



Political Impartiality Civil Service of Ukraine in the Context of Practice ECtHR and EU experience

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Abstract: The study examines the legal and organizational challenges of ensuring the principle of political impartiality of the civil service in Ukraine, taking into account European standards of public administration, the experience of European Union Member States, and approaches developed in the case law of the European Court of Human Rights (ECtHR). The main purpose of the article is to analyze the content of the principle of political impartiality of civil servants, determine its role in ensuring the professionalism, stability, and effectiveness of the state apparatus, and develop proposals for improving the legal regulation of this area in Ukraine. The results of the study demonstrate that political impartiality of the civil service is one of the key guarantees for the functioning of a democratic governance system, as it ensures the separation of political activities from the professional performance of administrative functions. The analysis of academic approaches and ECtHR case law indicates that the interference of political factors in the activities of civil servants may create risks to the principles of the rule of law, the independence of public administration, and equal access to civil service. At the same time, the ECtHR in its case law emphasizes the need to maintain a balance between the rights of civil servants, in particular freedom of expression and freedom of association, and the requirements of loyalty, impartiality, and proper performance of official duties. The study provides a comparative analysis of the regulatory approaches of Ukraine and selected European Union Member States regarding the protection of political neutrality of civil servants. It has been established that European civil service models are based on combining the political accountability of public authorities with the administrative independence and professionalism of civil servants. Particular attention is paid to the relationship between the principle of political impartiality and the requirements governing the conduct of civil servants as an element of their administrative and legal status. The methodology of the article includes the analysis of Ukrainian legal acts, international standards in the field of public administration, ECtHR case law, and scholarly works of Ukrainian and European researchers, as well as the application of a system of scientific research methods. The comparative legal method was used to examine the specific features of regulating political neutrality of the civil service in foreign countries. The hermeneutic method made it possible to reveal the content of the legal provisions of the Law of Ukraine “On Civil Service” in the context of implementing the principle of political impartiality. The systemic and dialectical methods enabled the identification of the interrelationship between political processes, personnel policy, and the functioning of the state apparatus. The authors substantiate the need to understand political impartiality of the civil service in a broad sense, which involves not only establishing requirements for civil servants but also defining the limits of political influence on the state apparatus and the responsibility of entities

authorized to make personnel decisions. The study concludes that further improvement of Ukrainian legislation in the field of civil service is necessary by strengthening guarantees of political neutrality, ensuring transparent recruitment procedures, and developing a professional civil service in accordance with European standards of good governance and ECtHR practice.

Keywords: Civil service; Political impartiality; Civil servants; ECtHR practice; International standards.

Introduction

In the contemporary context of democratic state development, ensuring the political impartiality of the civil service is one of the key prerequisites for the effective functioning of the public administration system, strengthening the rule of law, and building citizens' trust in public institutions [1]. The principle of political impartiality of the civil service in general, and civil servants in particular, is determined by Article 35 (freedom of conscience) and Article 36 (freedom of association in political parties and public organizations) of the Constitution of Ukraine [2]. Modern European approaches to the organization of the civil service are based on the principles of professionalism, stability, integrity, and independence of public administration, which are essential conditions for preventing excessive politicization of the state apparatus [3; 4]. For Ukraine, the issue of ensuring political impartiality of the civil service has acquired particular importance in the context of European integration processes [5], martial law, public administration reform, and the need to adapt national legislation to European standards. According to Article 3 of the Agreement, cooperation between Ukraine and the European Union is based on the principles of democracy, the rule of law, and respect for human rights, while Chapter 3 of Title V of the Agreement provides for cooperation in the field of public administration reform and the development of an effective public administration system [5]. The further development of the Ukrainian civil service is carried out in accordance with the Strategy for Reforming Public Administration of Ukraine until 2025. Among the Strategy's priority areas are the formation of a professional, integrity-based, and politically neutral civil service, improvement of personnel policy, ensuring transparency of recruitment procedures, and strengthening the institutional capacity of public authorities [6]. The relevance of this article is determined by a number of existing problems in the functioning of the Ukrainian civil service, including the politicization of personnel decisions, dependence of career advancement on political loyalty, the use of the state apparatus as an administrative resource, and insufficient separation between political leadership and professional administrative activities [7]. Similar challenges are also observed in the EU civil service systems. For example, J. Meyer-Sahling emphasizes that for Central and Eastern European countries it is particularly important to establish safeguards ensuring the independence of the civil service from political changes [8]. K.-P. Sommermann, A. Krzywoń, and C. Fraenkel-Haeberle stress that modern European civil service models should be based on professionalism, stability, integrity, and political impartiality [4]. Furthermore, reports of the international SIGMA programme indicate that politicization of the civil service remains one of the factors negatively affecting the professionalism, stability, and effectiveness of public administration in Ukraine [9]. The relevance of the chosen topic is also confirmed by Council of Europe documents concerning democratic governance, the rule of law, and the proper functioning of public institutions. In the context of the rule of law, these documents emphasize the need to ensure legality, objectivity, impartiality, and professionalism in the activities of public authorities [10].

Literature review

Some scholars, both domestic and foreign, have conducted legal analyses of political impartiality as a principle of public service. In particular, a significant degree of politicization of civil service (hereinafter – CS) personnel remained a characteristic feature of most post-communist states, where political loyalty often served as one of the key criteria for selecting candidates for public positions [11–13]. The issue of political impartiality in the activities of public institutions is examined by contemporary European researchers through the prism of civil service independence, professional ethics, and ensuring democratic governance. Thus, some scholars emphasize the need to combine political accountability of public authorities with the professional independence and impartiality of civil servants as essential conditions for effective governance [4]. Peter M. Huber (2025) emphasizes the need to protect civil servants from excessive political influence and to ensure their professional neutrality [14]. It should be noted that some foreign scholars, while studying the problems of political impartiality of the civil service in their respective countries, have concluded that civil service systems are often more politicized than necessary [15; 16]. For example, Garland (2021) analyzes the relationship between the principles of impartiality, accountability, and the level of citizens' trust in public institutions. The author notes that perceiving the civil service as politically neutral and fair is an important condition for the legitimacy of public authority. The study also emphasizes that effective government communication and transparent accountability mechanisms can contribute to restoring public trust in times of crisis [16]. Some Ukrainian

researchers have examined legal issues related to ensuring and protecting the right to equal access to the civil service in the context of Ukraine's European integration [17], as well as analyzed the case law of the European Court of Human Rights (ECtHR) [3; 18–20] and other relevant issues. However, certain aspects of ensuring political neutrality within the civil service remain debatable in academic research, which demonstrates the need for further study of the legal regulation of political impartiality of the Ukrainian civil service, taking into account ECtHR case law and European experience. Particular attention should also be paid to addressing shortcomings and gaps in national legislation that may create risks of political influence on the activities of civil servants.

Materials and methods

This study is based on an interdisciplinary approach to the analysis of national and international legal acts, academic publications, materials of expert and analytical organizations, international standards in the field of public administration, the practices of European states, and scholarly works of Ukrainian and European researchers concerning the problems of politicization and ensuring the political impartiality of the civil service. Particular attention is devoted to the study of administrative and legal mechanisms for implementing the principle of political neutrality of civil servants in Ukraine and European countries, taking into account the case law of the European Court of Human Rights (ECtHR). The research is based on the analysis of academic discussions concerning such key concepts as "Civil Service," "Political Impartiality," "Civil Servants," "ECtHR Practice," and "International Standards," as well as the relationship between political accountability and administrative autonomy of civil servants. The article applies a system of general scientific and special legal research methods. In particular, the formal-logical method is used to analyze the content of the principle of political impartiality and its regulatory consolidation; the systemic-structural method is applied to determine the place of political neutrality within the system of civil service principles; the structural-functional method is used to examine the relationship between political institutions and the professional activities of civil servants; and the methods of analysis and synthesis are applied to generalize scientific approaches. The comparative legal method is used to compare the approaches of Ukraine and European Union Member States regarding the legal consolidation of the principle of political neutrality of civil servants, as well as to identify effective mechanisms for preventing excessive political influence on the state apparatus. The hermeneutic method contributes to the interpretation of the content of Ukrainian legal provisions in the context of implementing the principle of political impartiality of the civil service and determining the scope of rights, duties, and restrictions of civil servants in the political sphere. The legal analysis of the problem of ensuring political neutrality of the civil service is carried out through the examination of the provisions of the Constitution of Ukraine, the Law of Ukraine "On Civil Service," the Law of Ukraine "On Prevention of Corruption," international standards of good public governance, as well as approaches developed in the legislation and practices of European Union countries. The methodological basis of the study involves considering political impartiality as a fundamental principle of the civil service system, closely connected with professionalism, stability, and the strengthening of citizens' trust in the state. The research covers the period from 2001 to 2026, which is determined by the need to analyze current trends in the development of the civil service, processes of its reform, and contemporary challenges related to preventing the politicization of the civil service, particularly under martial law conditions. The research materials serve as a basis for systematizing legal and organizational mechanisms for ensuring political neutrality of civil servants within the frameworks of administrative law, international law, constitutional law, and civil service law, as well as for identifying directions for improving Ukrainian public service legislation with due regard to European experience and ECtHR practice.

Results and discussion

Political impartiality of civil servants: theoretical and legal foundations, experience of legislative regulation of some EU countries.

The requirements of political impartiality as an element of the legal status of CS should be considered as the basis of the principle of political impartiality of the civil service. In the Law of Ukraine "On Civil Service", political impartiality is enshrined in the main contexts: first, as an essential feature of CS (Article 1); secondly, as one of the principles of public service (Article 4); thirdly, as a component of the legal status of civil servants (Article 10) [1]. Article 4 of the Law of Ukraine "On Civil Service" defines "political impartiality" as one of the principles of CS. The content of political impartiality is revealed as "preventing the influence of political views on the actions and decisions of a civil servant, as well as refraining from demonstrating one's attitude towards political parties, demonstrating one's political views during the performance of official duties" (item 8, part 1, art. 4) [1]. In scientific works, this term is interpreted as the exercise of official powers by a CS without taking into account political motives or circumstances that do not relate to the subject of his official activity, personal affection or hostility to any persons, personal political views or beliefs [21].

Civil servants, being representatives of the state, make management decisions on its behalf and are a potential object of illegal influence on the part of subjects of political activity, higher state authorities, officials, etc. The principle of political impartiality mainly depends on the behavior of CS, which can take various forms, ranging from lawful to outright criminal, including their initiative to enter into illegal relations with political parties and candidates in elections to lobby the interests of the latter, holding pre-election campaigns agitation, etc.

The list of requirements for political impartiality is defined in Article 10 of the Law "On Civil Service" [1]. The normative construction of their content is based on such an element of legal status as the duty of a civil servant to refrain from certain actions or to commit them. It is advisable to divide the relevant requirements of political impartiality of civil servants into types depending on the nature of the duty that makes up their content: (a) requirements of an active nature – the duty to act in a certain way (for example, to notify the head of the CS in case of registration as a candidate for people's deputies); (b) requirements of a passive nature - the obligation to refrain from certain actions (not to be a member of a political party or not to hold positions in the governing bodies of parties, etc.).

The requirements for the political impartiality of the civil service in Ukraine are presented in Table 1. [1].

Table 1. Legislative Requirements for Ensuring the Political Impartiality of the Civil Service in Ukraine

Component	Description
Loyalty requirements	Require civil servants to act in the interests of the state, comply with the principles of political neutrality, and avoid dependence on political interests when performing official duties.
Requirements for demonstrating attitudes	Restrict civil servants from publicly expressing political views or engaging in actions that may undermine confidence in their impartiality and objectivity in the exercise of official powers.
Requirements regarding political party membersh	Establish restrictions on participation of civil servants in political parties. Civil servants of Category "A" are prohibited from being members of political parties in accordance with the principle of non-partisanship.
Requirements concerning incompatibility with a deputy mandate	Limit the possibility of simultaneously holding civil service positions and exercising a deputy mandate in order to prevent conflicts between political interests and official responsibilities.
Requirements concerning participation in elections	Provide restrictions on the involvement of civil servants in electoral processes where such participation may affect their political neutrality and proper performance of official duties.
Strike-related requirements	Establish restrictions on participation of certain categories of civil servants in strikes to ensure the continuity and stability of public administration.
Requirements concerning the use of official position	Prohibit civil servants from using their official powers, resources, or position for political activities or in support of political interests.

Source: compiled by the author.

Note: Under the Law of Ukraine "On Civil Service", stricter political impartiality requirements apply to Category "A" civil servants compared with Categories "B" and "C", particularly regarding restrictions on membership in political parties.

The "On Civil Service" does not contain a procedure for suspending membership in a political party and does not specify which document from the party must be submitted to the state body to confirm compliance with the requirements of the Law. In this sense, one should be guided by the Explanation of the National Agency of Ukraine on CS Issues "Regarding Suspension of Membership in a Political Party" dated May 17, 2016, which, when determining the procedure for suspension of membership in a political party, refers to Art. 6 of the "On Political Parties in Ukraine". According to the specified article, "the order of suspension of membership in a political party is determined by its charter" [25].

The imperative ban on membership in political parties for CS of category "A" seems quite logical, because this category includes the heads of state bodies and their apparatuses. It is the leading CS, on the one hand, as a rule, who are most motivated to occupy political positions (in parliament, government, etc.), and on the other hand, given their power, they most often become the object of influence by political forces [26]. Undoubtedly, such circumstances should be correlated with the content and strictness of the requirements regarding party affiliation of managers. As for CS of categories "B" and "B", there is no outright ban on membership in political parties. The requirements for their party affiliation allow membership in a political party and are reduced to the sole prohibition of holding a position in the governing bodies of a political party. In our opinion, under the current conditions, a complete ban should be introduced for civil servants to be members of political parties, regardless of their position category.

It should be noted that if civil servants are allowed to be members of political parties, but at the same time prohibited from acting in the interests of these parties, it means deliberately enshrining provisions at the legislative level that will objectively contribute to the emergence of a conflict of interest among the relevant civil servants, the prevention of which is one of the directions of combating corruption [24]. Legislative regulations, according to which CS can be members of political parties, but cannot act in their interests, contain features of corruption-ogenic factors, because they create prerequisites for corruption. We believe that all civil servants who are members of political parties are automatically in at least a potential conflict of interest. The content of the conflict of interest in this study should be based on the authors' positions [25].

In the future, we will consider the specifics of the requirements for political impartiality of CS, taking into account the experience of legal regulation of individual EU countries. For convenience, we will divide the requirement of political neutrality of the CS in the EU countries into the main groups:

- (1) requirements of loyalty to CS - this is about preventing the influence of political views on the behavior of state (public) CS, as well as the prohibition of discrimination by these civil servants based on their political views, membership in political parties, etc.;
- (2) attitude demonstration requirements - this is a determination of the ability of CS to demonstrate their attitude towards political parties, their programs, etc. We are talking about the legislative consolidation of the right or the prohibition of employees to express political views;
- (3) requirements regarding the party affiliation of CS, which consist in prohibiting or granting the right to CS to be members of political parties;
- (4) requirements for participation in elections - this is the establishment of the right of state (public) employees to be elected to an elected office and the obligation to report the fact of their registration as candidates for participation in presidential, parliamentary, or local government elections; requirements for combining with a representative mandate - establishing permission or prohibition to combine the position of a state (public) employee with an elected position in representative bodies. Legal approaches to ensuring the political impartiality of civil servants in selected EU Member States are presented in Table 2.

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Table 2. Regulatory and legal approaches to ensuring the political impartiality of civil servants in selected EU Member States[26-28].

Legal grounds	Legal norms
Bulgaria's Civil Service Act (1999), Article 18.	Political neutrality is defined as one of the fundamental principles of the civil service; civil servants are allowed to participate in strikes in accordance with the procedure established by law
Poland's Civil Service Act (2008), Article 78. [27].	Civil servants are prohibited from establishing or participating in political parties, and they are not granted the right to strike.
Lithuania's Law on the Public Service (2018), Arts. 3, 16. [28].	Political impartiality is established as a fundamental principle of the public service; public servants are allowed to be members of political parties and participate in political activities outside working hours, whereas senior officials are prohibited from engaging in strike actions.
German Federal Act on the Status of Civil Servants (1999), § 52.	A civil servant serves the people as a whole, not a particular political party, and must perform their duties impartially while promoting the public good.
Latvia's State Civil Service Law, Article 33.	Special guarantees are provided for the participation of civil servants in parliamentary and local elections through the granting of leave.

Source: compiled by the author

Another group of political neutrality of the CS in the EU countries is the strike requirements. In the EU, there is no uniform approach to granting CS the right to strike. Thus, "unrestricted" civil servants' right to strike is guaranteed by the laws of Bulgaria, Greece, and France. For example, the 1999 Law of Bulgaria "On Civil Servants" provides not only the possibility to strike but also describes the form of striking, the mechanism of "identification" of striking civil servants [26]. It should be noted that the expediency of securing the political neutrality of the civil service is provided for by the recommendations of the Committee of Ministers of the Council of Europe, which are accepted by the EU states and implemented in practice. Thus, in the Recommendations "Regarding Codes of Conduct for Public Servants" No. R (2000) 10 dated 11.05.2000, it is established that a CS must act in a politically neutral manner and must not try to obstruct the legitimate policies, decisions, or actions of public authorities. Other Recommendations of the Committee of Ministers of the Council of Europe ("On the Status of Public Servants in Europe" No. R (2000) 6 dated 24.02.2000) allow legal restrictions on the political rights of public servants, but only in those cases when this is necessary for the proper performance by the official's public functions.

Thus, in the Preamble to the Hungarian Law "On the Legal Status of Public Servants" of 1992, one of the components of the fundamental condition for the existence of a democratic public administration, which is respected in society, is recognized as the management of public affairs, entrusted to CS who are free from the influence of political parties, and which is carried out based on a neutral and impartial attitude. For example, according to Art. 71 of the Cyprus Public Service Law of 1990, an employee is prohibited from participating in the organization of public meetings or other activities of a political party or activities aimed at promoting the political aspirations of any person or party, as well as from speaking at such meetings. In addition, it is prohibited, to use a position or influence, to take measures aimed at enrolling any person in a political party or organization of a political nature, or to influence a certain person in favor of a political party or politician [29].

Regarding the content of the requirements for the demonstration of the attitude of civil servants. Approaches to determining the content of these requirements may differ in EU countries. At the same time, when settling them, it is fundamental to resolve issues related to: (a) the time (period) during which the demonstration of attitude is allowed

(prohibited) - the ability of employees to demonstrate political beliefs during the performance of official duties or outside of official hours; (b) permitted (prohibited) forms of demonstration of political views - the possibility to demonstrate them publicly or in another way, orally, in writing, by placing symbols of political parties, etc. For example, in Art. 71 of the Law of Cyprus "On Public Service" stipulates that every employee has the right to freely express his political beliefs and views, publicly or privately, but on the condition that he does not do so during working hours [29].

Regarding the content of the requirements regarding the party affiliation of CS. The analysis of the EU legislation shows the heterogeneity of approaches to the settlement of this issue in Europe. Several approaches to this issue can be singled out. One of the important ones is permissive. It consists of the fixed rights of CS to join political parties regardless of the type of such civil servants and other characteristics unless otherwise established by legislation. For example, according to the provisions of the Law of Lithuania "On Public Service" of 2018, public servants have the right to membership in political parties and organizations and to participate in political activities outside official (working) hours (Art.16 "Rights of Public Servants").

Another approach to the party affiliation of CS can be called prohibitive. For example, this is the establishment of a ban on joining political parties. According to the Law of Poland "On Civil Service" of 2008, CS are prohibited from creating or participating in political parties (Art.78). Another approach is combined. It is quite common among European states and consists of the differentiated granting of the right (or the establishment of a ban) to CS to be members of political parties because of the characteristics provided for by law (the so-called differentiation criteria).

Most often, such signs are entry into the leadership of parties (determination of the right to membership in political parties, but in addition to occupying positions in their governing bodies) or belonging to the highest categories of CS positions (establishing the right of employees to be members of political parties, except representatives of the higher corps CS). For example, a combined approach has been introduced in the Czech Republic: "During the period of service, persons who belong to the higher corps of the CS cannot hold a position in a political party or political movement" (§ 64 of the Law "On the Service of Civil Servants in Administrative Institutions and Remuneration of Civil Servants" employees and other employees of administrative institutions" from 2002) [26]. A public servant of Cyprus is allowed to be an ordinary member of a political party [29].

Regarding the content of the requirements for participation in the elections of civil servants. Thus, the Law of Latvia "On State Civil Service" provides that if a public servant decides to take part in parliamentary or local elections and if he has used his annual leave, then he is guaranteed, if necessary, unpaid leave until the day of the election for the duration of: (a) for participation in parliamentary elections - up to 2 months; (b) for participation in local elections - up to 1 month (Art. 33).

Law of Cyprus "On Public Service". It stipulates that if an employee wishes to put forward his candidacy for election to a position, the occupation of which is incompatible with the position of a civil servant, then he is granted leave for 40 days before the election and, at the employee's request, 1 month after the announcement of the election results. Leave in the period before the election can be extended up to 45 days if the employee so wishes. As for the type of leave that is granted, it can be either annual, if it is not used, or without salary, which is determined by the employee's choice. If the official wins the election, he is automatically dismissed. At the same time, it is emphasized that the status of employees returning to their posts cannot be changed in connection with the activities and opinions expressed by them during the election campaign [29].

Case law of the ECtHR in cases concerning the ban on political party membership of civil servants.

The development and improvement of national approaches to the model of political impartiality of the CS, in particular in terms of establishing the prohibition (restriction) of party affiliation as one of the most important components of this model, must necessarily be based on the provisions of the state constitution and international treaties ratified by it. This includes the UN Universal Declaration of Human Rights, 1948, the International Covenant on Civil and Political Rights, 1966, and the Convention on the Protection of Human Rights and Fundamental Freedoms, 1950 [30].

In the context of our research, first of all, we should refer to Article 11 entitled "Freedom of Assembly and Association" of the Convention, 1950 [30]. It stipulates that "everyone has the right to freedom of peaceful assembly and freedom of association with other persons, including the right to form and join trade unions for the protection of their interests". It is provided that "the exercise of these rights shall not be subject to any restrictions, except those prescribed by law and necessary in a democratic society in the interests of national or public security, for the prevention of riots or crimes, for the protection of health or morals, or the protection of rights and freedoms of other persons". "This article does not prevent the introduction of legal restrictions on the exercise of these rights by persons who are

part of the armed forces, police or administrative bodies of the state" [30]. The more specific content of freedom of assembly and association, specifics of its implementation, and limitations can be formulated thanks to the practice of the ECtHR, whose jurisdiction extends to the interpretation and application of the Convention on the Protection of Human Rights and Fundamental Freedoms, 1950 [30].

First of all, it should be noted that the ECtHR considers political parties as associations subject to Art. 11 Convention, 1950 [30]. Parties are recognized as a form of association that is vital for the proper functioning of democracy ("Republican Party of Russia v. Russia", 2001) [31], "United Communist Party of Turkey and Others v. Turkey", 1998, etc.) [32]. Describing the activities of associations of citizens, the ECtHR takes the following position: if the association is created by individuals who, supporting certain values or ideals, intend to pursue common goals, if they do not have control over their members, this would contradict the very effectiveness of freedom, which we are talking about. In turn, it is recognized that political parties can generally regulate membership by admitting only those who share their beliefs and ideals (ECtHR decision in the case "Associated Society of Locomotive Engineers and Firemen (ASLEF) v. the United Kingdom" dated 27.02.2007, paragraph 39) [33]. The ECtHR does not exclude the possibility of political parties influencing their members. The conducted analysis showed that the ECtHR includes the right of a person to create or be associated with a group or organization that aims at specific goals to the freedom of association ("McFeeley and others v. the United Kingdom", 1980, paragraph 114) [34]. The ECtHR understands freedom of association broadly: it is not only the possibility to be a member but also the right to form relevant groups or organizations.

It is noteworthy that the ECtHR recognizes Article 10 ("Freedom of expression") as a basis for the exercise of the rights guaranteed by Article 11 of the Convention, 1950 [30]. As the ECtHR notes, despite its autonomous role and special scope, Art. 11 should also be considered in the context of Article 10, because the protection of views and freedom of expression is one of the goals of freedom of assembly and association ("Stankov and the United Macedonian Organization Ilinden v. Bulgaria", 2001, paragraph 85) [35]. The relevant connection directly takes place about political parties, given their essential role in ensuring pluralism and the proper functioning of democracy (paragraph 37)[36].

Thus, by joining a political party, a person already expresses his political views. We believe that this provision should be taken into account when improving the content of Article 10 of the "On Civil Service" dated 10.12.2015, which, on the one hand, allows CS holding civil service positions "B" and "B" to be members political parties (except for holding positions in the governing bodies of the party) [1]. On the other hand, it forbids them to demonstrate political views and to take other actions or inactions that in any way may prove their special attitude to political parties and negatively affect the image of the state body and trust in the authorities or pose a threat to the constitutional order, territorial integrity, and national security, for the health and rights and freedoms of other people. In this sense, it is also important to clarify the meaning of the concept of "expression of views". The ECtHR interprets it broadly: the expression can be oral, written; implemented in the language of artistic creativity (music, choreography, painting, etc.); utilizing radio and television broadcasts, or utilizing other activities intended to transmit or provide information. The ECtHR also understands the actions of a person as an expression of views.

For example, according to the circumstances of the case cited in "Shvydka v. Ukraine", paragraph 38 of 10/30/2014 [37], the applicant contested her prosecution for the fact that she publicly tore off the ribbon from the wreath placed by a political figure at the monument to T.G. Shevchenko. The ECtHR recognized the applicant's actions as a form of expression of views: "By her action, she sought to spread certain ideas among the people around her...". In turn, the Convention, 1950 does not limit the freedom of a person to have his point of view, and interference with the realization of the right formulated in Article 10 can occur exclusively about the public expression of one's opinion [38].

As already mentioned, the ECHR does not prohibit the establishment of legal restrictions on the exercise of the right to freedom of association by persons who are part of the armed forces, police, or administrative bodies of the state. According to the ECtHR, freedom of association may be limited to ensure the political neutrality of civil servants "Ahmed and Others v. the United Kingdom", 1998) [39].

However, such restrictions should be necessary in a democratic society (for example, ECtHR decision "Tüm Haber Sen and Çınar v. Turkey", 2006, paragraph 35-36) [40]. Confirmation of the above criteria in the context of the restriction (prohibition) of membership of civil servants in political parties can be found in the positions of the ECtHR. First, the ECtHR considers that since the role of civil servants in a democratic society is to assist the government in the implementation of its functions, the duty of loyalty and restraint acquires special importance for them ("Trade union of the police in the Slovak Republic and others v. Slovakia", 2012, § 57) [41]. Second, the ECtHR emphasizes that both the body of elected political figures and the permanent body of public servants take responsibility for the

implementation of the adopted policy. At the same time, the relationship of trust between the latter is achieved due to confidence in the political neutrality and loyalty of public servants to the current government, as well as the fact that the implementation of political decisions will not face the "political opposition" of CS. According to the ECtHR, "a democratic state has the right to demand from civil servants loyalty to the constitutional principles on which it is founded", and "the state has the right, by their special status, to oblige them to exercise restraint". In addition, members of the public must be sure that they will be advised by neutral public officials removed from the political struggle on matters of interaction with the authorities ("Ahmed and others v. the United Kingdom", 1998, § 53) [39].

In its decisions, the ECtHR drew attention to the possibility and justification of a complete ban on membership in political parties and other forms of political activity for certain types of public servants in states that in the past had a totalitarian undemocratic legal regime. In particular, the ECtHR in the decision in the case "Rekvényi v. Hungary" dated 20.05.1999 [42] noted that establishing a ban for police officers to be members of political parties can be justified by the desire that the important role of the police in society is not called into question due to the violation by the police of the principle of political neutrality: "the purpose concerning the important role of the police in a society that should not be jeopardized as a result of weakening the political neutrality of its participants, is a goal that is permissible according to democratic principles. This goal has a specific historical significance in Hungary due to the former totalitarian system in the country, when the state relied on the direct subordination of the police to the ruling party."

Article 11 of the Convention 1950 does not prevent the introduction of legal restrictions on the exercise of the right to freedom of association for persons who are part of: 1) the armed forces; 2) the police; and 3) administrative bodies of the state. Worthy of attention are the positions of the ECtHR regarding the understanding of the concept of "administrative bodies of the state" ("Demir and Baykara v. Turkey"), 2008 [43]; "Vogt v. Germany"), 1995 [44], etc.). Thus, in the case when it is clear enough who belongs to the first two categories of persons, the situation with the last category is more complicated due to the different approach of the states to the organization of the civil service. In particular, the ECtHR concluded that this category of persons should be interpreted in a narrow sense. According to scientists and experts, it is unlikely that the fact that a person receives money from the state budget or for formal reasons belonging to public servants will be considered decisive when recognizing a person as a member of the administrative bodies of the state. That is, the term "administrative authorities" in the sense of the ECtHR will cover only high-ranking officials, taking into account the level and nature of their duties.

Discussion

A review of academic literature demonstrates the absence of a unified approach to assessing the impact of political neutrality on the functioning of the civil service. On the one hand, the civil service must ensure the implementation of the policies of a government that has received a democratic mandate from citizens. On the other hand, excessive politicization of the public administration may lead to a loss of professionalism, instability of the civil service workforce, and a decline in public trust in public authorities. Therefore, the majority of contemporary scholars emphasize the need to maintain a balance between political accountability and the professional independence of civil servants. So, F. Ebinger, S. Veit, and N. Fromm view politicization as a factor that negatively affects the professionalism of the senior civil service and contributes to the spread of patronage practices [45]. In contrast, S. Veit and S. Vedder point out that a certain level of political experience among civil servants may be beneficial for effective interaction between the political and administrative spheres [15]. Furthermore, S. Mazur, M. Możdżeń, and M. Oramus demonstrate that the level of politicization largely depends on the characteristics of political institutions and administrative traditions of a particular state [15]. The experience of Finland, presented in the study by J. Hyry, shows that citizens highly value such civil service values as legality, accountability, openness, impartiality, and independence, confirming the public demand for a professional and politically neutral civil service [16]. Thus, ensuring political impartiality is a necessary prerequisite for the development of an effective, stable, and professional civil service. For Ukraine, it is particularly important to introduce mechanisms that minimize political influence on personnel decisions and promote the establishment of the principles of merit-based recruitment, integrity, and political neutrality of civil servants. The scope of application of the Law of Ukraine "On Civil Service" [1] covers civil servants who hold positions in public authorities, including the Secretariat of the Cabinet of Ministers of Ukraine, ministries, other central executive authorities, local state administrations, the diplomatic service, and other state bodies established by legislation. At the same time, the Law "On Civil Service" [1] does not apply to political positions, including the President of Ukraine, members of the Cabinet of Ministers of Ukraine, and other political officials, as well as to service in local self-government bodies, which is regulated by separate legal acts [1]. Such a division of legal regulation necessitates a clear distinction between political responsibility and the professional activities of civil servants and is of particular importance for ensuring the principle of political impartiality of the civil service.

On the other hand, the Law "On Civil Service", and therefore the principle of political impartiality enshrined in it, does not apply to other types of civil service (to members of the rank and file of the National Police of Ukraine and other law enforcement agencies, servicemen of the Armed Forces of Ukraine, etc.). Separate attention should be paid to Article 10 of the Law "On Civil Service", which is called "Political Impartiality". It is placed in Chapter II "Legal status of civil servants", which indicates the legislator's perception of political impartiality, including as a component of the legal status of a CS [1].

In particular, in Art. 10 of the Law "On Civil Service" states that a civil servant does not have the right to: a) demonstrate his political views and take other actions or inactions that in any way may prove his special attitude towards political parties and negatively affect the image of the state body and trust in the authorities or pose a threat to the constitutional order, territorial integrity and national security, to the health and rights and freedoms of other people; b) to be a member of a political party, if such an employee holds a CS position of category "A"; c) hold positions in the governing bodies of a political party; d) combine CS with the status of a deputy of the local council, if such a civil servant holds a civil service position of category "A"; e) to involve, using their official position, civil servants, officials of local self-government, employees of the budgetary sphere, other persons to participate in pre-election campaigning, actions and events organized by political parties; f) organize and participate in strikes and agitation (except for the exceptions provided by the Law "On Civil Service"); e) in any other way to use one's official position for political purposes, etc.[1].

In this connection, a question arises regarding the relationship between the "principle of political impartiality of CS" (Article 4) and the "requirements of political impartiality as components of the legal status of CS" (Article 10), and the existence of connections between them in scientific works. In this regard, certain considerations were expressed in the science of administrative law. For example, some authors equate the specified concepts, emphasizing that "the essence of the principle of political impartiality is defined in Art. 4 of the Law "On Civil Service". At the same time, the legislator defines the principle of political impartiality in more detail in Art. 10 of the Law "On Civil Service"[48].

In turn, N.S. Panova does not indicate the direct identity of these concepts, but in fact, notes the primary nature of the principle of political impartiality of the CS about the requirements of political impartiality as an element of status. She emphasizes that "the requirement of political impartiality is a logical continuation of the principle of political impartiality of the CS"[21]. In our opinion, the obvious connection between the principle of political impartiality and the corresponding requirements cannot be denied. However, these concepts should not be equated, because the scope of the principle of political impartiality of the CS is broader compared to the requirements of the political impartiality of a civil servant. The fact is that the current version of the principle of political impartiality offers a rather limited understanding of it because it contains only its so-called "internal" component. It focuses exclusively on the requirements for the behavior of the civil servant, and his duties, and does not provide for the "external" component of political impartiality.

First, we are talking about requirements regarding the behavior of external (non-official) subjects of political activity (political parties, election candidates, etc.) about the civil service, provisions regarding the prevention of illegal interference by political parties in the activities of civil servants, guaranteeing the latter's protection against such interference, etc. Secondly, the requirements of political impartiality should also be put forward about subjects who are authorized to manage the CS, participate in the competition and other procedures for entering the CS, civil servant career procedures (evaluation of performance results, transfer, disciplinary proceedings regarding civil servants, etc.), appoint citizens to a position, dismiss them from it or make other personnel decisions within the CS. "[1; 21].

The principle of political impartiality of the CS must have a fundamental (end-to-end) character. It should manifest itself not only in the legal status of a civil servant (as is the case in the Ukrainian model) but should permeate other components of the institution of CS (promotion, transfer, termination of service, etc.), cover relations not only in connection with the completion of CS, as well as those that precede the acquisition of the status of a civil servant (competition upon entering the service, a special check upon appointment to a position, etc.). The wording of the principle of political impartiality enshrined in Art. 4 of the Law "On Civil Service" is half-hearted, focused mainly on the status of civil servants, and therefore does not allow to ensure the implementation of political impartiality as an end-to-end idea in all components of the CS institution. In this regard, it cannot be perceived as a reliable basis for building a model of political impartiality of the CS. "[1; 21; 48].

In favor of a broad understanding of political impartiality, the experience of the world's leading states (Great Britain, the USA, Canada, etc.) testifies. In particular, we would like to note the experience of Canada, according to the legislation of which relevant demands are made not only to public officials but also to political figures and other persons. For example, the Civil Service Code of Values and Ethics expressly states that "Ministers have a

responsibility to ... maintain the civil service's tradition of political neutrality and its continued ability to provide professional, candid and candid advice" [49]. In the main Canadian model of political impartiality, there are two key blocks, covering both internal and external components, providing for the protection of employees from illegal influence. First, the CS must have a human resources system free from political influence, in which hiring, promotion, and dismissal are based on merit (or, in the case of dismissal, the lack of merit). Second, civil servants must perform their duties impartially and be perceived as such. A non-partisan public service can only be maintained if the personnel system is protected from political influence, the merit-based system is firmly in place, and the professional commitment to impartiality is widespread [49].

In our opinion, two approaches to understanding the political impartiality of the CS can be proposed. In a narrow sense, it includes only requirements for the behavior of civil servants, their rights, and duties in the field of political activity (status approach). In the broadest sense, the political impartiality of the CS, in addition to the status element, also includes "external" requirements: a) requirements for intra-service subjects - subjects of CS management and other persons who are authorized to make decisions regarding civil servants regarding the prohibition of the use of the latter in political campaigning and giving them orders (orders, commissions) regarding the commission of other acts prohibited by law, as well as regarding the obligation to oppose discrimination of citizens on political grounds during entry into service and during its passage, to protect citizens from coercion to illegal behavior in the political sphere; c) requirements for off-duty subjects – subjects of political activity, their rights and obligations in relations with civil servants (political parties, election candidates, etc.).

We believe that the definition of the principle of "political impartiality" (Article 4 of the Law "On Civil Service") should reflect a broad approach. In it, it is advisable to establish 3 groups of requirements: a) to subjects of political activity; b) to subjects of public service management and other persons authorized to make decisions regarding civil servants; c) to the civil servants themselves. The combination of the internal and external components will allow to creation of the most effective architecture of the model of political impartiality, which will provide for the duties of not only the civil servant, but also the duties of other subjects corresponding to the latter, will counteract possible forms of encroachment on the political impartiality of the civil servant, and will contribute to their protection from possible encroachments.

At the same time, we are not talking about an absolutely depoliticized CS, but about a service whose level of politicization does not prevent the professional and effective performance of tasks. Nahtigal and Hace believe that completely politically neutral CS can exist only as a theoretical model, since in practice such a system does not exist, where one can only talk about a relatively politically neutral administration [50].

The expediency of securing the political neutrality of the CS is provided for by the recommendations of the Committee of Ministers of the Council of Europe, which are accepted by the EU states and implemented in the practice of their public administration. At the same time, it must be stated that the EU member states, although they share values common to the European political and legal tradition, nevertheless, at their discretion, regulate the requirements of political impartiality (neutrality) of CS, their types, content, means of provision, etc. For example, public sector workers in Belgium can join political parties, as long as this does not conflict with the normal functioning of the state. A similar approach is applied to civil servants in the [51].

Conclusion

Ukraine, while reforming public administration, has developed a model of political impartiality of the civil service, which, although it contains several shortcomings, is a significant step forward on the path of adaptation to European standards and generally takes into account the main types of requirements for political impartiality that exist in EU member states (requirements for loyalty, for demonstrating a political attitude, for party affiliation, for participation in elections, etc.). A feature of the legislative regulation in Ukraine was the definition of the content of the principle of "political impartiality" in Article 4 of the Law "On Civil Service". The normative definition of the principles of civil service distinguishes Ukraine in the European space because such an approach is not common in EU member states (except Lithuania).

The analysis of the content of the concept of "political impartiality" shows the tendency of the legislator of Ukraine to perceive it mainly through the prism of the legal status of a civil servant - the requirements for the behavior of civil servants. Such a state of regulation can be recognized as sufficient only at the transitional stage because it is not flawless, it does not permeate all components of the civil service institution in Ukraine. It does not contain external components of the principle, it does not make demands on other subjects who enter into relations with the civil servant, which is necessary for the comprehensive provision of political impartiality.

We associate the future development of the legislation of Ukraine on CS with the broad perception and regulation of political impartiality, including requirements not only for civil servants but also for political parties, election candidates, subjects of civil service administration, and other persons who enter into relations with civil servants. In turn, given the current state of political relations and culture, as well as the need to ensure the depoliticization and neutrality of the civil service in Ukraine, which is fully justified and consistent with European approaches, the question of the feasibility of introducing stricter requirements for the party affiliation of state officials may be raised civil servants – establishment of a complete ban on civil servants being members of political parties regardless of the category of their positions.

Failure to comply with the requirements regarding the political impartiality of civil servants, provided there are no signs of a crime or an administrative offense, entails disciplinary responsibility, namely in the form of imposing such a penalty as a warning about incomplete official compliance. In contrast to a warning, the imposition of this disciplinary penalty requires a mandatory disciplinary proceeding. In our opinion, the proportionality of the severity of the disciplinary sanction to the damage caused to the civil service by the violation of the requirements of political impartiality is questionable. Attention is drawn to the fact that violation of the requirements of political impartiality, even if it is repeated or systematic, cannot be a reason for dismissing the violator from his position. Such a state of regulation is not adequate for the damage caused by the significant politicization of the CS and in no way can contribute to the fulfillment of such tasks of disciplinary responsibility as the prevention of violations and punishment of the guilty. We propose to amend Article 66 "Types of disciplinary sanctions and general conditions of their application" of the Law of Ukraine "On Civil Service" and provide for the possibility of firing a civil servant for repeated failure to comply with the requirements of political impartiality.

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