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CONCEPT AND ESSENCE OF PATRONAGE SERVICE

Abstract. Purpose. The purpose of the article is to provide a theoretical and legal description of the concept and essence of patronage service. **Results.** The article studies the concept and essence of patronage service as a complex state phenomenon which dates back to the mid-18th century and is based on a set of regulations providing for its clear and well-coordinated functioning. It is revealed that the development of the regulatory framework for the activities of the institution of patronage service in Ukraine tends to form rather slow the relevant regulatory framework which could become the basis for the effective functioning of the legal phenomenon under study. Many important aspects of patronage services remain shattered in the legislation. The author determines that the general legal notion that a patronage service in the general sense is an institutional entity which functions to ensure the activities of a specific public authority. A number of researchers also consider this service to be one that can function outside the civil service, but in our opinion, based on the essence of this administrative and legal entity, it is exclusively a civil service. **Conclusions.** It is proved that the essence of the patronage service is that its main purpose is to ensure the functioning of a certain administrative entity, and the relevant employees distribute among themselves the functions and powers aimed at ensuring the functioning of the same unit without performing its functions directly. Using the example of the judiciary and the institution of a judicial assistant, which is defined as a type of support for court activities which is inextricably linked to justice, the author argues that the patronage service (relevant units) is authorised to ensure the activities of the main actor of administrative and legal relations. Further research of the institute of patronage service is the need for a structural and legal analysis of the relevant entity with the use of both international experience and the practice of their domestic functioning.

Key words: patronage, service, support, interaction, activity, concept, essence.

1. Introduction

In the context of Russia's armed aggression against Ukraine, it is important to study potentially problematic legal phenomena, the improvement of which will primarily contribute to strengthening the institution of human and civil rights and freedoms. It should be noted that through the prism of scientific achievements, the study of issues such as organisational support for the functioning of the judiciary in general, the role and place of the judiciary and, most importantly, the content and essence of the institution of patronage service in particular, in our opinion, have not received sufficient scientific attention, and the ongoing armed aggression and systemic deterioration of the functioning of mechanisms for the protection of human and civil rights and freedoms necessitate to focus on relevant aspects.

The issues of functioning of the patronage service have been repeatedly studied in the works by many reputable administrative scientists, while we will use in the article, with proper references, the works by: A. Babakin, O. Kostylyev,

D.V. Pryimachenko and D.D. Pryimachenko and others, however, given the circumstances in which the system of administrative and legal support for the functioning of the patronage service is threatened by the large-scale Russian invasion, the issues related to the concept and content of the patronage service have become relevant again.

The purpose of the article is to provide a theoretical and legal description of the concept and essence of patronage service. This requires solving research tasks, such as: 1) Outline approaches to understanding the concept of patronage service; 2) Substantiate the essence of the patronage service; 3) Draw scientifically based conclusions on optimising the conceptual, categorical and substantive apparatus of the patronage service.

The object of the article is social relations in the field of patronage service functioning.

The subject matter of the study is the concept and essence of patronage service.

2. Main conceptual categories of the institution of patronage service in Ukraine

The definition of the main conceptual categories and elements primarily affects the functioning of the relevant mechanism in the general legal sense and allows to consider all possible inaccuracies and destructive factors in the perspective of its long-term functioning.

N.M. Darmohrai notes that the Law of Ukraine “On Civil Service” of 10 December 2015 uses the term “patronage service” but does not define the concept. The text of this Law lists positions attributed to the patronage service, regulates the procedure for admission, service and termination, but at the same time, much attention is paid to the relative independence of the patron in resolving relevant issues of the patronage service without observing detailed criteria for admission, career advancement, etc. The Law “On Civil Service” (2015) also defines who should be classified as patronage employees (advisers, assistants, spokespersons, etc.) (Darmohrai, 2019). Accordingly, it should be noted and partially agreed with the author that the conceptual and categorical apparatus of the relevant study appears in the regulatory and legal circle of modern Ukrainian society in a general context and is not characterised by the presence of clear terminology.

The analysis of the formation and development of the regulatory framework for the activities of patronage service in Ukraine reveals the tendency to form rather slow the relevant regulatory framework which could become the basis for the effective functioning of the legal phenomenon under study. Many important aspects of patronage services remain shattered in the legislation. This situation can be explained by the lack of scientifically based research on this topic, the imperfection of current legislation, due to the superficial extension of the status of civil servants to patronage workers, lobbying for the interests of certain social groups and other stakeholders, etc. (Pryimachenko, 2021). Therefore, in our opinion, the content and essence of the phenomenon of patronage service is significantly blurred in the general legal sense, which has a doctrinal negative impact on its law application and, accordingly, on the legal status of the employees.

According to N.M. Darmohrai, the legislative definition of the patronage service is characterised as a type of public service aimed at professional support of the needs of an authorised actor, which independently recruits, establishes detailed requirements for employees, conditions of admission, career, rewards, termination of service and liability of employees in accordance with bylaws and staffing table, using the mandatory general conditions established in the legislation for all types of patronage services (restrictions, specifics of rewards,

career development, etc.). The patronage service may consist of an assistant, advisor, head of the press service or other positions provided for in the staffing table. The number of employees and their structure are approved by the heads of the service (Darmohrai, 2019). Accordingly, such a broad context characterises the concept, content and essence of the patronage service as an institution of public administration, defines and directs its main structural elements appropriately, administrative and managerial relations, which has a positive impact on the mechanism, but does not allow it to be fully established at the regulatory and legal level.

According to D.V. Pryimachenko and D.D. Pryimachenko, the system of public administration and organisation of the state apparatus inherited by Ukraine from the Soviet era do not meet the requirements of the times and new realities. This discrepancy necessitates rethinking the role of the state in public life through the implementation of comprehensive political, legal, organisational, social and economic reform (Pryimachenko, 2021). This, in particular, correlates with approaches to the content and legislative definition of the concept of patronage service, which is not sufficiently regulated in all areas of the civil service, either in the system of executive bodies or in the context of ensuring the functioning of the judiciary.

3. Regulatory and legal support for the powers of the patronage service in Ukraine

I.V. Dashutin argues that Ukrainian legislation interprets the relations regarding the performance of labour functions by patronage employees as labour relations. Moreover, in recent years, draft laws have been submitted to the national parliament that revise the principles of organisation of these legal relations, not always allowing for their obvious labour law nature, as well as the criteria for classifying certain relations as labour ones. Therefore, in further processes of improving the regulatory and legal support for the activities of patronage services, it should be considered that their duties are performed within the framework of labour relations. These relations are characterised by the general features of the relevant sectoral relations, as well as special features that have arisen as a result of the transformation of the general features of these relations under the influence of the particularities of acquisition (termination) and implementation of the legal status of a patronage employee. Typically these relations provide for: the employee's subordination to the employer (in this sense, the patronage servant is a hired worker); realisation on a compensatory basis and compliance with the standards of decent work (allowing for

the particularities of professional public service), preventing the reduction of the level of social security of the patronage employee; the personal performance of the labour function by the patronage employee; the responsible exercise of rights and fulfilment of obligations by the employee and the employer (in terms of positive and negative legal liability) (Dashutin, 2023). Accordingly, it should be noted that, to a certain extent, the activities of the patronage service contain elements of labour relations, since they serve as the basis for establishing a legal relationship between a particular person and a public authority, enabling the imposition of duties on this person and the performance of state functions.

According to O. Kostyliiev, employees of the patronage service are civil servants, that is, the main legal regulation that defines the legal framework for their activities is the Law of Ukraine "On Civil Service", although it differs in the nature of the tasks performed, restrictions related to being in the staff, and the procedure for admission and termination of civil service, they differ from civil servants, and their positions, being public positions, have their own specifics compared to the positions of civil servants, who, in the course of their service in a state body, mostly perform managerial functions, fulfilling direct tasks of the state in their places (Kostyliiev, 2015). Therefore, it should be noted that the content and essence of the concept of "patronage service" is defined by scholars and legislation as a structural unit of a public authority that includes a number of employees and is entrusted with the performance of state functions, mainly related to ensuring the functioning of a particular body.

Ya.I. Okar-Balazh argues that the administrative and legal status, as a special legal status, characterises a person through his or her rights, duties and liability as an actor of administrative law and ensures participation in public relations arising in connection with ensuring the rights and freedoms of individuals by public authorities, in the interaction of public authorities with civil society institutions, as well as indirectly in relations of public administration of state and municipal property, sometimes in relations that take place in the internal organisational activities of public authorities (Okar-Balazh, 2015). Accordingly, the administrative and legal status of the patronage service should be characterised as a set of specific legal foundations that determine the role, place, list of functions, powers and rights of the unit that ensures the implementation of auxiliary functions related to the activities of the service (institution, establishment, specific civil service position) under which it is established.

According to A.Yu. Babakin, the legal basis of the patronage service in general and the specifics of the labour activities of such employees require a balanced approach on the part of the legislator to regulate it, which, in our opinion, could be most successfully implemented by adopting a separate legal regulation on this issue (by analogy with the principles of other types of public service). It could enshrine the definition of the patronage service, outline the list of its positions, set requirements for applicants for the position, conditions of admission, limitations and particularities of patronage service. It would be possible to highlight the guarantees of the activities of patronage officers and the exercise of their powers, their social and material support, etc. (Babkina, 2022). Accordingly, this position defines the content and essence of the importance of outlining the main areas of characterising the concept of patronage service, which is inextricably linked to its statutory definition, further legislative construction and general principles of the relevant legal status of this structural entity.

4. Conclusions

The article studies the concept and essence of patronage service as a complex state phenomenon which dates back to the mid-18th century and is based on a set of regulations providing for its clear and well-coordinated functioning.

The author argues that the general legal notion that a patronage service in the general sense is an institutional entity which functions to ensure the activities of a specific public authority. A number of researchers also consider the respective service to be one that can function outside the civil service, but in our opinion, based on the essence of this administrative and legal entity, it is exclusively a civil service.

It is proved that the essence of the patronage service is that its main purpose is to ensure the functioning of a certain administrative entity, and the relevant employees distribute among themselves the functions and powers aimed at ensuring the functioning of the same unit without performing its functions directly. Using the example of the judiciary and the institution of a judicial assistant, which is defined as a type of support for court activities which is inextricably linked to justice, the author argues that the patronage service (relevant units) is authorised to ensure the activities of the main actor of administrative and legal relations.

Further research of the institute of patronage service is the need for a structural and legal analysis of the relevant entity with the use of both international experience and the practice of their domestic functioning.

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ПОНЯТТЯ ТА СУТНІСТЬ ПАТРОНАТНОЇ СЛУЖБИ

Анотація. Мета. Метою статті є теоретико-правова характеристика поняття та сутності патронатної служби. **Результати.** У статті досліджено поняття та сутність патронатної служби як комплексного державницького явища, котре бере свій початок із середини 18-го сторіччя та базується на комплексі нормативно-правових актів, які передбачають чітке та злагоджене його функціонування. З'ясовано, що розвиток нормативно-правового забезпечення діяльності інституту патронатної служби в Україні демонструє тенденцію до досить повільного формування відповідної нормативної бази, яка могла б стати підґрунтям ефективного функціонування досліджуваного правового явища. Фрагментарно окресленими в законодавстві залишаються багато важливих аспектів патронатної служби. Визначено загальноправове уявлення, відповідно до якого патронатною службою в загальному розумінні є інституційне утворення, що функціонує для забезпечення діяльності певного органу державної влади. Низкою дослідників відповідна служба також розглядається як така, що може функціонувати поза межами державної служби, проте, на нашу думку, з огляду на сутність цього адміністративно-правового утворення воно є суто державно-службовим. **Висновки.** Доведено, що сутність патронатної служби полягає в тому, що її основною метою є забезпечення функціонування певного адміністративного утворення, а відповідні працівники розподіляють між собою функції та повноваження, що спрямовані на забезпечення функціонування цього ж підрозділу, не виконуючи при цьому його функцій безпосередньо. На прикладі органів судової влади, інституту помічника судді, котрий визначається як вид забезпечення діяльності суду, що нерозривно пов'язана з правосуддям, аргументується позиція про те, що патронатна служба (відповідні підрозділи) має повноваження забезпечувати діяльність основного суб'єкта адміністративно-правових відносин. Перспектива подальшого дослідження інституту патронатної служби полягає в необхідності структурно-правового аналізу відповідного утворення із застосуванням як міжнародного досвіду, так і практики їх внутрішньодержавного функціонування.

Ключові слова: патронатна, служба, забезпечення, взаємодія, діяльність, поняття, сутність.

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