

Establishment and Evolution of Civil Service Law

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ABSTRACT

The paper traces the formation of civil service law in Ukraine. In particular, its origins dating back to the period of the Rus state have been clarified. It is stated that the prince's treaty with the people was one of the civil service law's first sources, which regulated the peculiarities of public power organization. It is emphasized that in the course of formation and development of public administration bodies system, centralization and strengthening of power, branching out of administrative apparatus, the civil service law system, which regulated these processes, became more complicated.

Keywords: civil official law, Rus state, charter, custom, prince, chamber, prince's treaty with the people.

1. INTRODUCTION

Problems of public administration, regulation of internal organization of the civil service, determination of public servant's legal status, principles of functioning of executive bodies and local self-government bodies at each stage of statehood development have always had a visible relevance. The standardization of these processes relies on civil service law, which in the course of modern European integration processes is a period of adaptation to new world standards. However, this process should not be detached from the genetic code, which is hidden in the legacy of its own history of Ukrainian law. Therefore, the study of the national civil service law's origins, which will ensure its progressive development, is considered in demand.

2. RESEARCH METHODOLOGY

Considering the paper's aim, this study has a historical and legal nature, and therefore requires a comprehensive approach that would combine the experience of the past, covering the current achievements of theoretical and legal science. We are convinced that only the use of poly methodological approach, which allows us a system of principles, methodological approaches, philosophical, general scientific, special scientific research methods, will allow a comprehensive analysis of these issues.

3. RESULTS OF PREVIOUS RESEARCH

The development of the science of public governance and administration, and thus service law, has intensified research in this area. Yu. Bytyak's monograph is of great scientific and practical significance, in which the

fundamental organizational and legal principles of the civil service are analyzed [1, p. 19–20]. An important theoretical and legal contribution to the development of the science of civil service law was made by domestic researchers T. Kolomoyets [2, p. 131–140; 3, p. 149–166] and Yu. Bulanova [4, p. 252–258], who in their works focused on certain places of civil service law in the legal system, outlined scientific discussions on this issue. In particular, the latter researcher insists on the recognition of civil service law as an independent branch of law, which is in the process of formation and has its own "unique subject of legal regulation, functions and methods" [4, p. 252]. Instead, Professor T. Kolomoyets convincingly substantiates that civil service law is "a set of rules of law" genetically "related to administrative law, which have acquired the characteristics of a subsector, and therefore is an element of a special part of administrative law" [2, p. 138]. Various problems related to certain aspects of employment law are revealed in the works of a large number of scholars, including O. Pronevych, O. Radshevska, O. Gubanov, A. Selivanov, M. Inshin, K. Vashchenko, V. Tymoschuk, S Kivalov, R. Melnyk, T. Anishchenko and others. At the same time, the question of the evolution of civil service law still remains poorly understood, as scientific interest is mostly focused on the study of the very structure of public service. Therefore, our goal is to find out the origins of civil service law in Ukraine, to establish the first forms of its expression.

4. DISCUSSION OF RESULTS

At the beginning of the first millennium, the East Slavic ethnos emerged on the European continent, which in the process of evolution acquired the features of the

Ukrainian nation and formed its own state. A galaxy of domestic researchers of Ukrainian law history, including M. Braichevsky, I. Hrytsenko, V. Serhiychuk, O. Shevchenko, I. Boyko, B. Tyshchyk, V. Kulchytsky rightly claim that in the late 8th – early 9th centuries as a result of the tribal unions' unification of the plains in the middle Dnieper, a state was formed. Scholars, in particular, note that "in the territories of Kyiv, Chernihiv and Pereyaslav in the 8th – early 9th centuries the first state of Eastern Slavs with the name "Rus' land" appeared [5, p. 18].

Under the reign of Askold began the process of uniting tribes into a state union, state administration formation, troops that could oppose other European medieval countries, and, as a result – interstate communication of Rus', the founding in 860 of the Kyiv metropolitanate [6, p. 57-62]. The latter fact, according to well-known canonists, is an unconditional sign of the existence of statehood [7, p. 12].

It should be emphasized that the expansion of state borders, establishment of power and formation of a mechanism for managing new lands, were governed by customary law. The highest executive and military power belonged to the Grand Duke of Kyiv. His legal status as ruler of the land, guardian of peace and guarantor of customary law was enshrined in the form of a treaty between the prince and the people, which was concluded at the Chamber. In the chronicle it was referred to as a "Riad".

According to N. Sinyshyna, it is from this word came the derivative themes "order", i.e. to consult on public issues, as well as "govern", i.e. the leading level of public administration to perform actions provided by the contract-series [8, p. 16].

The contract form could be both oral and written. It is especially worth emphasizing that this Treaty was sealed by cross-kissing. The treaty defined the conditions for obtaining princely power, fixed the Council requirements to the prince, his government officials (tiuns) and defined the management methods. Usually the prince undertook before the people "not to judge arbitrarily, not to commit violence, to eliminate those who commit arbitrariness" [9, p. 28].

The conclusion and observance of this treaty guaranteed the prince a lifetime of rule and possibility of inheriting the prince's throne. The latter was based on the horizontal principle of ancestral seniority - to the oldest man in the family by age and closest to the prince by kinship.

The power acquisition took place through a public procedure, which provided for the people to put the chosen one on the prince's throne, which was first placed at the election place, and then transferred to the middle of the prince's palace. In addition, chronicles repeatedly

testify to cases where the Viche deprived the prince of power, expelling him from the palace and the city.

These grounds allowed N. Sinyshyna to state that the prince actually acted as a ruler of the state, the head of the state executive structures, and Viche, which "put on the throne" or removed the prince - the highest state legislative body [8, p. 16]. Thus, the prince's treaty with the people can be considered one of the first sources of civil service law, which regulated the peculiarities of the organization of public authority of that time.

In his administration, the prince relied on an advisory body – the Council, which historically arose from the tribal council of elders. It consisted of warriors, boyars, clergy, who performed auxiliary management functions, and in case of his death - temporarily replaced him.

The prince's armed force (military) was of great importance. They collected tribute, performed judicial functions, ruled in some regions of the state [10, p. 76; 11, p. 48]. As we can see, the official relations between the armed force (army) and the prince at that time were regulated by the norms of customary early feudal law.

With the development of the state, the centralization of government and strengthening of the power of one person – the prince, customary law gave way to the force of law, which recorded the first provisions of civil service law. The sole ruler, with the help of his immediate entourage, began to practice at his own discretion, mostly on the model of the monarchical countries of Europe, to determine the system of government principles, creating a court and relying on issued regulations.

The first such acts were "lessons" and "charters". In particular, the sources of civil service law should include the Charter of Prince Vladimir "On tithes, courts and people of the church" (Church Charter of Prince Vladimir). Its appearance is due to the introduction of Christianity at the national level. The document divided the jurisdiction between the spiritual and secular authorities and forbade the latter to interfere in the church affairs [12, p. 107]. "If anyone deviates from my rules," warns Prince Vladimir in the charter, "princes or great-grandchildren, or in any city governors, or judges, or subordinates, they will fall under the ecclesiastical court and will have the curse and in the future according to the laws of the Councils of the Holy Ecumenical Fathers" [13, p. 12].

It should be noted that the priority of public institutions' formation in the system of vertical management belonged to the church organization, where the concept of "service", "rank", "service hierarchy" was formed. Over time, they will be borrowed by the state to form its own model of public administration.

To improve the work of central and local authorities, it was important to adopt a statute-roll of customary law – Rus'ka Pravda (Rus' Justice). The short version of this

source of law consisted of four parts: “Pravda of Yaroslav”, “Pravda Yaroslavichy”, “Pokon vyrnyi”, and “Urok mostnykam”. It is appropriate to emphasize that the last two parts can be included in the sources of civil service law. Thus, Pokon faithful was published in the 30s of the 11th century and provided for the procedure for collecting by officials taxes and fines imposed for illegal acts, as well as regulated the remuneration of princely officials who collected “faith” (tax). “Urok mostnykam” is devoted to the organization of town-planning of the main trade ways and financing of the corresponding projects [14, p. 391 - 392].

The formation of central government in the Rus state took place through the transformation of the military-military system into a territorial-administrative system of government. Former heads of units of the prince's retinue (a *tysiatskii* – commander of the thousand people, a *sotsky* – a village constable of 100 persons, a *desyatskiy* – a village policeman of 10 persons) began to manage the relevant territorial districts. A *tysiatsii* was at the same time commander of the armed forces, concentrating in his hands the financial, judicial, and police functions in the district. A *sotsky* headed the financial and administrative bodies in the territory of hundreds (cities and suburban districts). A *desyatskiy* ruled in the parishes [15, p. 16-25].

The development of medieval feudal law in European countries also influenced the system of government in Rus'. In particular, in the 11th-12th centuries traces of strengthening of princely power with obvious features of monarchism and formation of a palace-patrimonial system of administration of the country are traced. Its essence was to form an extensive civil servants' staff who worked in the prince's palace, who eventually headed certain branches of government. The most influential in this apparatus was the courtier - the grave of the prince's court, who headed the entire apparatus of the prince's domain. The second in the court hierarchy was the thousandth. He was responsible for the domain protection and commanded the “small *druzhina* (bodyguard)” of the prince's court. An important role was also played by “the Keeper of the Prince's Seal”. He was in charge of the prince's chancellery, guarded the prince's treasury, which was also the prince's archive. The “*stolnik*” (cup-bearer) was responsible for the forthcoming receipt of income from the princely lands [15, p. 16–25].

Representatives of the princely power in the cities were mayors, parishioners were in the countryside. They had their helpers: tiuns and followers. In addition, they performed judicial functions, collected tribute and customs duties, kept watch on law and order, led the city's military forces, which were appointed from villeins [16, p. 16-25].

It should be emphasized that the above positions were not enshrined in law, and the distribution of their managerial functions was regulated by the norms of

feudal customary law of the time. As a result, the prince's court was not clearly structured, and government officials did not have specific job functions.

Intensification of centrifugal tendencies, violation of political stability, military confrontations between princes, as well as the external threat from the Mongol-Tatars - all these circumstances led to the relocation of the center of Ukrainian statehood to the southwest, where the Principality of Galicia-Volhynia was formed and strengthened.

Being the heiress of Rus', the Principality of Galicia-Volhynia largely retained the current rules of civil service customary law, which provided for a system of government. Although the law-making of local authorities took place, a small number of sources have survived to the present day. Among them there was the “Church Charter of the Galician Prince Lev Danilovich, given to the cathedral church of the Galician metropolitanate” from March 8, 1301 [17, p. 96].

It is noted that the document delineated administrative jurisdiction between secular and ecclesiastical authorities. In particular, the provisions of the Charter authorized the metropolitan and bishops to prosecute those violated for crimes against religion, church, family and morality, while secular officials of any level of government were forbidden to interfere in church jurisdiction [12, p. 132-134].

The beginning of the 14th century was marked by the process of Europeanization, which introduced a new legal system of urban self-government in the homeland, which was widespread in Central Europe during the Middle Ages - Magdeburg law. It contained provisions of civil service law, which regulated the administrative procedure at the local level. Thus, the city residents had the opportunity to elect a *Wójt* and the collegial governing body - the magistrate. Until the latter, he had the right to be elected a male burgher from among artisans and merchants. The *Wójt* was the chairman of the magistrate meeting [18, p. 9-21].

It should be noted that in the Principality of Galicia-Volhynia the city of Volodymyr-Volynskyi was the first to receive the Magdeburg right in 1324 and the city of Sanok in 1339 [19]. Usually, based on local customary law, the rules of Magdeburg law could undergo minor changes and acquire their own characteristics. At the same time, the practice of its application has demonstrated a high and effective result in the management of cities, which over time have received economic growth. Thus, Magdeburg law can be called the best system of rules of service law that existed during the Middle Ages in Europe.

5. CONCLUSIONS

Thus, civil service law should be considered as a system of legal norms that regulate the features of the

internal organization of public service, determine the legal status of public servants, outlines the principles of functioning of executive bodies and local governments. Civil service law was formed and evolved during the development of the system of public administration, and its first prescriptions appeared from the moment of statehood. The development of the latter, centralization and strengthening of power, as well as the branching of administrative apparatus, contributed to the evolution of civil service law, which regulated these processes.

It should be noted that the primary form of expression of civil service law was the custom that regulated the formation of the state apparatus of central and local departments.

Thus in Rus' it was reproduced during the conclusion of the Prince's treaty with the people, which for the first time regulated the peculiarities of public power organization. In addition, we note that the service relationship between his army and the prince, order of formation of the palace-patrimonial system of government was also governed by the rules of customary early feudal law.

In addition, with the development of the state, the centralization of government and strengthening of the prince power, customary law gave way to the force of law, which fixed the first provisions of civil service law. Such first acts were "urok (lessons)" and "charters", as well as the third and fourth parts of the Rus' Justice short edition, which fixed the powers and official powers of princes and officials.

Peculiarities of local government organization, procedure for the Wyatt's election and collegial governing body – the magistrate, fixed the requirements of Magdeburg law. Under the influence of Europeanization, it spread in Ukrainian cities in the early 14th century and became the first system of norms of civil service law, which at the normative level fixed the basic principles of public governance and administration in the Middle Ages.

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