of the XVII century. It was according to the Zaporizhzhia model that the institutions of the Ukrainian Hetmanate began to be formed [2, p. 201–202]. With regard to the civil service directly, it was during this period, although not yet formed into a separate law institute, but acquired qualitative characteristics of professional activity.

The period of stay of Ukrainian lands under the authority of the Russian Empire, notes M. Inshyn, did not become a separate stage in the establishment and development of the Ukrainian civil service, since at that time the own system of public administration was gradually lost, the imperial imperial was taken over, and the state service was unified with Russian [8]. However, we can not but pay attention to the fact that during this period several important documents were adopted that influenced the formation and formation of the civil service in Ukraine. First of all, this is the “Table on the ranks of all ranks of military, state and court” of January 24, 1722 [9, p. 468–477], which for the first time clearly divided the civil service into military and civilian, and the latter, in turn, into state and court. Accordingly, ranks were distinguished: military, state and courtiers. The new bureaucratic division proceeded from the principle of service and changed the old division of the nobility into the ranks of the дума (boyars, okolnichy, dumnyh nobles,

duma's clerks, all of them sat in the Boyar Duma – the supreme advisory body under the king), the capital (tableshoppers, sleeping bags, etc., including nobles of Moscow), provincial (nobles and children boyar in “cities”, that is, in the counties). The rank of rank also divides employees into two groups: board officials and clerical staff [7, p. 96].

In addition to the mentioned “Table on the ranks of all ranks of military, state and court”, an important role in the formation of the civil service as a legal institution played: the Decree

“On the ordering of pension provision of officials” in the award of labor, lifted in service of December 6, 1827; “Regulations on the order of the noble assemblies, elections and service on the same” with the provision of the state election service status of December 6, 1831; “Statute on the service by definition from the government” (1832–1890), which defines its societal configuration, rights and duties of officials and employees, and also clarifies the requirements of the supreme authority for its qualitative and effective implementation [10].

Conclusions

Thus, the legal regulation of the civil service in Ukraine has undergone a long and complicated path to its formation and development. The first norms regulating official relations arose even in the period of early feudal Kievan Rus and had a customary character. However, since the service itself appeared not so much as a professional hired activity, but as a manifestation of duty, of citizenship to the ruler (prince), who embodied both legislative, executive and judicial power, there was no such need for a full legal settlement of this service. . The exception is the period of existence of the Cossack state, in which, although the customary law prevailed, the civil service began to be settled in a separate institute. This was due to the democratic structure of the mentioned state education. Since the end of the eighteenth and early nineteenth centuries, the public service has begun to gain more and more signs of special professional activity, and certain aspects of its implementation are increasingly reflected in the relevant legal acts. However, as an independent legal institution, the state service began to be formed only after the proclamation of Ukraine's independence.

References:

1. Obolenskyi O.Iu. Derzhavna sluzhba: pidruch. Kyiv: KNEU, 2006. 472 s.
2. Istorii derzhavnoi sluzhby v Ukraini: u 5 t. O. Arkusha, O. Boiko, Ye. Borodin ta in.; vidp. red. T. Motrenko, V. Smolii; redkol.: S. Kulchytskyi (ker. avt. kol.) ta in.; Holov. upr. derzh. sluzhby Ukrainy; In-t istorii NAN Ukrainy. Kyiv: Nika-Tsentr, 2009. T. 1. 2009. 544 s.
3. Ivanov V.M. Istorii derzhavy i prava Ukrainy: navch. posib. Kyiv: MAUP, 2002. Ch. 1. 2002. 264 s.
4. Istorija politicheskikh i pravovykh uchenij: ucheb.; pod red. doktora jurid. nauk, prof. O. Lejsta. M.: Zercalo, 2000. 688 s. URL: <http://bibliograph.com.ua/istoria-politicheskikh-i-pravovykh-uchenij-1/36.htm>
5. Pravda Ruska / Izbornyk. URL: <http://litopys.org.ua/oldukr2/oldukr51.htm>
6. Istorii derzhavy i prava Ukrainy: navch. posib. Kulchytskyi V., Nastiuk M., Tyshchuk B. Lviv: Svit, 1996. 296 s.
7. Derzhavna sluzhba: pidruch.: u 2 t. Yu. Kovbasiuk (holova redkol.), O. Obolenskyi (zast. holovy), S. Serohin (zast. holovy) ta in. Nats. akad. derzh. upr. pry Prezydentovi Ukrainy. Kyiv; Odesa: NADU, 2012. T. 1. 2012. 372 s.
8. Inshyn M. Istorii vynyknennia, rozvytku ta formuvannia derzhavnoi sluzhby v Ukraini. Yurydychna nauka i praktyka. 2011. № 2. URL: <http://essuir.sumdu.edu.ua/bitstream/123456789/23600/1/Inshin.pdf>
9. Istorii derzhavnoi sluzhby v Ukraini: u 5 t. T. Motrenko (vidp. red.), V. Smolii; redkol.: S. Kulchytskyi ta in.; Holov. upr. derzh. sluzhby Ukrainy; In-t istorii NAN Ukrainy. Kyiv: Nika-Tsentr, 2009. T. 3: Dokumenty i materialy. V st. do n. e. 1774 r. H. Boriak (ker. kol. uporiad.), L. Demchenko, Yu. Mytsyk. 2009. 656 s.
10. Istorii derzhavnoi sluzhby v Ukraini: u 5 t. T. Motrenko (vidp. red.), V. Smolii; redkol.: S. Kulchytskyi ta in.; Holov. upr. derzh. sluzhby Ukrainy; In-t istorii NAN Ukrainy. Kyiv: Nika-Tsentr, 2009. T. 5, kn. 1: Dokumenty i materialy. 1914–1991. H. Boriak (ker. kol. uporiad.), L. Demchenko, R. Vorobei. 2009. 824 s.