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LIABILITY IN THE CIVIL SERVICE

Abstract: This article analyzes the responsibilities of civil servants. The legal nature of the civil liability of a civil servant is analyzed in a number of features that distinguish it from the liability of other persons.

Key words: civil service, civil servant, legal, contraventional, criminal, disciplinary, material liability.

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Introduction

Nowadays, the reform of the public administration system is being carried out in the Republic of Uzbekistan. Improving the efficiency of the civil service is necessary for the further development of the public administration system, strengthening the legal and human resources potential of state bodies, ensuring openness and regulation of their activities in order to create a positive image of civil servants in society. The ultimate goal of all reforms and changes is the creation of a strong democratic state and justice society, where “human interests above all”.

Today, the government of Uzbekistan is functioning based on the principle “the people must not serve the government bodies, rather the government bodies must serve to the people” [1].

The adoption of the Law “On state civil service” of the Republic of Uzbekistan dated August 8, 2022, and the definition of the legal status of civil servants are essential aspects of administrative reforms. First, the concept of a state civil servant and its features are clarified. Secondly, the circle and types of civil servants were determined. Thirdly, a list of positions in the state civil service has been formed. Fourthly, the rights, duties, scope of authority, declaration, rules of etiquette, responsibility, and issues of social protection of employees were clearly defined.

According to Ph.D, Professor E.T.Khojiev: “Legal liability of civil servants means the application of certain types of penalties provided by law for

violations of the law by civil servants”[2]. Based on this concept, the liability of civil servants may arise in cases where they did not work within the law, did not perform their duties properly, neglected their duties, deviated or abused their authority, violated service discipline, caused material damage to the state and public associations, violated the rights of citizens and their legitimate interests are violated.

The legal nature of the civil liability of a civil servant has a several features that distinguish it from the liability of other people. First of all, its subject is a civil servant. Also, the subject may have the status of an official or a government representative.

Another distinctive feature is the obligation of all public servants to know the law. A civil servant is responsible for actions and omissions that violate the rights and legitimate interests of citizens. This stems from the duty of the public servant to recognize, observe and protect the rights and freedoms of man and citizen.

A special feature is that a civil servant is not personally liable to a citizen or organization that has suffered as a result of actions related to the performance of their official duties. This responsibility rests with the relevant public authorities[3].

Another feature of the prosecution of a civil servant is that it depends on the status and position of the civil servant. For example, we know that the khokim is at the same time the head of the local government and a deputy of the regional, district and

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city Councils of People's Deputies. According to Part 2 of Article 11 of the Law of the Republic of Uzbekistan "On the status of a deputy of the regional, district and city Councils of People's Deputies". According to Part 2 of Article 11 of the Law of the Republic of Uzbekistan "On the status of deputies of regional, district and city Councils of People's Deputies", "without the consent of the relevant Council of People's Deputies, a deputy may not be prosecuted, detained, arrested or subjected to administrative penalties in the area" [4]. That is, the khokim has the right to immunity because he/she has the status of a deputy. According to Article 12 of this Law, the khokim may be prosecuted only if he is deprived of his/her immunity.

Another difference in prosecuting a civil servant is that the public authority has the power to prosecute. That is, the investigation of violations committed by officials is carried out by the state security service and the prosecutor's office[5]. In common parlance, the term "official" is used in conjunction with a civil servant. But not all officials are considered civil servants. In order to be a civil servant - a subject of administrative responsibility, of course, they must hold a certain position of the state in a public organization, perform the duties and functions of the state and commit an administrative offense in connection with public service[6]. According to national scientists view, not all officials are civil servants.

Disciplinary liability is the form of legal liability of a civil servant which, apart from the general conditions of any legal liability, also highlights the following specific conditions: "a) The active subject is qualified, having the status of civil servant; b) The illicit deed is circumscribed to the sphere of disciplinary misconduct; c) The dangerous outcome is often an inalienable result, so the causal link between the dangerous outcome and the illicit act is presumed. [7].

Depending on the nature of the offense, a civil servant may be subject to disciplinary, contraventional, criminal, material liability[8]. As regards the form of liability, it may be engaged if the civil servant concerned fulfills two conditions, as follows:

- The civil servant must violate at least one of his/ her duties;
- The civil servant must act with guilty.

According to the Article 14, of the Law "On state civil service" "Illegal actions (inaction) of a state civil servant, as well as the improper performance of official duties, entail liability in accordance with the law"[9].

In the absence of a special law regulating the activities of civil servants, the procedure for bringing them to disciplinary responsibility is carried out in accordance with the Law "On state civil service". Non-observance by a civil servant of the job

description and the Rules of Ethical Conduct of Civil Servants, as well as the restrictions established by Article 13 of this Law "On state civil service", is the basis for applying disciplinary sanctions against him.

Pursuant to Article 46 of this Law, the following disciplinary measures may be applied to a civil servant:

- reprimand;
- a fine of no more than thirty percent of the average monthly salary;
- demotion in the qualification rank;
- demotion of the state civil service;
- dismissal from the position of the state civil service.

Disciplinary measures are applied by the head of the state body. Only one disciplinary sanction may be applied for each disciplinary offense. The right to choose a disciplinary sanction belongs to the head of the state body. When applying a disciplinary sanction, the severity of the misconduct, its circumstances and the behavior of a public civil servant are taken into account.

The measure of disciplinary sanction is applied immediately, but not later than one month from the date of discovery of the disciplinary offence.

Disciplinary measures cannot be applied during the period:

- temporary disability of a public civil servant;
- being a public civil servant on vacation or business trip;
- release of a public civil servant from the performance of his official duties for the duration of the performance of duties related to an emergency situation or military service;
- of the presence of a state civil servant in retraining, advanced training and education.

According to the Article 48, of the Law "On state civil service" a disciplinary sanction may be applied no later than six months from the day the disciplinary offense was committed, and based on the results of an audit or audit of financial and economic activities or an audit, no later than two years from the day it was committed. The above time limits do not include the time of criminal proceedings.

A disciplinary sanction is valid for one year from the date of its application. If during this period a new measure of disciplinary sanction is not applied to a civil servant, he is considered not to have a disciplinary sanction. At the same time, the term of the disciplinary sanction expires automatically without the relevant decision of the head of the state body.

The head of the state body has the right to remove the disciplinary sanction ahead of schedule on his own initiative, at the request of the immediate head of the state civil servant, trade union (if any), as well as at the request of the state civil servant.

In my practice, there were cases when the head of a state body removed him ahead of schedule the day after the imposition of a disciplinary sanction. In my

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opinion, the minimum terms of stay in disciplinary responsibility should be determined. this determines the seriousness of the appointment of this measure.

According to Article 15 of the Code of the Republic of Uzbekistan "About administrative responsibility", Officials are subject to administrative liability for committing administrative offenses related to non-compliance with established rules in the field of protection of management order, state and public order, the natural environment, public health and other rules, the enforcement of which is part of their official duties[10].

If a civil servant is found guilty of a crime, he/she will be prosecuted. The procedure for prosecuting a civil servant is established by the Criminal Code of the Republic of Uzbekistan. This is reflected in Chapter 15 of the Code, entitled "Crimes against the order of government, administration and public associations."

The issue of financial responsibility of a civil servant is provided for in Chapter XII of the Labor Code of the Republic of Uzbekistan. According to Article 186 of this Code, one party to an employment contract shall be financially liable for the damage caused to the other party as a result of their unlawful conduct (action or omission). Each of the parties must prove the amount of material damage caused to their.

According to the Law of the Republic of Uzbekistan "On state civil service" Article 14 "an individual or legal entity who believes that the actions (inaction) of a state civil servant have led to a violation of his rights, freedoms and legitimate interests, has the right to appeal against such actions (inaction) to a higher authority or court.

The damage caused to individuals or legal entities by illegal actions (inaction) of a state civil servant is compensated by a state body with subsequent recovery of harm from the guilty civil servant in the manner prescribed by law.

The damage caused by a civil servant as a result of the execution of an illegal order by the head of a state body or officials shall be compensated by the state body in the manner prescribed by law. The amount of damage shall be recovered by way of recourse from the head or official of the state body that gave the illegal order". By the above norm, the state guarantees human rights to compensation for damages attributed to officials for unlawful decisions and actions.

DSc, Professor N.Said-Gazieva's research focuses on the issue of constitutional liability of civil

servants. She suggested, a constitutional offense is an illegal, culpable act (action or omission) of a public authority or civil servant that harms or threatens to damage social relations in the exercise of public power, for which the legislation provides for constitutional liability[11].

In research of DSc, Professor M.Ahmadshaeva suggests that the issue of moral responsibility for civil servants should be considered in the context of modern requirements. According to her, "the issue of legal, material and moral responsibility of governors who do not justify the high level of self-confidence, who put their own interests above the interests of the people and the state, should be considered in the context of today's requirements"[12].

In accordance with the Decree of the President of the Republic of Uzbekistan dated May 31, 2021, No. 5132 "On additional measures aimed to ensure the efficient activity of the unified interdepartmental electronic system of the executive discipline "ijro.gov.uz", Decree of the President of the Republic of Uzbekistan dated April 3, 2018 No. 5395 "On measures to radically improve the legal support of ongoing reforms", Resolution of the President of the Republic of Uzbekistan dated April 11, 2017 No. 2881 "On personal responsibility of State Advisers to the President of the Republic of Uzbekistan, the Cabinet of Ministers and its complexes, heads of state and economic bodies and khokimiyats at all levels for the effective and efficient implementation of documents and instructions of the President of the Republic of Uzbekistan, as well as strengthening executive discipline", Resolution of the President of the Republic of Uzbekistan dated October 5, 2018 No. 3962 "On measures to further strengthen executive discipline in government agencies and organizations", Resolution of the Cabinet of Ministers dated January 12, 1999 No. 12 "On measures to strengthen executive discipline", requirements for enforcement discipline are set.

Based on the above, the state has established comprehensive control over the proper performance of their duties by civil servants. But such measures will not be useful if every civil servant does not approach their duties conscientiously and professionally. As Otto von Bismarck puts it: "With bad laws and good civil servants, it's still possible to govern, But with bad civil servants, even the best possible laws can't help"[13].

References:

1. (2017). *Address by President Shavkat Mirziyoyev at the General Debate of 72nd*

Session of UN General Assembly. Retrieved from

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- <https://news.un.org/en/story/2017/09/565442-government-bodies-must-serve-people-uzbek-president-stresses-un-assembly>
2. Khojiev, E., & Khojiev, T. (2008). *Administrative law*. (p.241). Tashkent: Science and Technology.
 3. Kabachenko, V.A. (2003). *Legal support of the status of civil servants (theoretical and administrative aspects)*. Author. dis. doc. legal sciences. (p.34). Moscow.
 4. (2022). *Law of the Republic of Uzbekistan "On the status of deputies of regional, district and city Councils of People's Deputies"*. National Database of Legislation, 16.06.2022. No.03/22/779/0528.
 5. (2022). *Code of Criminal Procedure of the Republic of Uzbekistan*. National Database of Legislation, 24.06.2022. No. 03/22/780/0560.
 6. Mirboboev, B., Husanov, O., & Begmatov, A. (2005). *Organizational and legal issues of civil service organization in Uzbekistan*. (p.117). Tashkent: "Academy".
 7. Malinche, D. (2018). The Liability of Public Servants. *Perspectives of Law and Public Administration*, 7(1), 67-71.
 8. Sandalnikova, E.V. (2007). *Legal responsibility of state civil servants in the Russian Federation: theoretical and legal research*. Author. dis. sand. legal sciences. (p.6). Ulyanovsk.
 9. (2022). *Law of the Republic of Uzbekistan "On state civil service"*. National Database of Legislation, 09.08.2022. No. 03/22/788/0723.
 10. (2022). *Code of the Republic of Uzbekistan on Administrative Liability*. National Database of Legislation, 19.10.2022. No. 03/22/794/0939.
 11. Said-Gazieva, N. (2008). *Issues of civil service reform in the Republic of Uzbekistan*. Monograph. Responsible editor: Z.M.Islamov. (pp.85-86). Tashkent: TSIL.
 12. Axmedshaeva, M.A. (2010). *Executive power in the system of state power*. Author. dis. doc. legal sciences. (p.23). Tashkent.
 13. (n.d.). *Eigen's Political and Historical Quotations*. Retrieved from www.politicalquotes.org

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