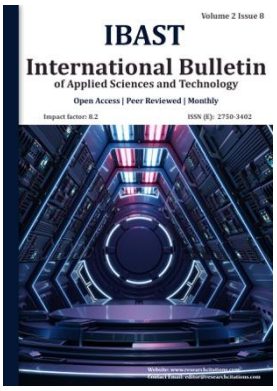

NOTICE PERIOD AND LEGAL CONFLICTS IN THE DISMISSAL OF INTERNAL AFFAIRS OFFICERS

Yuldashev Djakhongir Khayitovich
Head of the Department of Administrative Law
of the Academy of the Ministry of Internal Affairs
Avliyaqulov Sunnatulla Kholmurod ugli
Doctoral student of the basic doctoral program of the Faculty of Postgraduate Education of the Academy of the Ministry of Internal Affairs
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Abstract: This article analyzes the legal procedures related to the dismissal of internal affairs officers, particularly the practice of the notice period and its legal basis. It examines the legal conflicts between the norms established in the Code of Professional Culture and Service Discipline and the Labor Code, studies employees' right to withdraw their resignation, and cases of unlawful disciplinary sanctions arising from violations of dismissal laws. Alternative solutions based on foreign countries' experiences are also presented. The author puts forward specific proposals for reviewing the notice period for dismissal from internal affairs bodies and strengthening labor rights guarantees.

Keywords: notice period, right of withdrawal, regulations, code of service discipline, labor code, illegal disciplinary action, foreign experience

The procedure for service in internal affairs bodies, service discipline, and the regulation of relations between supervisors and employees are among the main legal and organizational mechanisms ensuring the system's effective functioning. Currently, clear and harmonious legal regulation of these relations plays an important role not only in strengthening service discipline but also in increasing the effectiveness of personnel management.

However, studies show that there are legal conflicts and procedural problems in current legislation and interdepartmental regulations regarding the termination of employees' service, particularly their voluntary resignation.

Specifically, the established two-month notice period for resignation from internal affairs bodies, the way this rule is presented in various regulatory legal acts, and the procedure for its practical implementation are causing certain disputes. This situation may, to some extent, contradict the principles of transparency and legal certainty in personnel policy. Scientific analysis of this issue and development of practical solutions are among the urgent tasks today. Therefore, the comprehensive regulation of service hours and the mechanism of service relations between supervisors and subordinate employees remains problematic. To a certain extent, this gap is noticeable in the Regulation[1] analyzed above.

It should be noted that an employee who has decided to leave service must notify the head of the internal affairs body at least two months before the planned date of dismissal. Some perspectives on this notice period, from the viewpoint of personnel officers, may be as follows:

The established two-month notice period is of great practical importance, primarily from the perspective of protecting the employer's interests, that is, ensuring continuity in official activities. This period allows management to select and train new personnel and find a suitable replacement so that the existing position does not remain vacant. Thus, stability in the service process is maintained, and disruptions in organizational activities are minimized. Also, this period allows for the complete

handover of tasks and the transfer of important knowledge and experience to the next employee, which aligns with the principle of personnel continuity.

However, the two-month notice period may in some cases conflict with the employee's interests. In particular, if an employee wants to resign promptly for personal or family reasons, or if they have already secured a new job, this period may cause them certain difficulties. This limits the employee's mobility in the labor market, delays their ability to take advantage of new opportunities, and can negatively affect their professional growth. Therefore, when establishing such norms, the principle of balance between the interests of the employer and the employee must be observed.

Also, Article 42 of Chapter IX, entitled "Economic, Social, Cultural and Environmental Rights," in the second section of the Constitution of the Republic of Uzbekistan, entitled "Basic Rights, Freedoms and Duties of Man and Citizen," states that "Everyone has the right to decent work, free choice of profession and type of activity, to work in favorable conditions that meet safety and hygiene requirements, to receive fair remuneration for work without any discrimination and not less than the established minimum wage, as well as to be protected from unemployment in the manner prescribed by law." Indeed, the substantive coverage and strict definition of human and civil rights and freedoms in this article is clear proof that the state guarantees all citizens the right to freely choose a profession and type of activity.

However, from the employer's perspective, a longer notice period provides sufficient time to find a replacement employee, conduct hiring processes, and ensure continuous operations. This allows for better workforce planning and reduces the impact of sudden departures.

Notice periods may be established based on local labor laws, legislation, resolutions, and internal regulations adopted for various organizations. Some countries have legal requirements for specific notice periods, while others may be more flexible without precise notice periods specified. It should be noted that when determining the appropriate notice period, it is recommended to consult the norms of labor legislation and establish it in accordance with these laws.

Analysis of disputes related to the correct application of legal norms is one of the main tasks of scientific research and serves to reliably protect human rights and freedoms. Although the Code of Professional Culture and Service Discipline of Internal Affairs Employees (Clause 151 of the General Rules) stipulates that "an employee who decides to resign from service shall apply to the head of the internal affairs body with a report at least two months before the planned date of dismissal," in practice, this period is often not observed, resulting in cases of premature dismissal of employees. In reality, within the framework of the Labor Code, a fourteen-day notice period should be observed, after which the head can issue an order on dismissal[2].

In particular, in the ruling of the Samarkand City Court for Civil Cases dated March 25, 2021, No. 2-1401-2109/786, when reviewing the cassation complaint filed by the plaintiff A.B against the defendant XXX based on the case materials, it was found that the plaintiff A.B had filed a lawsuit against the defendant XXX with a claim for reinstatement and payment for forced absence. In the lawsuit, he requested to cancel Order No. 109 "On Personnel" of the Samarkand Regional Department of Internal Affairs dated December 2, 2020, and to recover damages for the days of forced absence.

By the decision of the Samarkand City Court on Civil Cases dated February 4, 2021, the plaintiff's claim was partially satisfied. The order to dismiss A.B., a rank-and-file officer of the temporary detention facility of the units of the Patrol and Guard Service and Public Order Protection Department of the Samarkand Regional Department of Internal Affairs, from the internal affairs bodies was deemed unlawful and canceled. A.B. was reinstated as a rank-and-file officer of the temporary

detention facility of the units of the Patrol and Guard Service and Public Order Protection Department of the Samarkand Regional Department of Internal Affairs.

The basis for this order was A.B.'s statement and submission. In accordance with paragraph 144 "a" of the Regulation "On the Procedure for Serving in Internal Affairs Bodies" approved by Resolution No. PP-3413 of the President of the Republic of Uzbekistan dated November 29, 2017, the employee was dismissed from service at his own request (for those who have not completed the length of service that entitles them to a pension) - based on the employee's statement.

According to paragraph 50 of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan "On the Application by Courts of Laws Regulating the Termination of an Employment Contract," courts must verify the legality of terminating an employment contract with an employee on the grounds specified in the order, and the court is not entitled to consider termination of employment on other grounds.

It is also noted that while the submission is dated December 1, 2020, the submission itself indicates that A.B's statement requesting dismissal from internal affairs bodies at his own will was written on December 7, 2020. Regarding this discrepancy, the conclusion of the internal investigation conducted by the Samarkand Regional Department of Internal Affairs on February 7, 2021, stated that due to an error resulting from negligence, it was incorrectly written that A.B. applied with a statement on December 7, 2020, when in fact he applied with a statement on December 1, 2020. However, the fact that the plaintiff remained in service until December 5, 2020, only confirms that A.B. worked for 3 days after his dismissal from service.

According to the ruling of the Samarkand District Criminal Court dated January 13, 2021, on November 9, 2020, A.B. was involved in a traffic accident while driving his Nexia 2 car with license plate number 30 K 844 DA. The criminal case against the suspect A.B. under part 1 of Article 266 of the Criminal Code of the Republic of Uzbekistan was terminated due to reconciliation. Full compensation for the damage caused was taken into account.

Based on the requirements of Articles 112 and 276 of the Labor Code of the Republic of Uzbekistan, the Regulation on the Procedure for Service in Internal Affairs Bodies, and the guiding explanations of the Resolution of the Plenum of the Supreme Court of the Republic of Uzbekistan dated April 17, 1998, "On the Application by Courts of Laws Regulating the Termination of an Employment Contract," the following conclusion was reached:

The reason for A.B.'s dismissal from the internal affairs bodies was his statement and the submission of the head of the Samarkand Regional Department of Internal Affairs. However, it was established that the requirements of the current regulations were violated when dismissing the plaintiff from service. According to the regulations, despite ongoing investigative actions against the employee and the lack of a final decision on the criminal case in court or a court verdict entering into legal force, his dismissal from service was allowed. Moreover, measures have not been taken to transfer the work record book to the plaintiff to this day, settlements have not been made with the employee, and there is a significant discrepancy in the date of dismissal. The order of the Samarkand Regional Department of Internal Affairs dated December 2, 2020, No. 109 on personnel was deemed unlawful, and it was concluded that it should be canceled and wages for forced absence should be collected from the defendant in favor of A.B. for the period from December 2, 2020, to February 4, 2021[3].

From this court decision, we can see that there are many issues in our legislation that need to be addressed. In particular: the Regulation "On the Procedure for Serving in Internal Affairs Bodies" does not provide for the right of an internal affairs officer to withdraw a written notice of dismissal from

service. Article 160 of the Labor Code sets the notice period at two weeks, and the fact that an employee has the right to withdraw their application before the end of working hours on the last day of this notice period is still not taken into account. The legal literacy of employees authorized to conduct internal investigations is very low. It is observed that the compulsory absence days should be paid for at the state's expense in favor of the plaintiff for causing the plaintiff's compulsory absence until this period.

The results of sociological surveys conducted among employees of internal affairs bodies serving at the national level also serve as a basis for drawing certain conclusions on the issue under analysis. In particular, when asked, "If an employee who plans to resign voluntarily submits a request to the head of the internal affairs body at least 2 months in advance, how long do you think they have the right to withdraw this request?," 61% of respondents answered that this rule is not established in the regulatory legal documents governing the internal affairs system and that this norm should be included in the legislation; 25% responded that if a request was submitted 2 months in advance, it should be possible to withdraw it on the last day of the 2nd month; 23% answered that this period is not observed in practice because there are cases where an employee is dismissed the day after submitting the request.

At the same time, despite Article 30 of the Law "On Internal Affairs Bodies" stipulating that labor legislation applies to employees of internal affairs bodies in matters not regulated by the laws governing service in internal affairs bodies and this Law, there are still many instances where the norms of the Labor Code and labor legislation cannot be applied in practice.

Accordingly, if the Code provides for submitting a request to the supervisor 2 months in advance, then it would be advisable and in the employee's interest to consider the period for its withdrawal as 2 months as well. However, the service discipline regulations do not specify the possibility of withdrawing a request submitted by an employee before the expiration of the two-month period, and at the same time, we can conclude that the two-month period is too long for an employee's dismissal. As evidence for our opinion, we observed the following when studying the legislation of some foreign countries.

The general notice periods for employee dismissal vary across different countries. The results of studying the experience of the following foreign countries also help clarify this issue:

United Kingdom: Employees who have worked from 1 month to 1 year are entitled to at least 2 weeks' notice, with the notice period increasing by 1 week for each additional year of service, up to a maximum of 12 weeks[4]. Netherlands: The legal notice period is 1 month. However, the official notice period may depend on the contract between the employer and employee[5]. Spain: The minimum notice period is 15 days[6]. Belgium: Notice periods are based on length of service. For example: 1 week for 0-3 months of employment; 3 weeks for 3-12 months; 4 weeks for 12 months or more; up to 5 weeks for 18 months or more. For some employees who have worked for 8-9 years, the notice period may be extended to 13 weeks[7]. Germany: The minimum statutory notice period ranges from 4 weeks to 7 months, depending on work experience[8]. Denmark: The notice period usually lasts from 1 to 6 months, depending on the employee's work experience. However, employees have the right to reasonable notice if they have not agreed on a specific time[9]. Norway: The average notice period is 1 month[10]. Sweden: If employees have worked in Sweden for less than 2 years, they must be notified 1 month in advance. For employees who have worked from 2 to 4 years, the notification period may be longer.

However, part 1 of Article 160 of the Labor Code of the Republic of Uzbekistan stipulates that "an employee has the right to terminate an employment contract concluded for an

indefinite period, as well as a fixed-term employment contract before its expiration, by notifying the employer in writing fourteen calendar days in advance."Additionally, paragraph 20 of the Resolution of the Plenum of the Supreme Court dated November 20, 2023, "On the Practice of Courts Applying Legislation Regulating the Termination of Employment Contracts," states that "when considering disputes regarding the termination of an employment contract at the employee's initiative, courts should take into account that an employee has the right to terminate an employment contract concluded for an indefinite period, as well as a fixed-term employment contract before its expiration, by notifying the employer in writing fourteen calendar days in advance (Article 160 of the Labor Code)"[11].

In this process, the main focus should be on identifying conflicts between legislative acts and eliminating legal gaps. As rightly recognized by Kh.E. Akhmedov and A.A. Akhmedov, two important reasons that create shortcomings in law enforcement practice are the lag of legislation in the development of social life and deficiencies in legislative activity[12].

In our opinion, in these cases, all normative acts issued concerning employees of the internal affairs bodies of the Republic of Uzbekistan should be adopted primarily based on the Constitution, and simultaneously, acts related to labor legislation should be adopted based on the Labor Code. Also, taking into account the above norms, it is advisable to amend the first paragraph of clause 151 of the "Regulations on the Procedure for Serving in Internal Affairs Bodies" as follows:

An employee who has decided to resign from service shall submit a written notification to the head of the internal affairs body at least fourteen calendar days before the planned resignation date. Furthermore, the employee has the right to withdraw the submitted notification before the end of working hours on the last day of this notification period;

Supplement clause 151 with a second paragraph of the following content, considering the second to fourth paragraphs as the third to fifth paragraphs, respectively:

"An employee has the right to send a notification of dismissal by mail in the form of a notice. In this case, the calculation of the notice period for dismissal from service begins on the day following the date of application to the superior authorized to dismiss";

The analysis above reveals that the current regulatory and legal procedures for the dismissal of internal affairs officers, particularly the two-month warning requirement in the Code of Professional Culture and Service Discipline, are not being fully and consistently implemented in practice. This indicates the existence of legal conflicts and practical contradictions in this area. It has been observed that due to non-compliance with the established dismissal periods, employees' rights are being violated, and courts are issuing decisions to reinstate them to service.

In this context, the proposed suggestion - to consider the possibility of adapting the fourteen-day notice period specified in Article 160 of the Labor Code of the Republic of Uzbekistan for the internal affairs system as well - is deemed appropriate for resolving disputes arising in practice, ensuring legal clarity, and protecting employees' interests. This procedure, on one hand, takes into account the employee's freedom of labor and personal interests, and on the other hand, serves to prevent instances of unlawful dismissal and reduce the number of court cases.

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