



THE CONCEPT OF ENCOURAGING CIVIL SERVANTS: THEORETICAL AND LEGAL ANALYSIS

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ABSTRACT

This article discusses what encouragement is in the public service, the specifics and essence of the concept of encouragement, as well as the problem of encouragement as a method of legal regulation and the reasons for this. Until recently, it was analyzed that it was impossible to increase the effectiveness of its impact on the interests of the individual and the motives of his behavior without special study and improvement of these little-studied legal instruments. The current state of legal reality has been studied, requiring the development of incentives as a special way to simplify social relations.

Modern times are rapidly developing, and at the same time, various social relations are emerging in every field. It is hard to deny that the issues of incentives in civil service are one of the most urgent issues nowadays, because every person tries to know what kind of incentives can be applied to him while working as a civil servant. In addition, promotion has a special place in public service. The behavior, professional skills and efficiency of employees in the state civil service are assessed through incentives. It should be noted that the scientific-theoretical aspects of the concept of incentives in the state civil service have not been analyzed.

In the legal literature, the following signs of incentives are distinguished:

- implementation in the process of state management activities;

- use by authorized entities as the implementation of the powers granted to them;

- the legally authorized powers of the executive authorities are expressed in the application of incentive measures;

- the choice of the incentive measure depends on the management entity;

- a normative or individual expression of the will of the management subject is implemented in the application of incentive measures;

- types of incentives are defined in legal documents of management¹.

Canadian scientist A.S. Christopher said that incentives improve the quality of public administration, increase experience

¹ Общее административное право : учебник / под ред. Ю. Н. Старилова. Воронеж : Изд-во Воронеж. гос. ун-та, 2007. С. 397



among civil servants and prevent falsification of bureaucratic formalities².

The incentive method serves as an effective incentive for the development of various sectors of society and the state. The relevance of this type of influence is related to the opportunity to demonstrate a person's initiative and creative abilities. The use of incentives as a positive motivation of the subject is very effective with its authorized use, because the basis of this method is both legal rules and interest, which is expressed by the will of the person aimed at improving the performance of his activities in the future.

According to A.V. Malko, incentives are one of the few legal tools that are active and at the same time work for the common good (public, corporate, state)³.

Stimulation is a beneficial method that affects the mind of a person⁴.

Encouragement by S.I. Ojegov defines something as support, sympathy, confirmation with reward, awakening the desire to do something⁵.

According to A.V. Malko, incentive is a form and measure of legal confirmation of voluntary appropriate behavior, as a result of which the subject is rewarded, favorable consequences arise for him⁶.

² Christopher A.C. Encouraging Civil Servants to be Frank and Fearless: Merit Recruitment and Employee Voice. *Public Administration* · September 2018 // <https://www.researchgate.net/publication/327419105>

³ Малько А. В. Юридические поощрения как разновидность социальных санкций // *Общественные науки и современность*. 1998. № 4. С. 79

⁴ Гущина Н. А. О поощрительном методе правового регулирования // *Закон и право*. 2004. № 1. С. 35

⁵ Ожegov С. И., Шведова Н. Ю. Толковый словарь русского языка : 80 000 слов и фразеологических выражений. М. : ООО «А ТЕМП», 2010. С. 562.

⁶ Малько А. В. Поощрение как правовое средство // *Правоведение*. 1996. № 3 (214). С. 28.

I can partially agree with the above points. However, definitions of incentives are not perfect.

V. I. Shkatulla, a representative of the science of labor law, considers incentives as a positive sanction and points out the following features:

appropriate measure of approval;
social control, as a method of legal regulation of labor relations, public recognition of services, differences and achievements of employees in a certain type of activity, a means of influencing subjects, their interests, goals and other motives designed to strengthen positive and behavior that exceeds normal requirements⁷.

A.F. Nozdrachev stated that the incentive is a material and moral measure provided for by the law, it is related to the state and public recognition of civil servants for the high-quality performance of public services and the results achieved in public service⁸.

According to E. T. Khojiev, motivation means a direct influence on the needs, interests, mind, will, and actual behavior of the subject (official or body), the employee working under his control. Discipline, work efficiency and initiative and responsibility of employees are brought up through promotion⁹.

According to D.D. Babaev, motivation is to influence the needs, interests, will,

⁷ Настольная книга государственного служащего : комментарий к Федеральному закону «Об основах государственной службы Российской Федерации» / под ред. В. И. Шкагуллы. М. : Экономика, 1999. С. 189.

⁸ Ноздрачев А. Ф. Государственная служба : учебник для подготовки государственных служащих. М. : Статут, 1999. С. 373.

⁹ Хожиев Э. Т. Давлат хизмати : ўқув қўлланма / Э. Т. Хожиев, Г. С. Исмаилова, М. А. Рахимова. – Тошкент: Baktria press, 2015. - 79 б



practical status of an official of a state body or other subject, as well as his public service activities¹⁰.

The opinions expressed by V.I.Shkatulla, A.F.Nozdachev, E.T.Khojiev and D.D.Babaev are in some sense more fully expressed. However, there is no systematic approach to the concept of motivation.

In the course of public service, the essence of service discipline receives special attention. It is considered to be the basis of civil servants' character and professional service activities, and it is one of the necessary conditions for successful public service in general¹¹.

Incentive of civil servants means high evaluation of the activity of civil servants through the application of measures established by the law, aimed at increasing their enthusiasm for the performance of official duties and, as a result, increasing the efficiency of civil service¹².

According to D.M. Ovsyanko, incentives are used by civil servants for conscientiously and successfully fulfilling their professional duties, long-term service, important and especially important tasks. Promotion is one of the main means of educating civil servants and strengthening service discipline¹³. It is difficult to agree with this concept of promoting public

services, because the material and moral measures shown by the scientist act as an objective expression of the legal category under study. At the same time, if we consider the incentive as a subject, it reflects its main essential features.

However, from a functional point of view, it seems reasonable to consider the promotion of public services in dynamics, that is, as a specific type of management activity. Yu.N. Starilov defines promotion in the public service system as a special activity of state bodies and officials carried out in a prescribed manner, expressed in the application of moral and material incentives to the public servant, for which the public servant performs their official duties for a long time, as well as special and complex tasks recognition of performance services, successful and conscientious work of a civil servant is the basis. Promotion helps to improve the discipline and quality of work in the organization¹⁴.

D.A. Lipinsky considers incentives to be a component of positive legal responsibility, points out that the implementation of incentive measures is a positive form of legal responsibility along with legal actions¹⁵.

V. A. Nomokonov connects his concept with the possibility of applying not only punishment, but also incentives, defines the essence of legal responsibility as the obligation of the subject of law to the requirements of legal norms expressing the encouragement or condemnation of legal or illegal actions. Within the framework of

¹⁰ Маъмурий ҳуқуқ: Дарслик. Н.Т.Исмоилов, Ў.Х. Мухамедов, А.С.Турсунов ва бошқалар. – Т. Ўзбекистон Республикаси ИИВ академияси, 2015. 109-110 бетлар.

¹¹ Черепанов В.В. Основы государственной службы и кадровой политики. Изд-во Юнити, Москва, 2012. С.228.

¹² Мирбобоев Б., Хусанов О., Бегматов А. Ўзбекистонда давлат хизматини ташкил этишининг ташкилий-ҳуқуқий масалалари. "Akademiya" нашриёти, Тошкент, 2005 йил. Б.108.

¹³ Административное право. Учебник под ред. Ю.М.Козлова, Л.Л.Попова. Москва, Юристъ, 2000, с.227

¹⁴ Старилов Ю. Н. Государственная служба и служебное право : учеб. пособие. М. : Норма : ИНФРА-М, 2016. С. 137.

¹⁵ Липинский Д. А. Поощрение и наказание как формы реализации юридической ответственности // Вектор науки Тольяттинского гос. ун-та. Сер.: Юридические науки. 2017. № 1 (28). С. 62.



the general content, such responsibility, according to the scientist, can have two forms: positive (encouraging) and negative (punishing, protecting)¹⁶.

According to U. Khusainov, the incentive is a method of business evaluation¹⁷.

According to V. M. Manokhin, motivation is an important way to evaluate the performance of a civil servant¹⁸.

K.S. Belsky analyzed incentives from the point of view of administrative and legal science and emphasized it as a coercive method of state management¹⁹.

V.M. Baranov emphasizes encouragement as a persuasive method of public administration²⁰.

O. Yu. Kokurina assesses the incentive as a positive sanction. It should be determined at the level of the law²¹.

V.V. Popova emphasizes that the incentive should be proportional to the efforts made to achieve the set goals²².

V.V. Volkova defines incentives as a combination of various legal fields²³.

According to G.M. Petrov, motivation is the correct application of a certain incentive measure to a civil servant to perform actions useful for the state and society²⁴.

According to O.A. Shabaeva, incentive legal norms are defined as rules of behavior established by legislative entities²⁵.

Based on the above points, it should be noted that the incentives in the state civil service were analyzed by representatives of different legal fields from the point of view of their positions. The main reason for the existence of different opinions can be explained by the fact that the state civil service is a complex legal institution.

An important feature of promotion should be the public servant's relationship with the public. This makes it long lasting. Studying the characteristics of motivation is necessary to form a correct understanding of the mechanism of motivation for professional self-awareness of a civil servant and the characteristics of its impact on the effectiveness and efficiency of official activities in the long term.

¹⁶ Номоконов В. А. Преступное поведение : механизм детерминации, причины, ответственность : автореф. дис. ... д-ра юрид. наук. М., 1991. С. 29.

¹⁷ Хусайнов У. Давлат хизматчиларининг шахсий сифатлари ва фаолият натижаларини аниқлашда ишчанлик қобилиятининг баҳолалиши. Ўзбекистон Республикасида давлат хизматини ислоҳ этишининг ҳуқуқий асослари : давра суҳбати материаллари. - Тошкент : Vaktria press, 2015. - 81 б.

¹⁸ Манохин В. М., Адушкин Ю. С. Российское административное право : учеб. пособие. Саратов : Изд-во Саратов. гос. акад. права, 2000. С. 109.

¹⁹ Бельский К. С. Персональная ответственность в советском государственном управлении (понятия, формы, факторы укрепления) : учеб. пособие / отв. ред. Е. С. Фролов. М. : РИО ВЮЗИ, 1988. С. 90

²⁰ Баранов В. М. Правовые формы поощрения в развитом социалистическом обществе : сущность, назначение, эффективность : в помощь лектору / Сарат. обл. организация общ-ва «Знание». Саратов : Изд-во Саратов. ун-та, 1975. С. 4.

²¹ Кокурина О. Ю. Заслуга как социально-правовое явление и понятие: определение, материальные и юридические признаки (часть 1) // Известия Саратов. ун-та. Новая серия. Сер.: Экономика. Управление. Право

²² Попова В. В. Поощрительные нормы современного российского права : автореф. дис. ... канд. юрид. наук. Омск, 2015. С. 9–10.

²³ Волкова В. В. О понятии и содержании поощрительных норм // Исторические, философские, политические и юридические науки, культурология и искусствоведение. Вопросы теории и практики. 2011. № 2 (8). Ч. 2. С. 46.

²⁴ Петров Г. М. Поощрение в государственном управлении (правовые аспекты). Ярославль : Изд-во Яросл. гос. ун-та, 1993. С. 39–41.

²⁵ Шабеева О. А. Поощрительные правовые режимы : автореф. дис. ... канд. юрид. наук. М., 2013. С. 9.



The following specific features of the incentive are distinguished:

a special way for the state to influence the will and behavior of citizens;
a way of ensuring behavior²⁶.

Promotion is a specific indicator of a civil servant, a model of appropriate behavior and a process that is carried out within the framework of an individual act.

N. A. Gushchina assesses incentives as a positive sanction and focuses on a way of responding to the behavior of a civil servant²⁷.

A.A.Grishkovets drew attention to the lack of a single approach to defining the concept of "motivation of a public servant" in legal science, and emphasized the clear need to regulate the relevant definition. In this regard, he proposed the following definition: "Incentive of a civil servant is a legally established or practically used form of recognition of the personal services of a civil servant by the competent state body or its official, if there are sufficient grounds"²⁸.

In our opinion, promotion in the civil service of the state is a method of administrative and legal regulation of the state administration in accordance with the procedure established by the law based on an individual document of the personal services performed by the civil servant of the state for the sake of the state and public interests.

²⁶ Петров Г. М. Поощрение в государственном управлении... С. 37.

²⁷ Гущина Н. А. Поощрение в праве : теоретико-правовое исследование : автореф. дис. ... д-ра юрид. наук. СПб., 2004. С. 12.

²⁸ Гришкoveц А. А. Поощрение государственных служащих : правовые основы и практика применения // Право и политика. 2002. № 1. С. 32



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4. Гущина Н. А. Поощрительные нормы российского права : теория и законодательная практика. СПб. : Юридический центр «Пресс», 2003. С. 15
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