

## **EVALUATION PROCEDURE OF THE RESULTS OF STATE SERVANTS' OFFICIAL ACTIVITIES**

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### **INTRODUCTION**

Evaluation in its content is a complex subjective-objective process, which, regardless of the object of direction, is characterized by increased conflict of views and positions. This especially concerns the legal field, where the results of the evaluation are of increased importance, as they are directly related to the private and / or public interests of individuals and determine the quality of the final acts of various legal processes and procedures. To all areas of jurisprudence, which are based on evaluated and discretionary activities, a kind of constant reproducibility is peculiar, which is characterized by a dialectical contradiction of phenomena and requires doctrinal elaboration. The above-mentioned is relevant and fair for the evaluation procedure in the state service. This official issue demonstrates all the prospects and threats associated with the use of administrative discretion: from choosing an effective method of finding the objective truth in the formation of the staff of state bodies, to bias (subjectivism) and in personnel decisions during the state service.

The urgency of the scientific research is also enhanced by a significant update of the legal framework for the evaluation procedure of the results of state servants' official activities (hereinafter – evaluation of state servants' activities), significant improvement of evaluation procedures, meaningful review of the legal significance of their results and the role of individual subjects involved in the relevant proceedings: establishment of an effective testing mechanism during the competition for the position of a state servant (along with maintaining an open one to the irrationality of the interview); involvement of public representatives in the relevant procedures (re-introduction of elements of irrationality and expediency in the evaluation); establishing a direct link between winning the competition and being appointed to a position; clear regulation of evaluation criteria (understanding and application of most of which requires administrative discretion), etc. The introduction of evaluation of state servants' activities, as a procedure that can not be considered an identical replacement for attestation, is designed to fully ensure the planning, control and promotion of each servant, although so far raises numerous questions and

law enforcement problems – leaves no doubt, in total with preliminary aspects of the urgency of a comprehensive study of the outlined issues.

### **1. Essential and conceptual characteristics of the evaluation procedure of state servants' official activities**

The concept of «evaluation» is not defined at the legislative level, and its content is specified depending on the law enforcement practice. It seems that in the regulations it does not possible to identify and list the general features of all phenomena that occur in legal circulation (field) and which are covered by the category of «evaluation» (as an example, «conformity evaluation», «individual needs evaluation»). «Risk evaluation», «evaluation of payment systems», «evaluation of the family in social services», «evaluation of the of state servants' activities», etc.). The essential content of this category is carried out at the theoretical level, taking into account the rules of law, which provides a place for the application of discretion<sup>1</sup>.

The above-mentioned determines the possibility of defining evaluation as a subjective-objective concept, which is a social phenomenon established by law, the purpose of which is to characterize various properties and / or characteristics of persons, objects, phenomena, actions, processes not specified by the legislator, to provide broader powers for law enforcement subjects through free assessment within a specific law enforcement situation, but within the limits prescribed by law, which in turn makes it possible to take into account the individual characteristics of the object of evaluation in compliance with the functional purpose of the regulation.

Evaluation of the state servants' activities is a universal category that can be used in several areas of activities, in particular as: firstly, an indicator that allows the state apparatus to change its activities in a timely manner depending on the needs of citizens; and, secondly, the process of verifying that employees perform the work required by their positions. However, the concept of «evaluation» should not be equated with the function of control, but should be defined by identifying the objectives assigned to it: a) assisting employees in ensuring that they perform their functions, responsibilities, powers; b) improving the effectiveness and quality of key performance indicators of state servants; c) directing their activities in the direction of pursuing a career and improving professional discipline; d) obtaining information necessary for effective management of the state service; e) resolving personnel issues, etc.

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<sup>1</sup> Залужний В.Г. Оцінювання службової діяльності поліцейського в Україні: теорія, правове регулювання і практика: дис. ... канд. юрид. наук. Одеса, 2019. С. 31.

In the theory of state management, the evaluation of state servants' activities is usually considered as a procedure and / or activity: 1) activity, the content of which is the comparison of two objects with each other or with some third object that plays the role of a standard (thus measuring the degree of deviation or approach to it), or by determining the frequency of some qualities<sup>2</sup>; 2) the process (procedure) of determining the compliance of employees with the requirements set by the job description; 3) a set of actions that include testing of theoretical, technological and practical knowledge and skills of the specialist, drawing up a report on the results of testing and registration of a qualification certificate<sup>3</sup>; 4) a process consisting of the systematic collection and analysis of information on the performance of employees over a long period of time and, accordingly, the procedure for verifying the proper performance of employees' work required by their position<sup>4</sup>.

According to Art. 44 of the Law of Ukraine «On State Service»<sup>5</sup> and the Procedure for evaluating the activities of state servants<sup>6</sup>, the content of this procedure consists of a set of stages of evaluation of indicators of efficiency, effectiveness and quality of official activities of a state servant and their assessment (definition and review of tasks and key indicators; evaluation results and their approval). It is considered that the evaluation of state servants is carried out through the practical implementation of a significant number of personnel technologies, including such as: 1) organizational procedures – their purpose is: a) assessment of professional competence of state servants; b) determining the level of compliance with the principles of state service; c) promoting the formation of professional and highly qualified personnel of state authorities; d) pursuit of a career by state servants; e) resolving issues related to the application of measures of responsibility or incentives; f) prevention of corruption or corruption-related offenses; 2) evaluation methods – aimed at optimizing personnel decisions that are made and represent the specification of evaluation methods in the form of a procedure, sequence of actions, rules or instructions, etc.

<sup>2</sup> Малиновський В.Я. Державна служба: теорія і практика: навч. посіб. Київ: Атика, 2003. С. 111.

<sup>3</sup> Даниленко Ю.С. Оцінювання у державній службі: теорія і правове регулювання: дис. ... канд. юрид. наук. Одеса, 2017. С. 40.

<sup>4</sup> Малиновський В.Я. Державна служба: теорія і практика: навч. посіб. Київ: Атика, 2003. С. 111.

<sup>5</sup> Про державну службу: Закон України від 10.12.2015 р. Дата оновлення 01.01.2020 р. URL: <http://zakon2.rada.gov.ua/laws/show/889-19> (дата звернення: 01.06.2020 р.).

<sup>6</sup> Про затвердження Порядку проведення оцінювання результатів службової діяльності державних службовців: Постанова КМУ від 23.08.2017 р. Дата оновлення 12.07.2019 р. URL: <http://zakon.rada.gov.ua/laws/show/640-2017-%D0%BF#n11> (дата звернення: 01.06.2020 р.).

At the same time, the opinion of Yu.S. Danylenko, who examines the issue of evaluation in the state service, seems to be a practical thought. Thus, she notes that the emphasis in defining the concept of «evaluation of state servants' activities» is made on the procedural aspect of evaluation, although this approach ignores the fact that evaluation is by nature an institution which constitutes a system of material (terms of evaluation, types of marks based on evaluation results) and procedural (evaluation procedure) norms<sup>7</sup>.

It seems possible to single out the characteristic procedures for evaluating the activities of state servants, in particular, such as:

- established and regulated by public law, in particular administrative law;
- is a form of implementation of a special type of public authority – public administration;
- ensures the implementation by authorized subjects of the function for the effective management of the state service by making objective personnel decisions;
- takes place with the obligatory participation of a special subject – the subject of appointment or the head;
- the purpose is to determine the efficiency, effectiveness and quality of tasks, as well as decision-making on awarding bonuses, career planning for state servant.

On the grounds of the generalization of these features, it is possible to define the procedure for evaluating the activities of state servants as established and regulated by public law order of activity for authorized public administration subjects to determine the effectiveness, efficiency and quality of tasks, as well as decision-making on awarding bonuses, career planning for state servants.

At the same time, the procedure of evaluating the activities of state servants is of great practical importance, as it contributes to: increasing the level of responsibility of all officials for the performance of their official duties; accountability for the effectiveness and quality of official activities not only to the head, but also to members of the public (as an example, ordinary citizens), who in accordance with current legislation have the right to control the activities of public authorities in general and each state servant in particular.

## **2. Basic principles of evaluating the results of state servants' official activities**

The legal basis of the procedure for evaluating the state servants' activities are regulations of different legal force, which are aimed to regulate various

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<sup>7</sup> Даниленко Ю.С. Оцінювання у державній службі: теорія і правове регулювання: дис. ... канд. юрид. наук. Одеса, 2017. с. 41–42.

aspects of the examined procedure. Thus, the legal framework includes: the Constitution of Ukraine<sup>8</sup> (establishes the principles of public life and organization of public power, is the ascending legal basis for state service), the Laws of Ukraine «On State Service» (it defines the following aspects of evaluation of state servants: principles; purpose indicators and criteria; evaluation system; legal consequences), «On Prevention of Corruption»<sup>9</sup>, (regulates restrictions and legal liability for corruption and corruption-related offenses), Code of Administrative Proceedings<sup>10</sup> (procedurally regulates judicial protection by state servants of their right to state service), the Procedure for evaluating the results of state servants' activities (approved by the Resolution of the Cabinet of Ministers of Ukraine dated 23.08.2017), General rules of ethical conduct of state servants and local government officials<sup>11</sup> (approved by the Order of the National Agency of Ukraine for State Service 05.08.2016) (determines the moral and ethical rules and requirements to be met by state servants). The main priorities of personnel policy in the state service, in particular the definition of means of professionalization of state servants through the introduction of annual performance evaluation, which includes in its structure an effective assessment of the level of performance, qualification development and providing material incentives based on the evaluation results, are stated by the Strategy of the state personnel policy for 2012–2020<sup>12</sup>.

In addition to these regulations, an important role in evaluating the activities of state servants is played by administrative acts, which in its content is a category of general order, which combines various and diverse measures (decisions) of authorized entities for evaluation, aimed to establish, change or terminate the rights and obligations of particular persons. Thus, administrative acts during the procedure of evaluation of

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<sup>8</sup> Конституція України. Із змінами, внесеними Законом України від 08.12.2004 р. № 2222-IV. Дата оновлення 01.01.2020 р. URL: <http://zakon2.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80> (дата звернення: 01.06.2020 р.).

<sup>9</sup> Про запобігання корупції: Закон України від 14.10.2014 р. Дата оновлення 30.03.2020 р. URL: <http://zakon2.rada.gov.ua/laws/show/1700-18> (дата звернення: 02.06.2020 р.).

<sup>10</sup> Кодекс адміністративного судочинства України: Закон України від 6.07.2005 р. № 2747-IV. Дата оновлення 13.05.2020 р. URL: <https://zakon.rada.gov.ua/laws/show/2747-15/conv> (дата звернення: 01.06.2020 р.).

<sup>11</sup> Загальні правила етичної поведінки державних службовців та посадових осіб місцевого самоврядування: затв. наказом Національного агентства України з питань державної служби від 05.08.2016 р. № 158. URL: <https://zakon.rada.gov.ua/laws/show/z1203-16> (дата звернення: 01.06.2020 р.).

<sup>12</sup> Про Стратегію державної кадрової політики на 2012–2020 роки: Указ Президента України від 01.02.2012 р. № 45/2012. Дата оновлення 01.02.2012 р. URL: <https://zakon.rada.gov.ua/laws/show/45/2012#Text> (втратив чинність 05.06.2020 р.).

state servants' activities should include: order (prescription) on evaluation (with approval: a) list of state servants, evaluation of which is carried out; b) the term of evaluation; c) instructions required for the organizational support of the evaluation of state servants holding state service positions of categories «B» and «C» (if necessary)); the decision of the head or the subject of appointment on the appointment of an evaluation interview; decisions on approval of evaluation results, etc. These administrative acts are particular and individual (apply to a particular state servant) and have regulatory nature (issued unilaterally in order to conduct the procedure of evaluating the state servants' activities).

Based on the analysis of normative legal acts that establish and regulate the procedure for evaluating the state servants' activities, it seems possible to single out the basic principles of evaluation. Firstly, the purpose of evaluation is: 1) to determine the quality of performance by a state servant of the tasks defined by the position; 2) making a decision on awarding (in case of receiving an excellent mark); 3) addressing career planning issues.

Secondly, the evaluation is conducted for state servants who have been working in the state service for at least 3 months in the reporting year. At the same time, certain groups of state servants are exempted from the obligation to undergo performance evaluation, in particular, these include servants who: firstly, are on maternity leave; for the care of a child until he or she reaches the age of three, without salary in accordance with p. 3 and 18 part 1 of Art. 25 of the Law «On Leave»; secondly, are drafted to military service for a fixed period, military service at a draft for officer personnel, during mobilization, for a special period or enlistment under contract, in particular by concluding a new contract for military service, during the action of a special period; thirdly, are absent from service in connection with the special training of candidates for the position of a judge in accordance with Art. 77 of the Law of Ukraine «On the Judiciary and the Status of Judges»; fourthly, are suspended from conducting their responsibilities and / or authority<sup>13</sup> (as an example, during disciplinary proceedings against a state servant).

Thirdly, the evaluation is regular and is conducted annually in October-December for the period from January 1 of the current year (taking into account the date of definition of tasks and key indicators) to the date of adoption of the order (prescription) to evaluate the state servants' activities. The term of evaluation conducting of state servants is determined depending on the

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<sup>13</sup> Про затвердження Порядку проведення оцінювання результатів службової діяльності державних службовців: Постанова КМУ від 23.08.2017 р. Дата оновлення 12.07.2019 р. URL: <http://zakon.rada.gov.ua/laws/show/640-2017-%D0%BF#n11> (дата звернення: 01.06.2020 р.)

category of state service position (for category «A» is determined taking into account that proposals on the results of evaluation of state servants holding the positions of heads of public bodies are prepared after forming proposals on evaluation results of state servants, who hold the positions of deputy heads of state bodies, for categories «B» and «C» – is determined taking into account the fact that the performance of direct managers are evaluated after determining the results of evaluation of their subordinate state servants<sup>14</sup>).

Fourthly, the evaluation procedure is based on key indicators and criteria. In accordance with Part 2 of Art. 44 of the Law of Ukraine «On State Service», evaluation is carried out taking into account such criteria as: 1) effectiveness (degree of compliance with the planned results of: a) completeness of duties during the reporting period in accordance with job descriptions; b) the level of complexity of the tasks performed, demonstrated by professional and personal competencies; c) compliance with the rules of ethical conduct and internal official regulations; d) practical application of knowledge, skills and abilities obtained as a result of advanced training); 2) efficiency (volume of performance of tasks and responsibilities provided by the position, provided the use of a minimum amount of resources (human, financial, time, energy)<sup>15</sup>; 3) quality.

Each of enumerated indicators is defined and specified by identifying the relevant evaluation criteria, which are the relevant characteristics on the basis of which the assessment is made and the final decision on the level of professional competence of the state servant to the position. It seems that the criteria for evaluating the activities of state servants include: a) the results of key indicators and tasks for the reporting period – a personalized list of tasks and expected results of work, reflecting the end result, which is aimed at state servants, and measured quantitatively and / or qualitative expression. Such tasks and key indicators are approved for state servants of categories «B» and «C». Instead, for category «A» civil servants, these tasks are determined taking into account the general functions and powers of the relevant state body, which are determined by strategic documents of the state level, regulations on the state body, etc.; b) personal qualities of a state servant: efficiency, discipline, ethics, stress resistance, initiative; c) the level of compliance with the requirements of the legislation in the field of prevention of corruption and rules of ethical conduct.

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<sup>14</sup> Біла-Тіунова Л.Р. Державна служба України. Загальна частина: навчальний посібник. 2020. с. 328.

<sup>15</sup> Залужний В.Г. Оцінювання службової діяльності поліцейського в Україні: теорія, правове регулювання і практика: автореф. дис. ... канд. юрид. наук. Одеса, 2019. с. 16.

Fifthly, the Procedure for evaluating the results of state servants' activities distinguishes the system of subjects of the evaluation procedure, i.e. persons who can perform procedural actions aimed at achieving the purpose of the procedure. Without going into a detailed description of the classifications of the subjects of the evaluation procedure of state servants' activities, it seems appropriate to divide them into three groups depending on the role they play in the procedure, namely: 1) leading subjects – i.e. competent authorities and officials, which are empowered by law to carry out evaluation (a person who defines tasks and key indicators and prepares proposals for evaluating the results of state servants' activities of category «A»); the subject of appointment; direct manager and / or head of an independent unit (if any) 2) interested subjects – state servants, the results of whose official activity are subject to evaluation (state servants of categories «A», «B», «C»); 3) bodies and persons facilitating the implementation of the procedure (personnel management service)<sup>16</sup>.

### **3. The content of the evaluation procedure of the results of state servants' official activities**

The procedure for evaluating the state servants' activities is a legally established order of activity that lasts over time and aims to achieve a legally significant result. The studied procedure, which in its content is administrative, contains in the structure a set of procedural actions that are not carried out unsystematically, but in a legally defined sequence are logically and functionally related.

In addition to procedural actions, which are the primary element, the structure also includes stages and steps. Separation of steps is optional, as they are only internally separated parts of stages. In general, it seems possible to distinguish the following stages: 1) preparatory; 2) verification of professional competence of a state servant and decision-making on evaluation results; 3) approval of the decision and its implementation; 4) appeal against the decision (optional stage).

It should be noted that the separation of stages of the procedure for evaluating the activities of state servants is differentiated depending on the category of state service position, in particular in accordance with the Procedure for evaluating the results of state servants' activities separately identified for category «A» and separately for categories «B», «C».

Regarding state servants holding category «A» positions, the following should be noted. Tasks and key indicators for this category of positions are

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<sup>16</sup> Даниленко Ю.С. Оцінювання у державній службі: теорія і правове регулювання: дис. ... канд. юрид. наук. Одеса, 2017. с. 160–161.



determined by such persons as: Head of the Office of the President of Ukraine – for the Chief of Staff of the Office of the President of Ukraine and heads of staff of subsidiary bodies established by the President of Ukraine; Chairman of the Verkhovna Rada – for the Chief of Staff of the Verkhovna Rada; the relevant minister – for the head of the CEB, whose activities are directed and coordinated by the Cabinet of Ministers through such a minister; Minister of the Cabinet of Ministers – for the State Secretary of the Cabinet of Ministers, heads of CEBs, whose activities are directed and coordinated directly by the Cabinet of Ministers; State Secretary of the Cabinet of Ministers – for his deputies; the head of the CEB – for his deputies; authorized person of the subject of appointment – for the heads of the Secretariat of the CCU, the staff of the SCU, higher specialized courts and their deputies, the heads of the secretariats of the HCJ, HQCJ and their deputies, the Chairman of the SJA and his deputies; heads of state service in other state bodies, whose jurisdiction extends to the entire territory of Ukraine<sup>17</sup>.

After the subject of appointment approves the tasks and key indicators for state servants of category «А», they are sent to the body of state authority within five working days and after acquaintance with them by the official, are stored in his personal file. From the general list of such tasks and key indicators of each reporting period, those according to which the assessment will be carried out are selected. A state servant in any form (with justifications and notes if necessary) not later than two weeks from the date of adoption of the order (prescription) of the appointing entity on the evaluation of activities prepares a report submitted to the person authorized to conduct an evaluation interview.

The evaluation interview is conducted based on the results of consideration of the submitted report in order to discuss the implementation of tasks and key indicators, compliance with general rules of ethical conduct and requirements in the field of corruption prevention, as well as proposals for evaluation of state servants. Proposals for evaluation results may contain a negative, positive or excellent mark with its justification based on the calculation of the average score for each defined task and the achievement of key indicators, which is set taking into account the criteria for scoring in the prescribed form. It should be noted that the legislator sets a deadline for submission of evaluation proposals, in particular – six weeks from the date of adoption of the order (prescription) on evaluation,

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<sup>17</sup> Про затвердження Порядку проведення оцінювання результатів службової діяльності державних службовців: Постанова КМУ від 23.08.2017 р. Дата оновлення 12.07.2019 р. URL: <http://zakon.rada.gov.ua/laws/show/640-2017-%D0%BF#n11> (дата звернення: 01.06.2020 р.)

which makes it impossible to delay the evaluation process of state servants of category «A».

If a state servant has comments on the proposals, he may state them with appropriate justification. The Personnel Management Service of the state body in which such a state servant works shall, within five working days after receiving the proposals on the evaluation results, send duly certified copies of the specified proposals, tasks and key indicators to the relevant subject.

Based on the results of consideration of the report, proposals on evaluation results, taking into account the remarks of the state servant (if any) and conducting by the subject of appointment an additional appraisal interview with such state servant (if necessary), the subject of appointment approves the conclusion on the evaluation results of state servant's activities, in which it is given a negative, positive or excellent mark, in the prescribed form<sup>18</sup>. The personnel management service of the state body in which the state servant works is obliged to acquaint the relevant state servant with a copy of the order (prescription) on approval of the conclusion on the evaluation results. At the same time, if it is impossible to evaluate any of the tasks of a state servant (such a task is not subject to evaluation in quantitative or qualitative terms), the final conclusion is not approved, and general information on evaluation is reflected in the personal card of such state servant.

Regarding the peculiarities of evaluation of state servants holding positions of categories «B» and «C», the following should be noted. Tasks and key indicators are determined in cases specified by law by the subject of appointment after consultation with the relevant deputy of the head of the state body, which is assigned control, coordination and other direction of the work of such a territorial body or structural unit; head of the state service; direct head in agreement with the head of an independent structural unit (if any).

The evaluation interview is conducted by the immediate supervisor and the head of the independent structural unit (if any) on the basis of explanations of the state servant on the implementation of tasks and key indicators or his written report, which is submitted in any form. It identifies vocational training needs and considers proposals for tasks and key indicators for the next period. If a state servant is absent from work within the specified period of assessment, the assessment is conducted by the immediate supervisor and the head of an independent structural unit (if any)

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<sup>18</sup> Про затвердження Порядку проведення оцінювання результатів службової діяльності державних службовців: Постанова КМУ від 23.08.2017 р. Дата оновлення 12.07.2019 р. URL: <http://zakon.rada.gov.ua/laws/show/640-2017-%D0%BF#n11> (дата звернення: 01.06.2020 р.)

without an assessment interview within the prescribed period or in case of absence due to such business trip. at his request, the evaluation interview and determination of the evaluation results are conducted earlier<sup>19</sup>.

According to the results of the evaluation, a negative, positive or excellent mark is given. According to the results of the evaluation of the state servant's official activity, he is given one of the following marks, which must be substantiated on the basis of calculating the average score for each defined task and achieving key indicators, which is set taking into account the criteria for scoring:

a) a negative mark with its justification – in case of receiving a negative mark based on the results of the evaluation of official activities, the servant is dismissed in accordance with paragraph 3 of Part 1 of Article. 87 of the Law of Ukraine «On State Service» and the contract on state service is terminated (in case of conclusion)<sup>20</sup>. It should be emphasized that this provision is radically different from the previous one, which provided for a re-evaluation of the results of his official activity not earlier than in 3 months. And only in case of repeated receipt of a negative mark on the results of official activities, such a state servant was dismissed from the state service;

b) positive mark with its substantiation – receipt by a state servant of a positive mark of the results of his official activities is the basis for: awarding departmental incentive awards; promotion; other incentives;

c) excellent mark with its justification – obtaining an excellent mark is the basis for: 1) annual bonuses of up to 100 percent of the salary; assignment of the next rank ahead of schedule; 2) promotion; 3) a request for encouragement by honours of other public authorities and state awards; 4) other incentives.

The state servant must be notified of the results of the evaluation with the presentation of the conclusion on the results of the evaluation of his official activities, signed by the head of the structural unit and a note on the acquaintance of the servant. In case of impossibility to acquaint the state servant with the results of evaluation due to his absence, the direct head shall submit to the personnel management service an opinion on the results of evaluation of official activity of the state servant for acquaintance of such state servant within 3 calendar days after evaluation.

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<sup>19</sup> Про затвердження Порядку проведення оцінювання результатів службової діяльності державних службовців: Постанова КМУ від 23.08.2017 р. Дата оновлення 12.07.2019 р. URL: <http://zakon.rada.gov.ua/laws/show/640-2017-%D0%BF#n11> (дата звернення: 01.06.2020 р.)

<sup>20</sup> Про державну службу: Закон України від 10.12.2015 р. Дата оновлення 01.01.2020 р. URL: <http://zakon2.rada.gov.ua/laws/show/889-19> (дата звернення: 01.06.2020 р.)

Based on the evaluation results, the state servant together with the personnel management service draws up an individual program to increase the level of professional competence (a document that defines the individual needs of a particular state servant in vocational training, form and types of such training), which: firstly, should be agreed with his direct head; secondly, it should be approved by the head of the independent structural unit in which servant works.

The legislation provides a state servant with the opportunity to protect the right to state service, which provides for the possibility of appealing the conclusion based on the results of the evaluation of the state servant's activities. Thus, a conclusion containing a negative assessment may be appealed by a state servant in the manner prescribed by Art. 11 of the Law of Ukraine «On State Service» by filing a complaint to the subject of appointment or the head of the highest level, which is considered no more than 20 calendar days from the date of receipt of the complaint with a reasoned written response (decision). In the complaint, the state servant shall note the remarks on the scores for the performance of a particular task and provide facts that refute the criteria that meet the mentioned score. The opinion on the results of the evaluation of an individual state servant is revoked by the subject of appointment or the court. In the case of a decision to revoke the conclusion on the results of the evaluation of a state servant, the following stages of evaluation shall be repeated within 2 months after the adoption of such a decision: evaluation interview; determination of evaluation results and their approval<sup>21</sup>.

In addition to an out-of-court appeal, a court appeal is also possible, which is implemented by applying to an administrative court. According to Art. 19 of the Code of Administrative Proceedings of Ukraine consideration and resolution of disputes concerning: admission of citizens to public service, its passage, dismissal; disputes concerning appeals against decisions of attestation, competition, medical and social expert commissions and other similar bodies, the decisions of which are binding on state authorities, local self-government bodies, and other persons; disputes concerning the formation of state bodies, local self-government bodies, election, appointment, dismissal of their officials belong to the jurisdiction of administrative courts<sup>22</sup>.

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<sup>21</sup> Про затвердження Порядку проведення оцінювання результатів службової діяльності державних службовців: Постанова КМУ від 23.08.2017 р. Дата оновлення 12.07.2019 р. URL: <http://zakon.rada.gov.ua/laws/show/640-2017-%D0%BF#n11> (дата звернення: 01.06.2020 р.)

<sup>22</sup> Кодекс адміністративного судочинства України: Закон України від 6.07.2005 р. № 2747-IV. Дата оновлення 13.05.2020 р. URL: <https://zakon.rada.gov.ua/laws/show/2747-15/conv> (дата звернення: 01.06.2020 р.)

## **CONCLUSIONS**

It is established that the introduction of the evaluation of the results of state servants' official activities, as a procedure that cannot be considered an identical replacement for attestation, is designed to fully ensure the planning, control and promotion of each servant, although so far it raises many questions and law enforcement problems.

It is determined that the procedure for evaluating the activities of state servants is an established and regulated by public law order of the activity of authorized public administration objects to determine the effectiveness, efficiency and quality of tasks, as well as decision-making on awarding bonuses, career planning of state servants.

The following features of the procedure for evaluating the activities of state servants are identified: a) it is established and regulated by the norms of public law, in particular administrative law; b) is a form of implementation of a special type of public authority – public administration; c) ensures the implementation by authorized subjects of the function of effective management of the state service by making objective personnel decisions; d) takes place with the obligatory participation of a special subject – the subject of appointment or the head; e) the purpose is to determine the efficiency, effectiveness and quality of the tasks, as well as decision-making on awarding bonuses, career planning of state servants.

It was clarified that the procedure for evaluating the activities of state servants, which in its content is administrative, contains in the structure a set of procedural actions, stages and steps, which are carried out not systematically, but in a legally defined sequence and are logically and functionally related. The following stages are distinguished: 1) preparatory; 2) verification of professional competence of a state servant and decision-making on evaluation results; 3) approval of the decision and its implementation; 4) appeal against the decision (optional stage).

## **SUMMARY**

The article is devoted to the study of the procedure for evaluating the results of state servants' official activities in the context of updating the current legislation of Ukraine on state service. The concept of «procedure for evaluating the activities of state servants» is defined and its essential features are highlighted. It is substantiated that the content of evaluation in the state service is carried out at the theoretical level, taking into account the rules of law, which provides a place for the application of administrative

discretion. A particular attention is paid to the issue of legal regulation of the procedure for evaluating the activities of state servants.

There are such stages of the procedure for evaluating the activities of state servants as: 1) preparatory; 2) verification of professional competence of a state servant and decision-making on evaluation results; 3) approval of the decision and its implementation; 4) appeal against the decision (optional stage).

It was clarified that the procedure of evaluating the activities of state servants is of great practical importance, as it contributes to: increasing the level of responsibility of all officials for the performance of their official duties; accountability for the effectiveness and quality of official activities not only to the head, but also to members of the public, who have the right to control the activities of public authorities in general, and each state servant in particular.

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