



*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. 7223898478*

RFC: ATI120618V12

Revista Dilemas Contemporáneos: Educación, Política y Valores.

<http://www.dilemascontemporaneoseduccionpoliticayvalores.com/>

Año: VII

Número: Edición Especial

Artículo no.:91

Período: Octubre, 2019.

TÍTULO: Situación del funcionario público en el ámbito del apoyo organizativo de los tribunales.

AUTORES:

1. Ph.D. Ivan Innokentievich Koryakin.
2. Ph.D. Eka Demurievna Korkia.
3. Ph.D. Afanasy Ighorevich Stepanov.
4. Ph.D. Yana Aleksandrovna Petrova-Yadreeva.
5. Ph.D. Maria Prometeevna Efimova.

RESUMEN: El autor sobre la base del análisis desarrollado por el Departamento Judicial en el Tribunal Supremo de la Federación de Rusia y sus gestiones en asuntos de la Federación sobre el servicio civil por parte de empleados de dispositivos de tribunales y órganos del sistema del Departamento Judicial llega a la conclusión de que allí son problemas que deben resolverse mediante la regulación legal. La importancia de la regulación legal de las relaciones administrativas de la administración pública estatal en el sistema del Departamento Judicial está demostrada.

PALABRAS CLAVES: Departamento Judicial bajo la Corte Suprema de la Federación de Rusia, funcionario, empleados del aparato judicial y sistema del Departamento Judicial, regulación legal, relaciones de gestión.

TITLE: Status of public civil servant in the field of organizational support of the courts.

AUTHORS:

1. Ph.D. Ivan Innokentievich Koryakin.
2. Ph.D. Eka Demurievna Korkia.
3. Ph.D. Afanasy Ighorevich Stepanov.
4. Ph.D. Yana Aleksandrovna Petrova-Yadreeva.
5. Ph.D. Maria Prometeevna Efimova.

ABSTRACT: The author on the basis of the analysis developed by Judicial Department at the Supreme Court of the Russian Federation and its managements in subjects of the Federation concerning civil service by employees of devices of courts and bodies of system of Judicial Department comes to a conclusion that there are problems which have to be solved by means of legal regulation. The importance of legal regulation of administrative relations of the state civil service in the system of the Judicial Department is substantiated.

KEY WORDS: Judicial Department under the Supreme Court of the Russian Federation, civil servant, employees of the court apparatus and system of Judicial Department, legal regulation, management relations.

INTRODUCTION.

The legal norms regulating relations in the civil service in the court apparatus and bodies of the Judicial Department system of Russian Federation ensure the completeness and effectiveness of legal regulation in the sphere of organizational support of the courts.

According to the Federal legislation, the General principles of construction and legal institutions of the state civil service related to the civil service and the legal status of civil servants – employees of the apparatus of courts and bodies of systems and the Judicial Department must be uniform for Federal civil servants and civil servants of the constituent entities of the Federation.

Its organizational and legal form, rights and obligations, responsibilities, powers that arise from regulatory legal acts, determine the status of legal entities – civil servants in the field of organizational support of the courts.

DEVELOPMENT.

Research methodology.

In the process of cognition of state-legal phenomena, based on the approach of S.A. Komarov, general scientific methods were used (formal-logical, sociological, systemic, structural-functional, concrete-historical, statistical, ascension from abstract to concrete, etc.); general logical methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.); private scientific methods (comparative law, technical and legal analysis, concretization, interpretation, etc.) [Komarov S.A. (2019), p. 33].

The results of the study.

According to E. B. Abrosimova, the concept of the legal status of a public entity consists of several elements: the first element describes the order of formation – the appointment or election; the second element is the order of the termination of the activity; the third element contains a description of the jurisdiction of the region, as well as the order and ways of its realization; the fourth element can be described as containing features of the legal status of the subject, distinguishing it from other public entities – bearers of state power [Abrosimova E. (2002), p. 76].

For effective public administration is important not only the separation of powers, but the establishment of the necessary relationships, interaction, coherence in the work of the Supreme bodies of the state [Abrosimova E. (2002), p. 193].

The status of the employee of the office of court and body of system of Judicial Department which is the public civil servant is defined by the Federal law of May 27, 2003 No. 58-FZ «On system of public service in Russian Federation» and the Federal law of July 27, 2004 No. 79-FZ «On public civil service of the Russian Federation».

Item 3 of the Federal constitutional law «On judicial system of the Russian Federation» declares that the employee of Judicial Department at the Supreme Court of the Russian Federation is the civil servant.

In addition, in Art. 32 of the Federal Constitutional law «On judicial system of the Russian Federation» the normative legal regulation of activity of the office of court is considered.

According to the legislation, Federal law establishes the powers and procedures of the staff of the courts and the system of the Judicial Department – public civil servants.

Consider the concept and functions of the court. From a number of definitions about the office of courts we will give: the office of court-the employees of the relevant court substituting positions of Federal public service, and also the positions which are not positions of Federal public civil service, urged to carry out actions for organizational support of activity of courts directed on creation of conditions for full and independent implementation of justice [5, p. 95].

We believe that the problems to be solved with the help of legal regulation be this in lack of professional training of court personnel: a significant low level of remuneration of the staff of the courts and bodies of the Judicial Department; the decline in the prestige of work in the apparatus of the courts and offices of Judicial Department in subjects of the Russian Federation; insufficiency of legal regulation of issues of work with the staff of the courts and departments of the Judicial Department in the subjects of the Federation; deficiencies in the organizational support of the courts.

Legal regulation of administrative relations of the state civil service in the sphere of organizational support of activity of courts is carried out at two levels – Federal and subjects of the Russian Federation. On the one hand, the legal form is based on the Constitution of the Russian Federation, Russian legislation and normative legal acts of public authorities, legislation and normative legal acts of the subjects of the Federation. The principles of legal regulation of management relations related to the state civil service should ensure the unity and consistency of the legislation, as well as eliminate the contradiction and inconsistency in regulatory legal acts [2].

On the other hand, the legal regulation of administrative relations of the state civil service should be comprehensive and include the norms of the constitutional, administrative, financial and labor branches of law.

Employees of the apparatus of the courts-civil servants carry out organizational support for the activities of the courts-personnel, financial, logistical, organizational, legal, electronic, information, aimed at creating conditions for the full and independent administration of justice.

According to Art. 32 of the Federal law «On judicial system of the Russian Federation» employees of the office of Federal courts who hold Federal public civil positions are public civil servants, they are assigned class ranks and other special ranks. The rights and obligations of employee of the court or a civil servant as defined in clause 1, article 14 and part 1 of article 15 of the Federal law «On state civil service of the Russian Federation».

Duties of the certain employee of the office of court are reflected in the order of Judicial Department at the Supreme Court of the Russian Federation of December 21, 2005 No. 18 «About the approval of methodical recommendations on development of job descriptions of Federal public civil servants of devices of courts of General jurisdiction and system of Judicial Department at the Supreme court of the Russian Federation».

For court staff who are government civil servants, under article 17 of the Federal law «On state civil service of the Russian Federation» establishes certain prohibitions related to civil service and article 57 and article 52 of the Federal law «On state civil service of the Russian Federation» it is established their liability and guarantee activities.

Consider the basic principles of the civil service in the field of organizational support of the courts.

As for admission to the civil service in the office of the court and to the position of administrator of the court is carried out in accordance with article 33 of the Federal law «On civil service of the Russian Federation», based on the principle of equal access of citizens to the civil service, enshrined in article 22 of the Constitution of the Russian Federation and the relevant paragraph «C» article 25 of the International Covenant on civil and political rights of December 16, 1966.

Admission to the civil service is based on the constitutional forms that define its basic principles, the norms of the Russian legislation, establishing the beginning and basic procedures for the functioning of the civil service. The legal norms of the legislation are aimed at regulating public relations in the sphere of the state civil service.

According to the principle of professionalism and competence in the evaluation of a public civil servant – an employee of the court apparatus and the system of the Judicial Department, preference is given to the selection of a candidate for the vacant position of the civil service.

The role of professionalism and competence of public civil servants is particularly growing during the period of economic and political reforms.

The principle of responsibility of employees of the apparatus of courts-civil servants is legally aimed at the performance of official duties, the strengthening of state discipline, the formation of a sense of personal responsibility for the assigned case.

The principle of binding for civil servants decisions taken by higher state bodies and managers within their powers and in accordance with the law is a condition for the unity of the system of state power and the rule of law, as well as from the subordination of lower bodies to higher ones.

According to Art. 5 of the Federal law «On the state civil service of the Russian Federation» implementation of the principle of stability of shots in the office of courts and bodies of system of Judicial Department is directed to constancy of shots, minimization of turnover of shots at stability of regular structure. This principle is an important condition for the quality functioning of the judiciary and the Judicial Department.

What determines the stability of personnel? First, it depends on how legally, objectively and thoughtfully organizational and staff activities are carried out in the apparatus of the courts and the bodies of the Judicial Department system. Regulation of relations in other cases is carried out in a subjective framework, changes in the structure, lists of positions cause illegal movement of personnel, which disorganizes the staffing of the courts.

From the skillful organization of work on improvement of qualification based on paragraph 5 of article 62 of the Federal law depends on the stability of activities of court staff and the Judiciary Department.

According to Art. 6, 10, 14, 16, 19 of the Federal law on Judicial Department, employees of the office of courts, bodies of Judicial Department – civil servants have the right to choose forms of administrative activity, observing also conditions: first, forms of their activity correspond to the General requirements of legality. Secondly, they are suitable for the powers of the subject of management. Regulation of non-legal forms of public administration is enforced by legal norms. According to A. P. Lonchakov, such rules are contained in those legal acts that establish the legal status of the Executive body of state power, including the judiciary (official) [Lonchakov A.P. (1999),

p. 49]. These are, for example, Regulations on the Judicial Department and its offices in the subjects of the Federation, job descriptions.

One of the shortcomings of the judicial reform in the Russian Federation is the lack of training for the staff of the Institute of judges and bodies of the Judicial Department. In the Russian legislation legal regulation of training, retraining, advanced training of legal personnel in the system of judicial power is missed. This makes it necessary to improve the legal regulation of training, retraining and advanced training of employees of the staff of courts and bodies of the Judicial Department, to develop their principles, to lead to certain standards and criteria. In the Russian Federation, there is still a lack of a network of educational institutions training lawyers for the judiciary.

The staff of courts and bodies of system of Judicial Department are bodies of judicial power in which the Federal public service in the sphere of organizational support of activity of courts is performed, carry out the public-office relations, and on the contents are administrative relations.

Questions of the legal status of the public civil servant are regulated by legal norms of the constitutional, administrative, labor, financial and other branches of law. The state civil service in the office of courts, bodies of system of Judicial Department is included in uniform state system of the Russian Federation. The judiciary is one of the branches of government.

Employees of the staff of courts and bodies of system of Judicial Department carry out professional office activity on ensuring execution of powers of the Russian Federation, its legal regulation and the organization of Federal public service is performed according to the legislation.

According to Art. 2 of the Federal law on system of public service of the Russian Federation the type of Federal public service of the Russian Federation – judicial service is established.

CONCLUSIONS.

So, the existing Russian system of state civil service, including employees of the courts and bodies of the Judicial Department of the Russian Federation, with its focus on public and private interests, should fully take into account the most diverse interests of civil society. Hence the task of increasing the efficiency of public civil servants at various levels is a task that should be solved both from a practical and scientific point of view.

Conflict of interest.

The authors confirm the absence of a conflict of interest.

BIBLIOGRAPHIC REFERENCES.

(In Russian).

1. Abrosimova Ye. (2002) Sud v sisteme razdeleniya vlastey: rossiyskaya model' (konstitutsionnyy i teoreticheskiy aspekty): uchebnik. – M.: Prospekt. – 110 s.
2. Kommentariy k Konstitutsii Rossiyskoy Federatsii. 3-ye izd., Red. I dop. / Drozdova A.M. [i drugiye]; pod red. professora S.A. Komarova. – M.: Izdatel'stvo Yurayt, 2018. – 333 s.
3. Komarov S.A. (2019) Obshchaya teoriya gosudarstva i prava: uchebnik dlya bakalavrov i aspirantov / S. A. Komarov. – 9-ye izd., Red. I dop. – (Seriya: bakalavr i magistr. Akademicheskiy kurs). - M: Izdatel'skiy dom "Yurait". – 506 s.
4. Lonchakov A.P. (1999) Sub'yekt i sistema administrativnogo prava Rossiyskoy Federatsii. – Khabarovsk: Izdatel'stvo Khabarovskogo gosudarstvennogo tekhnicheskogo universiteta. – 175 s.
5. Organizatsiya sudebnoy deyatelnosti. (Pod redaktsiyey professora V.V. Yershova). Uchebnik. – M.: Izdatel'stvo Rossiyskogo universiteta yustitsii, 2016. – 388 s.

(In English).

1. Abrosimova E. (2002) The Court in the system of separation of powers: the Russian model (constitutional and theoretical aspects): textbook. – Moscow: Prospect. – 110 p.
2. Comment to the Constitution of the Russian Federation. 3-e Izd., Rev. and add. / Drozdova A.M. [and others]; under the editorship of Professor S.A. Komarov. – Moscow: Yurayt Publishing House, 2018. – 333 p.
3. Komarov S.A. (2019) General theory of state and law: a textbook for undergraduate and graduate studies / S. A. Komarov. – 9th ed., Rev. and add. – (Series: Bachelor and Master. Academic Course). – M.: Publishing House «Yurait». – 506 p.
4. Lonchakov A.P. (1999) Subject and system of administrative law of the Russian Federation. – Khabarovsk: Publishing house of Khabarovsk State Technical University. – 175 p.
5. Organization of judicial activities. (Edited by Professor V.V. Ershov). Textbook. – Moscow: Publishing house of the Russian University of justice, 2016. – 388 p.

DATA OF THE AUTHORS

1. **Koryakin Ivan Innokentievich.** State Counsellor of justice, 3rd class, Associate Professor of the Department of constitutional and municipal law North-Eastern Federal University named after M. K. Ammosov, PhD in law, Associate Professor.
2. **Korkia Eka Demurievna.** Candidate of Sociology, Associate Professor of the Department of Sociology of Communication Systems of the Sociology Faculty of Moscow State University named after M.V. Lomonosov (Moscow, Russia).
3. **Stepanov Afanasy Ighorevich.** Senior lecturer of the Department of constitutional and municipal law North-Eastern Federal University M. K. Ammosov.

4. Petrova-Yadreeva Yana Aleksandrovna. Deputy Dean of the Law faculty of North-Eastern Federal University named after M. K. Ammosov.

5. Efimova Maria Prometeevna. Senior lecturer of the Department of criminal law of the faculty of law of the North-Eastern Federal University named after M. K. Ammosov.

RECIBIDO: 14 de septiembre de 2019

APROBADO: 27 de septiembre del 2019.