



*Asesorías y Tutorías para la Investigación Científica en la Educación Puig-Salabarría S.C.
José María Pino Suárez 400-2 esq a Lerdo de Tejada, Toluca, Estado de México. 7223898475*

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TÍTULO: Sobre la necesidad de eliminar las violaciones del principio constitucional sobre la igualdad de las ramas legislativa, ejecutiva y judicial del gobierno en términos de remuneración y pensiones pagadas a los funcionarios públicos de la oficina del Órgano Supremo del Poder Estatal de la Federación de Rusia.

AUTORES:

1. Timur G. Okriashvili.
2. Alexander G. Gurinovich.
3. Albert V. Pavlyuk.
4. Albert G. Yakupov.

RESUMEN: La eficacia del funcionamiento del mecanismo estatal de la Federación Rusa depende en gran medida de la calidad del trabajo de los funcionarios públicos, que garantice la implementación de los poderes de los organismos estatales y las personas que ocupan cargos públicos. La reforma de la administración pública otorga importancia especial a la motivación, incluido el material de los funcionarios públicos, que debe mejorarse mediante una regulación legal, así como identificar prioridades para una mejora adicional de dicha regulación legal y determinar parámetros principales de cambios en las instituciones legales que rigen este proceso. Debe darse especial importancia a la comprensión teórica y jurídica de los problemas relacionados con la mejora del apoyo financiero para las actividades oficiales de los funcionarios públicos.

PALABRAS CLAVES: Derecho, Teoría del derecho, servicio público, principio constitucional.

TITLE: About the need to eliminate violations of the constitutional principle On equality of the Legislative, Executive and Judicial branches of government in terms of Remuneration and Pensions paid to Civil Servants from Office of the Supreme State Power Bodies of the Russian Federation.

AUTHORS:

1. Timur G. Okriashvili.
2. Alexander G. Gurinovich.
3. Albert V. Pavlyuk.
4. Albert G. Yakupov.

ABSTRACT: Effectiveness of the functioning of the Russian Federation state mechanism largely depends on the quality of work of civil servants which ensure the implementation of the powers of state bodies and persons holding public offices. In the ongoing process of reforming the civil service, special importance is justifiably attached to raising motivation, including material of civil servants in a broad sense, which should be improved by means of acceptable legal regulation. Particular importance should be given to theoretical and legal understanding of the problems on improvement of financial support for civil servants' official activities. It is appropriate to identify priorities for further improvement of such legal regulation and to determine the main parameters of the desired changes in the legal institutions governing this process.

KEY WORDS: law, theory of law, public service, constitutional principle.

INTRODUCTION.

In accordance with Article 10 of the Constitution of the Russian Federation, state power in the Russian Federation is exercised on the basis of separation into legislative, executive and judicial

powers, which of course, presupposes their legal equality. It manifests itself; for example, through the equal approach to the status of the chairmen and vice-chairmen of the Council of Federation and the State Duma of the Federal Assembly of the Russian Federation, the Government of the Russian Federation, the Constitutional Court of the Russian Federation and the Supreme Court of the Russian Federation, as well as to the status of other members of the Council of the Federation, deputies of the State Duma (Russian Parliament), members of the Government, and judges of higher courts.

It would be logical to expect the same equivalent approach to the status of the staff of the offices of these higher federal state bodies. However, in relation to their remuneration and pensions, the situation is far from the best - that is, the principle of equality of rights is not maintained.

DEVELOPMENT.

Issues of the civil service were studied in the scientific literature by such scholars as A. A. Glushetsky, V.V. Krasinsky, V.P. Bykov, E.V. Chernikova, and others.

The scientific novelty of the research lies in the fact that the authors of this scientific paper for the first time study the problem of the need to eliminate the violation of the constitutional principle of equality of the legislative, executive and judicial branches of government in terms of remuneration and pension benefits paid to civil servants of the highest state authorities of the Russian Federation.

Methods.

In this scientific paper, there were used such methods as the general scientific dialectical method, which determined the choice of the research topic and the necessary argumentation basis for conducting the study, and also general logical methods - analysis, synthesis, induction, deduction, and particular legal methods: formal legal, comparative legal, state legal modeling.

Results and Discussion.

Since 2012, issues have been resolved on a multiple increase in the monetary allowance for military personnel with military ranks and special law enforcement officers¹. This activity is, of course, justified and fair due to the fulfillment of their special and particular tasks. We mention that since January 1st, 2003 the monthly salary for the military rank of Marshal of the Russian Federation was set at only 1,700 rubles², which convincingly illustrates the then existing flailing state of affairs in the field of financial support for military personnel. The positive dynamics over the past decade and a half is impressive despite the known difficulties.

The growth of salaries for civil servants of the Presidential Administration, the Government Office and the Office of the Accounts Chamber seriously affected the long-service pension sizes for former employees of these state bodies. In pursuance of orders on those growth, Government decrees dated December 27, 2012 No. 1402 and December 26, 2014 No. 1543, long-service pensions were indexed to persons who hold federal civil service positions in the Administration of the President of the Russian Federation, in the Government Offices of the Russian Federation (Government of the Russian Federation, Council of Ministers at the Government of the Russian Federation) and in the office of the Accounts Chamber of the Russian Federation.

So, with reference to paragraph 7 of the Presidential Decree of the Russian Federation dated August 2, 2012 No. 1100 and paragraph 6 of the Presidential Decree of the Russian Federation dated November 16, 2012 No. 1548, and the Government Decree of the Russian Federation dated

¹ See also, for example: Federal Law dated July 19, 2011 „№ 247-FZ "On social guarantees for employees of internal affairs bodies of the Russian Federation and the introduction of amendments to certain legislative acts of the Russian Federation"//“Collected Legislation of the Russian Federation”, 25.07.2011, No. 30 (Part 1), Art. 4595; Russian Federation Government Resolution dated November 3, 2011, Number 878, "On the establishment of monthly salaries for employees of the internal affairs bodies of the Russian Federation"//“Collected Legislation of the Russian Federation”, November 14, 2011, No. 46, art.6504.

² Resolution of the Government of the Russian Federation dated January 8, 2003 “On the establishment of a salary for the military rank of Marshal of the Russian Federation” // “Collected Legislation of the Russian Federation”, January 13, 2003, No. 2, art.185 (at the time of submission of the paper manuscript this document has become invalid).

December 27, 2012 No. 1402, the weighted average index of the increase in the monetary allowance of persons holding posts in the federal state civil service (state posts in the federal state service, state posts of federal civil servants) in the Presidential Administration for indexation of long service pensions appointed in accordance with the Federal Law "On State Pension provision in the Russian Federation " is set at 2.88, and for persons holding similar positions in the Government Office of the Russian Federation (the RF Government Office, the Office of the Council of Ministers at the Government of the Russian Federation) - at a rate of 2.57³. In accordance with paragraph 6 of the Presidential Decree of the Russian Federation dated October 28, 2014 No. 697, the Decree of the Government of the Russian Federation dated December 26, 2014 No. 1543, the same weighted average index was set at 2.54⁴.

As for the Accounts Chamber, the legal grounds for equalizing them with the employees of the Government Office are contained in the Federal Law dated April 5, 2013.№ 41-FZ "On the Accounts Chamber of the Russian Federation", part 2 of article 40 (Material and social security of members of the Accounts Chamber Collegium, inspectors and other employees from the Office of the Accounts Chamber) which states that the official salaries of the staff in the Office of the Accounts Chamber are set at the official salaries the relevant employees of the Government's Office of the Russian Federation, and part 3 of the same article provides that the allowances to the

³ Decree of the Government of the Russian Federation dated December 27, 2012 No. 1402 "On the indexation of long service pensions to persons who have held the posts in the federal civil service (state posts in the federal state service, state posts of federal civil servants) in the Administration of the President of the Russian Federation (Administration of the President of the RSFSR) and the Administration of the Russian Federation (Office of the Government of the RSFSR, Office of the Council of Ministers - Government of the Russian Federation)"// "Collected Legislation of the Russian Federation", December 31, 2012, No. 53 (Part 2), Art.7956.

⁴ Resolution of the Government of the Russian Federation dated December 26, 2014 № 1543 "On the indexation of long service pensions for persons who hold the posts in the federal state civil service (state posts in the federal state service, state posts of federal civil servants) in the office of the Accounts Chamber of the Russian Federation" // "RF Legislative Assembly", 01.19.2015, № 3, Art.578.

salaries of the employees of the Accounts Chamber shall be established according to the order and in amount determined by for employees of the Government Office of the Russian Federation⁵.

As for civil servants of the Office of the Federation Council and the Office of the State Duma of the Federal Assembly of the Russian Federation, the offices of the Constitutional Court of the Russian Federation and the Supreme Court of the Russian Federation, no similar decrees were issued that did not correlate with the constitutional principle⁶ of equal rights of the legislative, executive and judicial branches of government.

The civil servants of these state bodies by the level of their money support and the persons in the federal state service, who hold those positions, by the level of pensions were found to be unreasonably disadvantaged compared to the current and former civil servants of not only the Government Office of the Russian Federation, but also the staff of the Accounts Chamber of the Russian Federation and the Ministry of foreign Affairs of the Russian Federation, whose status in the hierarchy of state bodies – and it is an objective reality – is inferior to status of the federal parliament and supreme courts chambers.

References to limited financial resources are inconclusive here. What can be the reasons here if the constitutional norm is ignored? Or those representatives of the media and so-called "experts" are right who called the parliament and the courts as appendages not only of the Presidential Administration (but this is at least the office of the head of state, who is not part of any branch of state power), but also of executive power? Or does the plot discussed confirm their correctness? How can we treat the renowned specialists who gave decades to the civil service in the federal parliament and high courts so frankly and downplay their contribution to the development of national statehood? After all, the pensions of former federal civil servants of the Federation Council

⁵ Federal Law dated April 5, 2013 № 41-FZ “On the Accounts Chamber of the Russian Federation”//“Collection of Legislation of the Russian Federation”, 08.04.2013, No. 14, Art.1649.

⁶ Okriashvili T.G: The theoretical analysis //Academy of Marketing Studies Journal,2016 V. 20. No. Special Issue 1. Pp. 45-49.

and the State Duma, the Constitutional and Supreme Courts, which even hold the positions of the Head according to the highest group of positions category with civil service term of 25 years and more, are less than the pensions of their former colleagues who left the civil service chambers, about in 2.5-3 times, and this abnormal situation is long overdue to change, because there is a selective, subjective and discriminatory approach to the issues of payment for official activities of public civil servants.

The list approved by the Order of the Presidential Office of the Russian Federation, contains 353 points designating individuals and categories of persons endowed with such a right by this document. Representatives of the Office of the Federation Council are designated in the List starting from 68th point, the Staff of the State Duma - from 89th point, the Government Office - from 113rd point, the Constitutional Court Office - from 208th point, the Supreme Court - from 226th point, and the Office of the Accounts Chamber - from 259th point⁷.

According to Clause 2 of the Presidential Decree of the Russian Federation dated August 18, 2014 No. 572 "On ensuring the activities of the Supreme Court of the Russian Federation", the Office of the President of the Russian Federation is entrusted with providing social, medical and sanatorium-resort services for federal state civil servants of the staff from the office of the Supreme Court of the Russian Federation and their family members in the order and according to the conditions established for the respective categories of federal civil servants of the Government Office of the Russian Federation and their family members.

⁷ Order of the Russian Presidential Administration of the Russian Federation dated July 12, 2010, № 245 "On the halls for officials and delegations organized at checkpoints across the state border of the Russian Federation established within airports (airfields) of the city of Moscow, Moscow region, the cities of St. Petersburg and Sochi"//“Rossiyskaya Gazeta”, No. 188, August 24, 2010 (at the time of submission of the paper manuscript, this document has become invalid).

Part 7, Article 40 of the Federal Law of April 5, 2013 № 41-FZ “On the Accounts Chamber of the Russian Federation” also states that the employees of the Accounts Chamber are subject to the procedure of medical, sanatorium, resort, consumer and transport services established for employees of the Government Office of the Russian Federation.

However, unlike the staff of the Office of the Accounts Chamber, whose official salaries are set at the level of official salaries of relevant employees of the Government Office of the Russian Federation, what was confirmed by the Decree of the President of the Russian Federation dated October 28, 2014 No. 697 “On Improving the Remuneration of Federal State Civil Servants of the Office of the Accounts Chamber of the Russian Federation”, official salaries of the staff of the Supreme Court Office, as well as the staffs of Offices of the Constitutional Court, the Federation Council and the State Duma have not changed and remain at the same discriminatory level to this day for more than 6 years in comparison with employees of the Government Office and for more than 4 years in comparison with employees of the Office of the Accounts Chamber, as well as pensions for former employees of the Office of higher legislative and judicial bodies. That is, some offices (Ministry of Finance) distribute budget funds, and others (Chamber of Accounts) control this process. That is why a commonplace suggests itself: “it’s up to us” - we’ll give ourselves, while others won’t have to receive⁸.

Well-informed specialists know that these many years long lagging is partially compensated by the Ministry of Finances using one-time financial instruments; however, these are only temporary palliatives, since firstly, such measures do not solve the problem, and secondly, they have no effect on the formation of state pensions of former employees of discriminated state bodies⁹.

⁸ Okriashvili T.G., Yakupov A.G. *Methodology, Revista Publicando*. - Vol.4. - Issue 13. - PP. 578 - 584.

⁹ Suldina G.A., Khalilova T.V., Abdulganiev F.S. (2010). *The State Service of the Russian Federation // Study guide* / G. A. Suldina, T. V. Khalilova, F. S. Abdulganiev. Kazan.

It is not a secret that one time some employees, for example, from the State Duma Office, and even a considerable number of them, who did not succeed in everything and worked well in this chamber of parliament, have been moved to the office of the Accounts Chamber as, let's say, subsidiary body of parliament. Now, they, receiving many times more government pensions than their former colleagues who served directly in parliament, feel much more comfortable than they do¹⁰. The emotions of the latter are quite understandable.

At the same time, all the highest federal bodies of state power (representing the three branches: the Federation Council and the State Duma of the Federal Assembly, the Government, the Constitutional Court, the Supreme Court), whose activities are ensured by their offices and the federal civil servants working in them, perform different, but equally important tasks and powers established to them by the Constitution and other legislation. And the soonest overcoming of the imbalance in their wages and pensions established due to the aforementioned essential differences, is essential in order to eliminate violations of the constitutional principle of equality of the highest legislative, executive and judicial bodies.

In summary, the main conclusion from the above is the decision of the head of state to increase the salaries of civil servants of the Federation Council, the State Duma, the Constitutional Court and the Supreme Court offices to the level of official salaries of civil servants of the Government Office and the use of the table of ratios for class ranking of federal civil service servants and military ranks officers approved by Decree of the President of the Russian Federation dated August 2, 2012 No. 1100 "On Improving the Remuneration of Federal State Civil Servants of the Administration of the President of the Russian Federation", when determining the monthly salaries of civil servants of the above-mentioned legislative and judicial bodies in accordance with the positions they hold and their monthly salaries in accordance with the class rankings of the federal civil service. The preparation

¹⁰ Gorshunov D.N., Okriashvili T.G. // *Academy of Marketing Studies Journal*. 2016. V. 20. No. Special Issue1. Pp. 33-38.

of the relevant decree of the President of the Russian Federation is entrusted with his instruction in such cases to the Government and the Ministry of Finance. It seems obvious that the Ministry of Finance will look for excuses and will object. Therefore, a positive solution to the issue can only be legal (and not political-ideological) in the context of the above arguments.

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- 3) Decree of the Government of the Russian Federation dated November 3, 2011 № 878 "On the establishment of monthly salaries of employees of the internal affairs bodies of the Russian Federation" // "Collected Legislation of the Russian Federation", November 14, 2011, No. 46, Article 6504.
- 4) Decree of the Government of the Russian Federation of January 8, 2003 “On the establishment of a salary for the military rank of Marshal of the Russian Federation” // “Collected Legislation of the Russian Federation”, January 13, 2003, No. 2, Article 185 (at the time of submitting the article manuscript, this document was no longer valid).

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- 6) Decree of the Government of the Russian Federation dated December 26, 2014 № 1543 "On the indexation of long service pensions to persons who held the posts in the federal state civil service (state posts in the federal state service, state posts of federal civil servants) in the office of the Accounts Chamber of the Russian Federation" // "Collected Legislation of the RF" No.3, article 578.
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DATA OF THE AUTHORS.

1. **Timur G. Okriashvili.** Kazan Federal University. Email: okriashvili@yandex.ru
2. **Alexander G. Gurinovich.** Moscow State Institute of International Relations (MGIMO). Email: gurinovich-ag@ya.ru
3. **Albert V. Pavlyuk.** Moscow State Institute of International Relations (MGIMO). Email: albert.pavlyuk@mail.ru
4. **Albert G. Yakupov.** Kazan Innovative University. Email: alba220495@gmail.com

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