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JURISDICTION OVER PUBLIC SERVICE LABOUR DISPUTES

Annotation

The article is devoted to the issue of determining jurisdiction over labour disputes in the public service. In particular, the focus of this work is the legislative amendments made to the Administrative Procedure Code of the Republic of Armenia and the Civil Procedure Code of the Republic of Armenia, which entered into force on 1 January 2025, as a result of which all disputes related to public service, in connection with entering into it, exercising it and being released from it, have been reserved to the civil court of general jurisdiction and, accordingly, will henceforth be subject to resolution by civil proceedings. As a result, cases related to public service, which were once considered public legal relations and, as a result, were examined in the Administrative Court of the Republic of Armenia under administrative proceedings, with the application of all the special principles and procedures inherent to it, have now been transferred to a court specializing in the resolution of disputes arising from private legal relations.

Within the framework of the article, an attempt has been made to comprehensively examine the legislative changes that have taken place, with due attention to both the theoretical and practical aspects of the issue. As a result, the discussion addresses not only the legality of the amendments and their compliance with the principles of sector-specific legislation, but also their practical significance in the context of protecting the violated rights of public servants, relevant international best practices, and the amendments in the light of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The relevance of the selected topic is evidenced by the need for a comprehensive interpretation of the legislative amendments in question, including an analysis of the underlying motivations and actual consequences, as well as the absence of a unified position among experts regarding these amendments.

Keywords: public service, civil procedure, administrative procedure, jurisdiction, labour disputes.

INTRODUCTION

With the adoption of the Laws of the Republic of Armenia of 2 May 2024, No. HO-220-N “*On Making Amendments and Addenda to the Administrative Procedure Code of the Republic of Armenia*” and No. HO-222-N “*On Making Amendments and Addenda to the Civil Procedure Code of the Republic of Armenia*”, as of 1 January 2025, the adjudication of disputes related to entering public or alternative service, the performance of such service, and dismissal from service (public service labour disputes) was transferred from the Administrative Court to the courts of general jurisdiction.

Such a fundamental change, namely, the transfer of a specific category of disputes between courts that are not homogeneous and differ substantially from one another, raises several legal questions, the principal of which is whether the transfer of labour disputes in the public service to the jurisdiction of the courts of general jurisdiction is justified.

Within the framework of the study, the following legal issues are also examined:

- the legal nature of the public service labour disputes;
- whether the legislative amendments transferring public service labour disputes to the jurisdiction of the courts of general jurisdiction are effective and necessary;
- the actual impact of the legislative amendments in question on judicial protection in cases of alleged violations of a public servant’s employment rights;
- international best practices concerning the determination of jurisdiction over public service labour disputes;
- the implications of the legislative amendments in the light of the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

In examining the selected topic, the article employs historical and logical methods, comparative legal analysis, methods of analysis and synthesis, as well as deductive and inductive reasoning.

MAIN ANALYSIS

1. General Provisions on Judicial Jurisdiction

1.1. The Concept, Purpose, and Necessity of Jurisdiction

Jurisdiction of courts is a fundamental aspect of the judicial system, referring to the limits of the competence of courts. In other words, jurisdiction of courts is the authority established by law to hear and decide a case (e.g., civil, criminal, or administrative).

Court jurisdiction is directly linked to judicial protection as the primary means of safeguarding an individual’s violated rights.

The legal provisions set out in Articles 61 and 63 of the Constitution of the Republic of Armenia (RA), as well as in Article 6 of the ECHR, by guaranteeing an individual’s right to effective legal

remedies and the right to judicial protection of his or her rights and freedoms, establish the right of access to a court, which is intended to create the conditions necessary for the restoration of violated rights. The right of access to a court ensures that an individual is afforded legal guarantees for obtaining effective legal protection in cases of violations of his or her rights¹.

While guaranteeing the right to judicial protection, the legislator has at the same time laid down the legal means enabling the practical realisation of that right. These include, *inter alia*, the right to have a case examined by the court and the judge whose jurisdiction is established by law, as provided for by procedural rules. Thus, the realisation of the right to judicial protection is secured through procedural frameworks, including subject-matter and territorial jurisdiction².

The correct determination of a case’s jurisdiction is of practical importance, as judicial protection can be effective only where the case is examined by a competent court in compliance with the procedures established by the rules specific to the given type of proceedings. Conversely, if a case is examined by a court that lacks jurisdiction to hear it, this results in a violation of the constitutionally guaranteed right to judicial protection³.

1.2. Changes in Jurisdiction and the Rationale for Having More Than One Court

The multi-tiered structure of the judicial system and the large number of courts at the same level have necessitated the enshrinement in procedural codes of rules capable of determining which specific court must examine and resolve a given case, so as to ensure compliance with the concept of a “court established by law” (lawful court)⁴. However, what is the necessity for the existence of such a system, or, in other words, why is there a need to have more than one court at the same level?

As a rule, the idea of having different courts with differentiated jurisdiction stems from the need to examine cases (primarily disputes) under distinct procedural regimes. In other words, a system comprising different courts is not an end in itself, but rather serves to address the fact that different legal disputes require a tailored approach.

Moreover, although issues of jurisdiction are governed by procedural rules, their essence derives from the specific characteristics of substantive law. Indeed, the opposite approach, according to which form (procedural rules) could determine the substance (substantive legal norms), or be inconsistent with or independent of it, would be illogical. From this perspective, without diminishing the importance of procedural rules, it should be emphasized that they are accessory

¹ See, *inter alia*, the decision of the RA Court of Cassation No. AVD1/1825/02/22 of 14 November 2025.

² *Ibid.*

³ *Ibid.*

⁴ **Sergey Marabyan**, General Description of the Institute of Jurisdiction and Methodological Issues of its Legal Regulation in the RA Criminal Procedure, Bulletin of Yerevan University (Jurisprudence), 2021, № 1, 52-69, <https://doi.org/10.46991/BYSU:C/2021.12.1.052>

in nature to substantive law. Accordingly, the adjudication by the same court of disputes that differ substantially in their substantive legal nature: where one of the disputes, by its essence, corresponds to the characteristics of disputes entrusted to the jurisdiction of another court, or, conversely, the adjudication of disputes of the same nature by different courts, is problematic and indicates deficiencies in judicial system design.

In this regard, it is likewise illogical to transfer the jurisdiction over the examination of a particular dispute from one court to another while preserving the original procedural framework, since the existence of several courts “under different names” is not an end in itself. Such an approach unequivocally indicates the mechanical (technical) nature of the change in jurisdiction¹.

In turn, through mere amendments to procedural rules, it is theoretically possible to transfer any individual dispute to the jurisdiction of any court. Thus, it would even be possible to assign the adjudication of criminal cases concerning certain offences to the jurisdiction of courts of general jurisdiction sitting in civil matters, or even to administrative courts. However, such a formally legislative arrangement, despite having a legal basis, would not be lawful, as it would violate the fundamental principle underlying the separation of different types of courts.

Rules governing judicial jurisdiction play a cornerstone role in ensuring the stability of the judicial system; therefore, any changes thereto should be made only in exceptional circumstances and must be strictly justified. The foregoing is particularly applicable in cases where jurisdiction is reallocated between courts that are not homogeneous in nature.

2. Transfer of Public Service Labour Disputes to the Administrative Court

The Judicial Code of the RA provides that the judicial system of the RA comprises the Court of Cassation (CC), the Courts of Appeal, the courts of first instance of general jurisdiction, as well as specialised courts, namely the Administrative Court, the Bankruptcy Court, and the Anti-Corruption Court².

Within the judicial system of the Republic of Armenia, the Administrative Court occupies a distinct place, having its own defined scope of jurisdiction and operating within procedural rules that are specific to it.

The introduction of the institution of specialised justice, including administrative justice, has pursued, *inter alia*, the objective of ensuring the effectiveness and completeness of the exercise of the right to judicial protection in the relevant field primarily through judicial specialization,

¹ Nevertheless, in certain cases, the establishment of specialised courts is driven by public policy considerations and reflects a political will to accord particular importance to the resolution of certain categories of disputes and to segregate them, even though general procedural rules are applied in adjudicating those disputes (for example, anti-corruption courts).

² Article 2, Constitutional Law “Judicial Code of the Republic of Armenia”, adopted on 7 February 2018 and entered into force on 9 April 2018.

taking into account the characteristics inherent to that form of justice. The establishment of specialised courts stems from the need to administer proper justice in connection with relationships arising in specific areas of public life. Judges specialize in the adjudication of particular categories of cases, and in such circumstances, the likelihood of judicial error is reduced¹.

In the context of identifying the characteristic features of administrative proceedings, it is necessary to emphasize their organic interconnectedness with the field of *public law*, a circumstance that distinguishes them from other types of judicial proceedings².

However, it was only a considerable time after the formation of the Third Republic of Armenia that the Administrative Court was established. Thus, the Administrative Court of the RA was established and has been operating since 1 January 2008. Such a “delay” appears logical, given that an independent body grounded in democratic and human-centred principles and entrusted with the core function of reviewing the legality of the actions of public authorities could not have existed within the state system³ of the USSR, the legacy of which predominated during the early period of the independent republic’s formation.

Even in the absence of an Administrative Court, public service labour disputes were, naturally, not excluded from judicial review.

Thus, the regulation of jurisdiction over disputes arising from administrative-law relations in the legislation of the RA has evolved by shifting from the courts of general jurisdiction to a specialised Administrative Court. Within the framework of this study, this trajectory is examined in particular in the context of changes in jurisdiction over disputes related to public service.

During the period of the Armenian SSR, under the CPC⁴ of the Armenian SSR, the courts had jurisdiction over the “cases arising from administrative-law relations” listed in Article 230 of that Code. In particular, such cases included complaints against the actions of bodies and officials in connection with the imposition of administrative penalties, as well as complaints against unlawful actions of officials that infringed citizens’ rights, which were assigned by law to the jurisdiction of the courts.

¹ Decision No. DCC-780 of the Constitutional Court of the Republic of Armenia of 25 November 2008.

² T. Khachikyan, H. Bedevyan, A. Gharslyan, T. Markosyan, E. Khundkaryan, V. Hovhannisyan / Administrative Procedure of the Republic of Armenia. Book One / Yerevan, Hayrapet Publishing House, 2022, page 7.

³ Even today, administrative courts do not exist in a number of states that emerged from the USSR, such as the Russian Federation, whereas in the Republic of Kazakhstan, administrative courts were established in 2021 as part of a reform aimed at protecting the rights of citizens and businesses against the actions of public authorities.

⁴ Civil Procedure Code of the Republic of Armenia, adopted on 4 June 1964 and entered into force on 1 January 1965.

Under the Civil Procedure Code¹ of the RA, the courts adjudicating civil cases had jurisdiction, *inter alia*, over “cases arising from state-law, administrative-law, tax, and other legal relations based on public authority, where one of the parties is a citizen,” as well as over “cases concerning the full or partial invalidation of acts of state bodies, bodies of local self-government, and their officials that are contrary to the law and violate a citizen’s rights, freedoms, and lawful interests”². These provisions replaced the previous regulation governing jurisdiction over administrative-law disputes and constituted the basis for subjecting such disputes to judicial review and determining their jurisdiction until the establishment of the Administrative Court.

The adjudication of administrative-law disputes, in particular disputes related to public service, was transferred to the Administrative Court with the adoption of the first Administrative Procedure Code³ (APC). Upon the entry into force of the APC, Chapters 24–26 and 32 of the Civil Procedure Code of the RA (CPC), which regulated the judicial procedures for the adjudication of the disputes in question, were repealed. Cases pending before courts of general jurisdiction that had not yet reached the trial stage were transferred to the Administrative Court within a five-day period.

It is noteworthy that, pursuant to Article 8(1)(1) of the APC adopted on 28 November 2007, disputes “related to entering public or alternative service or the performance thereof” fell within the jurisdiction of the Administrative Court. In other words, the Code did not expressly provide for the adjudication by the Administrative Court of disputes related to dismissal from public or alternative service. Nevertheless, an examination of publicly available sources indicates that judicial practice developed in such a way that this provision was interpreted broadly, with the jurisdiction of the Administrative Court being understood to also encompass disputes related to dismissal from public or alternative service.

Under the currently applicable APC⁴ it is provided that all disputes arising from public-law relations are subject to adjudication through administrative court proceedings, with the exception of cases falling within the jurisdiction of the Constitutional Court, criminal cases under the jurisdiction of courts of general jurisdiction, as well as cases related to the execution of a sentence. This approach was expressly prescribed by the legislator in Article 10(1) of the APC. In particular, pursuant to Article 10(1)(1) of the APC, as in force until 1 January 2025, the Administrative Court

¹ Civil Procedure Code of the Republic of Armenia, adopted on 17 June 1998 and entered into force on 1 January 1999.

² *Ibid*, Article 15, paragraph 2, subparagraphs 2 and 4.

³ Administrative Procedure Code of the Republic of Armenia, adopted on 28 November 2007 and entered into force on 1 January 2008.

⁴ Administrative Procedure Code of the Republic of Armenia, adopted on 5 December 2013 and entered into force on 7 January 2014.

had jurisdiction over all disputes related to entering public or alternative service, the performance thereof, and dismissal from service.

3. The Amendments at Issue

3.1. The Amendments Per Se

First, it is essential to turn to the content of the legislative regulations underlying the change in jurisdiction over disputes related to public service.

With the adoption of the Laws of the RA No. HO-220-N of 2 May 2024 “On Making Amendments and Addenda to the Administrative Procedure Code of the Republic of Armenia” and No. HO-222-N of 2 May 2024 “On Making Amendments and Addenda to the Civil Procedure Code of the Republic of Armenia”, corresponding and simultaneous amendments were introduced into the respective Codes.

On the one hand, subparagraph 1 of paragraph 1 of Article 10 of the APC, entitled “Subject-Matter Jurisdiction of Cases”, which provided that disputes related to entering public or alternative service, the performance thereof, and dismissal from service fell within the jurisdiction of the Administrative Court, was repealed. As a result of the amendment, the aforementioned legal provision took the following form:

“1. The Administrative Court shall have jurisdiction over all cases arising from public legal relations, including:

- 1) (The clause has ceased to have legal effect as of 2 May 2024, pursuant to Law No. HO-220-N.)*
- 2) Disputes between administrative bodies that are not subject to resolution by order of superior authority.*
- 3) Cases with disputes regarding the suspension or termination of the activities of associations operating or intending to operate in the field of public law, including trade unions.*

2. The Administrative Court does not have jurisdiction over cases under the jurisdiction of the Constitutional Court of the Republic of Armenia (...), criminal cases under the jurisdiction of a court of general jurisdiction, as well as cases related to the execution of a sentence”.

On the other hand, an addition was made to Article 210 of Chapter 24 of the CPC, which governs the specific features of proceedings in individual labour disputes and defines the labour disputes examined under special claim proceedings. According to this amendment, disputes related to entering public or alternative service, the performance thereof, and dismissal from service are also to be examined and resolved in accordance with the procedure established by that Chapter. Moreover, amendments were introduced to Article 211 of the same Code, which regulates the acceptance of a claim and the actions of the court following its acceptance, providing that:

“1. In disputes related to entering public or alternative service, the performance thereof, dismissal from service, and the imposition of disciplinary liability, the court shall establish the factual

circumstances of the case ex officio. The court is not bound by the evidence, motions, submissions, explanations, or objections presented by the participants in the proceedings and shall, on its own initiative, take appropriate measures to obtain all possible and available information concerning the actual facts necessary for the resolution of the specific case.

2. Simultaneously with accepting the statement of claim for proceedings, the court shall issue a decision, as necessary, requiring the respondent, in disputes related to entering public or alternative service, the performance thereof, dismissal from service, and the imposition of disciplinary liability, to submit all evidence in its possession relating to the dispute in question”.

It is noteworthy that the first of the above-mentioned additions is a verbatim reproduction of Article 5 of the APC, which enshrines the principle of establishing the factual circumstances “*ex officio*” in administrative proceedings. The second addition, in turn, does not essentially differ from paragraph 2 of Article 28 of the APC, which regulates the obligation to submit evidence in administrative proceedings. It follows directly from the foregoing that, as a result of the legislative amendments, the CPC now provides that not only certain rules of administrative procedure, but even some of its fundamental principles, are applicable to disputes examined by civil courts - a significance that will be addressed in greater detail below.

3.2. The Lawfulness of the Amendments

In order to resolve the core issue of the present study, namely to assess the lawfulness of the legislative amendments in question, it is first necessary to determine whether labour disputes arising from public service are required to be adjudicated by the Administrative Court. Accordingly, if the conclusion is reached that such disputes fall within the jurisdiction of the Administrative Court, the amendments in question cannot be considered to be in line with the law. Conversely, if the answer to that question is in the negative, then, at the very least, the amendments can be regarded as consistent with the law insofar as they remove from the jurisdiction of the Administrative Court cases that are not subject to administrative adjudication. A combined analysis of the provisions of the APC and the CPC governing subject-matter jurisdiction makes it clear that the allocation of cases for adjudication between courts of general jurisdiction and other courts is based on the principle of exclusion. Thus, as a general rule, all cases involving disputes over rights fall within the jurisdiction of courts of general jurisdiction, with the exception of those cases that are reserved to the jurisdiction of the Administrative Court or the Constitutional Court¹. On the other hand, the legislator has expressly stipulated that all cases arising from public legal relations fall within the jurisdiction of the Administrative Court, except

¹ Article 18, Civil Procedure Code of the Republic of Armenia, adopted on 9 February 2018 and entered into force on 9 April 2018.

for cases reserved to the jurisdiction of the Constitutional Court, criminal cases, and cases related to the execution of sentences¹.

It follows directly from the foregoing that the determination of whether a case (dispute) falls within the jurisdiction of the Administrative Court is directly linked to whether it arises from public legal relations. In other words, the legal nature of the dispute is of fundamental importance in determining its falling within the jurisdiction of the Administrative Court. Accordingly, all cases of a public-law nature, with the exception of those exhaustively enumerated in the APC, fall within the jurisdiction of the Administrative Court. From the provisions regulating the jurisdiction of the Administrative Court, it may be inferred that although not all public-law disputes fall within its jurisdiction, all disputes that do fall within its jurisdiction are public-law in nature. On the other hand, an examination of public-law disputes that do not fall within the jurisdiction of the Administrative Court leads directly to the conclusion that none of them falls within the jurisdiction of courts of general civil jurisdiction. Consequently, by correlating the above, it may be asserted that, as a matter of principle, no dispute of a public-law nature falls within the jurisdiction of courts of general civil jurisdiction.

As already noted, the determination of whether a case falls within the jurisdiction of the Administrative Court is fundamentally dependent on its legal nature. Accordingly, in order to ascertain whether public service labour disputes should be adjudicated by the Administrative Court and, consequently, to answer the core question of this study concerning the lawfulness of the legislative amendments, it is first necessary to determine the legal nature of public service labour disputes. In this context, the primary issue is the delineation of the dispute's legal nature, namely, whether it belongs to the sphere of public law or private law.

Prior to the legislative amendments discussed in this work, the APC stipulated that legal relations related to public service are of a public law nature. Disputes arising from them were directly included in the list of disputes examined in the administrative court; now, such a regulation does not exist, and the resolution of disputes arising from these relations is directly reserved to the courts of general jurisdiction. The separation of relations between public and private cannot be defined or derived from the legislation regulating procedural issues. Procedural legislation defines the order and procedure of how a person should exercise the right of judicial protection of his or her rights.

In the meantime, the nature of a legal relationship may be determined by the nature of a legal relationship by clearly specifying its 1) subjective composition, 2) content, which is the scope of rights and obligations, and 3) object, that is, the purpose in connection with which that legal

¹ Article 10, Administrative Procedure Code of the Republic of Armenia.

relationship arose in general. Making the issue of the separation of public and private relations a subject of discussion, the CC has discussed it in the context of these criteria, in particular, the court has explained that:

- a legal relationship is considered public if at least one of the parties holds public authority, such as government bodies, officials, or public servants,
- in public legal relations, the entity with public authority has a legal duty to exercise its powers as defined by law, which ensures that individuals and organisations can exercise their public rights,
- these relationships arise to serve the public interest, with officials and institutions acting not for personal benefit but to fulfill the needs of the state and community¹.

Public legal relations are those relations in which one of the participants exercises a public function, acts with its regulatory or supervisory powers. In these relations, the state represents the public interest, which implies the well-being of society and general interests. The state is in a dominant position here; it exercises its governmental powers by controlling and being regulated by laws aimed at maintaining social order. The state and the other parties are not on the same level in the relations under discussion; the state is in a hierarchically higher position, in order to control, regulate, or assist the other parties. Public legal relations can include various areas, where the state is obliged to carry out its functions, ensuring the rule of law and public well-being. Satisfying the public interest, legality, public order, respect for, protection, and fulfilment of fundamental rights of individuals, as well as ensuring the general welfare and well-being of the public by exercising public authority, are the main goals that should be achieved through public legal relations. Unlike private legal relations, which primarily concern the rights and interests of the immediate parties, public legal relations encompass broader aspects such as state accountability to the people and the public interest. Therefore, all relations which, by their results, will lead to consequences for the exercise of public power, thus having an impact on the public, must be regarded as public.

Private legal relations, on the contrary, are based on equality of rights: here, the parties can agree on the basis of free will. A person's motivation to participate in private legal relations, as a rule, is driven by profit. In private legal relations, the parties, as a rule, are private individuals or organisations that are guided by their personal interests. Of course, the participation of the state in these relations is not excluded. Unlike public relations, the state is involved as a private person, that is, it is on an equal footing with individuals and legal entities. Here, the relations between the state and the other party are based on contractual freedom and equality of rights, and the state

¹ Decision of the Court of Cassation of the Republic of Armenia No. VD/0830/05/14 of 2 April 2016.

does not exercise special powers in these relations, which are provided for in the context of ensuring the public interest within the framework of public legal relations. In this regard F.V. Taranovsky asserts that "(...) all those legal relations are recognized as public, one of the subjects of which is the state (through its bodies) with its specific character of the bearer of coercive power; those relations are recognized as private, in which the state is absent as a subject, or acts on one side of the relationship, but only as a bearer of property interests¹".

The clear distinction between public law and private law is, nevertheless, often difficult and contested. Since the state may also act in a private-law capacity, it is not possible to distinguish these two branches of law solely on the basis of the subject involved, by asserting that private law governs relations between private individuals, while public law governs actions of public authority. In order to determine whether a dispute is of a public-law nature, various theories have been proposed, the most important of which are *the interest theory, the subordination theory, and the special-law theory*².

(a) The Interest Theory

The interest theory distinguishes public law from private law on the basis of the type of interests protected by a particular legal norm. Accordingly, legal norms that serve the public or general interest belong to public law. Conversely, a legal norm is considered to fall within the sphere of private law if it is intended to protect private or individual interests³.

The interest theory can be traced back to Ancient Rome. Thus, according to scholars, Roman classical and post-classical jurisprudence separated *jus publicum* from *jus privatum* with the introduction of the terms “public interest” (*utilitas publica*) and “private interest” (*utilitas privata*), which derives from a statement by Ulpianus: “There are two branches of legal study: public and private law. Public law is that which respects the establishment of the Roman commonwealth, private that which respects individuals’ interests, some matters being of public and others of private interest” (“*Huius studii duae sunt positiones, publicum et privatum. publicum jus est quod ad statum rei Romanae spectat, privatum quod ad singulorum utilitatem: sunt enim quaedam publice utilia, quaedam privatim*” [D. 1, 1, 1, 2])⁴.

¹ Bekbaev Erzat Zeynullaevich, Private and public legal relations. *Theory and practice of social development* 3, 2011, pages 269-271.

² Gor Hovhannisyanyan, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 28.

³ Mann/Wahrendorf, *Verwaltungsprozessrecht*. 2015, Rn. 108; Ehlers, in: Erichsen (Hrsg.), *Allgemeines Verwaltungsrecht*. 1998, S. 138 ff., 3 Rn. 17; Maurer, *Allgemeines Verwaltungsrecht*. 2011, 3 Rn. 11, as cited in Gor Hovhannisyanyan, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 28.

⁴ Hamza Gábor, The classification into branches of modern legal systems and Roman law traditions. *Revista de Derecho (Valparaiso)* 2.XXVII (2006): pages 443-472.

However, this theory alone is not sufficient to clearly distinguish public law from private law, since public and private interests are not necessarily opposites. The protection of individual interests may simultaneously entail the protection of the public interest, as many legal norms take into account both public and private interests. Moreover, it must be borne in mind that the legal system as a whole, including private law, serves the organisation of social coexistence and ultimately aims to protect public interests as well¹.

(b) The subordination theory

The subordination theory, also known as the theory of superiority and subordination, proceeds from the nature of the relationship between the participants and is applied only where the parties to the relationship are the state and an individual. According to this theory, legal norms regulating the actions of holders of public authority are considered public law norms when they concern a relationship of superiority and subordination².

The historical roots of this theory lie in the idea of sovereignty of the absolutist state, which reflects the individual's submission to the power of the sovereign (*sub regnum*). It is also necessary to recall the pacifying role of the state monopoly on the use of force. The individual submits to the sovereign (*defensor pacis*). He or she obeys state law in order to live in peace and thereby becomes a subject of state authority that possesses inherent legitimacy, as described by Thomas Hobbes³.

The subordination theory is based on whether there is a relationship of superiority and subordination between the parties to the dispute, that is, whether the (greater) state stands above the (lesser) citizen. If a relationship of superiority and subordination exists between the parties, then the relationship is a public law one; if, however, both parties act toward each other on an equal legal footing, the relationship is not public law but rather one of private law⁴.

In civil law relations, a party to a legal relationship assumes obligations only by its own consent, whereas public law relations are also characterized by the fact that one party is entitled and obliged to address the other by way of command and prohibition, as in, for example, police law, administrative offence law, or tax law. In essence, this theory proceeds from the idea that public

¹ **Sodan**, in: Sodan/Ziekow (Hrsg.), *Verwaltungsgerichtsordnung*. 2018, 40 Rn. 291, as cited in **Gor Hovhannisyan**, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 29.

² **Ehlers**, in: Erichsen (Hrsg.), Allgemeines Verwaltungsrecht. 1998, 3 Rn. 18, as cited in **Gor Hovhannisyan**, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 29.

³ **Hufen**, Verwaltungsprozessrecht. 2019, 11 Rn. 16, **Mann/Wahrendorf**, Verwaltungsprozessrecht. 2015, Rn 109, as cited in **Gor Hovhannisyan**, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, pages 29-30.

⁴ **Detterbeck**, Allgemeines Verwaltungsrecht mit Verwaltungsprozessrecht. 2019, Rn. 1323, as cited in **Gor Hovhannisyan**, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 30.

law is characterized by a relationship of superiority and subordination, while private law is characterized by a relationship of legal equality. Accordingly, disputes concerning such legal relationships are of a public law or private law nature, respectively¹.

However, the theory of subordination is also unable to clearly distinguish between public and private law. Although it is useful in the field of interventionist administration, where the subject matter of legal disputes consists of unilateral binding orders, it no longer assists in the field of beneficial administration, which is more coordinative in nature, as well as in the field of public welfare. Moreover, relationships of superiority and subordination also exist between private individuals, for example, between an employer and an employee, just as relationships of equality may exist between a citizen and the state, for example, in the case of a public law contract².

Moreover, the theory of subordination is no longer compatible with the understanding of a democratic constitutional state. As part of the sovereign people, the citizen is not inherently subordinate to the state. On the contrary, together with other citizens, the individual forms and legitimizes state authority through democratic elections before being legally bound by the decisions of that authority. Consequently, the binding force of decisions of public authority is not based on a relationship of superiority and subordination between the state and the citizen, but rather on the legitimacy of adopting binding decisions³.

(c) The special law theory

Due to the shortcomings of the two theories mentioned above, the special law theory is now most widely applied. It is also referred to as the material or modified subject theory, and its author is Hans Julius Wolff (1902–1983). This theory proceeds from the legal nature of the legal norms used to resolve the dispute. According to this theory, if a dispute is resolved through public law norms, then it constitutes a public law dispute, whereas if it is resolved through private law norms, it constitutes a private law dispute. Public law norms are those under which at least one of the subjects of the regulated relationship is a bearer of public authority as such, that is, by virtue of its authoritative capacity. This means that public law norms, in any of their possible applications, unilaterally empower or impose obligations exclusively on the bearer of public authority, that is, the state in the broad sense, including regions, communities, and other legal persons governed by public law, acting as such, for example, norms of tax law or police law. By contrast, norms that

¹ *Ibid.*

² **Unruh**, in: Fehling/Kastner/Stormer (Hsrg.), *Verwaltungsrecht*, 2016, 40 Rn. 94; **Sodan**, in: Sodan/Ziekow (Hsrg.), *Verwaltungsgerichtsordnung*. 2018, 40 Rn. 294, as cited in **Gor Hovhannisyan**, *General Jurisprudence and Legal Methodology*. Yerevan, Public Diplomacy Charitable NGO, 2020, page 31.

³ **Hufen**, *Verwaltungsprozessrecht*, 2019, 11 Rn. 16; **Ehlers/Schneider**, in: Schoch/Schneider/Bier (Hsrg.), *Verwaltungsgerichtsordnung*. Stand: Juli 2019 (37. Erg.-Lfg.), 40 Rn. 220, as cited in **Gor Hovhannisyan**, *General Jurisprudence and Legal Methodology*. Yerevan, Public Diplomacy Charitable NGO, 2020, page 31.

empower or impose obligations on everyone, for example, Article 470 of the Civil Code of the Republic of Armenia, belong to private law¹.

It is extremely important to remember that a public law norm is present not when, in a particular case, it empowers or obliges a bearer of public authority, but when this is the case in all possible situations. Public law exists where at least one party to the legal relationship is a bearer of state authority acting on the basis of a special right that is addressed exclusively to the bearer of public authority and not to everyone. Accordingly, public law is the special law of the state, which is also the origin of the name of the theory, whereas private law is the law of everyone².

The main shortcoming of the special law theory is that it is useful only where it is unequivocally clear which legal norms govern the resolution of the dispute. However, the special law theory does not assist in determining which legal norms should be applied to resolve a specific dispute³.

In order to identify the legal norm governing the resolution of a dispute, it is necessary to distinguish between the legal nature of the act of a public authority and the lawfulness of that act.

What matters is not what action the public authority was entitled to take under the rules of substantive law, but rather what action it actually took⁴.

The theories concerning the distinction between public-law and private-law relations do not exclude one another; rather, they complement each other. Thus:

- Cases in which a power to adopt a unilateral, binding decision is exercised are not problematic at all. In such situations, the theory of subordination provides an unequivocal answer that the matter falls within the sphere of public law.
- Outside this area, the decisive factor will first be whether, having regard to the content of the power or obligation, its exercise could in principle be carried out by any citizen (special-law theory).
- In doubtful cases, the question should be asked whether a task serving the public interest is being carried out (interest theory)⁵.

¹ *Ibid.*

² **Maurer**, Allgemeines Verwaltungsrecht. 2011, 3 Rn. 13, as cited in **Gor Hovhannisyan**, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 32.

³ **Detterbeck**, Allgemeines Verwaltungsrecht mit Verwaltungsprozessrecht. 2019, Rn. 1324, as cited in **Gor Hovhannisyan**, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 36.

⁴ **Sodan/Ziekow**, Grundkurs Offentliches Recht. 2018, 67 Rn. 4, as cited in **Gor Hovhannisyan**, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 36.

⁵ **Gor Hovhannisyan**, General Jurisprudence and Legal Methodology. Yerevan, Public Diplomacy Charitable NGO, 2020, page 38.

It is noteworthy that the CC, in determining the legal nature of the legal relationships at issue, has also relied in its precedent-setting decisions on the above-mentioned theories, literally quoting the cited doctrinal concepts¹.

Having established from the outset that, in public service labour disputes, one of the parties to the dispute is the State in the broad sense (as the bearer of public authority), the determination of the legal nature of such disputes, based on the criteria underlying the above-mentioned theories, requires addressing the following questions.

1. Whether, in public service labour disputes, there exists a relationship of superiority and subordination between the parties to the dispute.
2. Whether the legal norms governing the resolution of public service labour disputes, in all possible applications, unilaterally confer powers or impose obligations exclusively on the bearer of public authority.
3. Whether the legal norms regulating public service labour disputes protect the public interest or private interests.

I) The existence of a relationship of superiority and subordination

There is little doubt that labour relations in the public service are characterized by a subordination-based structure, since their participants not only occupy superior and subordinate positions, but also because the bearer of public authority, as a party to such relations, is empowered to adopt decisions that are binding on the other party. However, the absence of formal equality and the existence of a superior–subordinate relationship are inherent in any employer–employee relationship, including those in the private sector. Consequently, this factor in itself is not sufficient to conclude that public service labour disputes are of a public-law nature.

II) The existence of public-law norms

As noted above, the principal shortcoming of the special law theory is that it is useful only where it is unequivocally clear which legal norms govern the resolution of a dispute. This, in turn, means that the theory is mainly applicable on a case-by-case basis rather than as a general analytical tool. Nevertheless, a comparison of the legal norms governing the majority of such legal relationships reveals that they are essentially of the same nature. For example, Article 9 of the Law of the RA on Public Service² regulates the competence to make appointments to public office, which also encompasses the authority to dismiss from such offices. Similarly, Article 16 of the Law of the RA

¹ See the decision of the RA Court of Cassation in civil case No. ED/38635/02/19 of 13 April 2022.

² The Law of the Republic of Armenia on Public Service, adopted on 23 March 2018 and entered into force on 9 April 2018.

on Civil Service¹ governs appointment to and dismissal from civil service positions, while Article 21 of the same law regulates matters relating to the imposition of disciplinary sanctions. All of these legal norms unilaterally empower or obligate exclusively the bearer of public authority, rather than any person in general, and therefore qualify as public-law norms. Accordingly, labour relationships in the public service, which are predominantly regulated by public-law norms, are of a public-law nature.

III) The presence of a public interest

In examining whether the relationships in question serve a public or a private interest, it is first necessary to identify the essence of public service and its defining characteristics. Thus, Article 3(1) of the Law of the RA on Public Service provides that public service is the exercise of powers vested in public authorities by the Constitution and laws of the RA, encompassing state service, community service, and public office. It follows directly from this definition that public service constitutes an instrument for the exercise of public authority. The same law also expressly enshrines the principles governing the conduct of public servants, including awareness of serving the public, loyalty to the public interest, courtesy and respect, integrity, and objectivity². Awareness of serving the public implies that the exercise of powers by persons holding public office and by public servants is directed toward ensuring the welfare of the citizens of the RA and the public at large through the effective implementation of state policy objectives³. Loyalty to the public interest, in turn, means that persons holding public office and public servants exercise their powers in the interests of the citizens of the Republic of Armenia and the public⁴.

In our opinion, containing elements typical of labour relations, public service relations, unlike classical labour relations, have a special nature. In many cases, they have an impact on public interests, since the public servant, through his or her activities, participates in the implementation of public functions. These functions directly or indirectly affect not only the given servant or the institution he or she leads, but also the entire society. It is necessary to take into account that the status of an official implies that he or she cannot act solely based on his or her personal interests; the functions and the realisation of work duties are aimed at ensuring the public interest and the effective implementation of public authority. The activities of a public servant imply responsibility not only to his or her direct management, but also to the entire society, since his or her decisions, actions, and inaction can have consequences for everyone. In this context, it is

¹ The Law of the Republic of Armenia on Civil Service, adopted on 23 March 2018 and entered into force on 1 July 2018.

² Article 22.

³ Article 23.

⁴ Article 24.

obvious that the performance of a public servant's public duties cannot be equated with the activities of a private sector employee. For example, the work of an accountant, which is carried out in a private organisation, has an impact only on the activities of the given company, without having public significance. Meanwhile, the decisions, actions, and scope of responsibility of a public servant go beyond the boundaries of personal or organisational interests and are directly related to public administration and the realisation of the public interest. The work of a public servant has a far broader societal impact. Public servants are entrusted with responsibilities that extend beyond the confines of a single organisation, influencing the functioning of the state and the well-being of the general public. Their actions and decisions are not solely for the benefit of an institution or employer but are directed at fulfilling public duties that serve the common good. For example, the role of a public servant, whether in finance, law, education, or healthcare, involves carrying out functions that contribute directly to public administration and governance, ensuring that government actions align with the public interest. The impact of their work is far-reaching, affecting citizens' rights, access to services, the proper use of public resources, and the overall efficiency of government.

In this connection, we consider that a person's motivation for entering public service is also important. Given the nature of the work and its consequences, motivations for employment in the private sector may be diverse; however, we believe that they are primarily financial in nature. In contrast, public service is, as a rule, driven by additional non-financial motives. Research using international survey responses indicates that those who express altruistic motives and motives for jobs that benefit society tend to prefer government jobs, and across many countries, survey respondents who actually work in the public sector express higher levels of altruistic and public-service-oriented work motives¹.

This clearly demonstrates that labour relations in public service serve the public interest.

Summarizing the analysis of labour relations in public service within the framework of the aforementioned theories, one inevitably arrives at the conclusion that they are of a public-law nature.

This conclusion is also consistent with Decision No. VD/2087/05/12 of the CC of 4 July 2013, in which the Court noted that legal relations related to public service may be regarded as labour law within public law.

The classification of public service-related legal relationships as part of public law is not only supported by legal theories but is also reinforced by international human rights standards. Article

¹ **Bullock, Justin B., Justin M. Stritch, and Hal G. Rainey.** "International comparison of public and private employees' work motives, attitudes, and perceived rewards." *Public Administration Review* 75.3 (2015): 479-489.

25(c) of the International Covenant on Civil and Political Rights (ICCPR) affirms that every citizen shall have access, on general terms of equality, to public service in their country. This provision underscores that participation in public service is a fundamental civil right, closely tied to the functioning of democratic institutions and the principle of equality before the law. As such, any legal framework governing access to, or disputes arising from, public service must ensure procedural fairness and legal certainty. This further supports the argument that public service labour relationships require distinct treatment under public law to safeguard constitutional and international standards.

The right to enter public service is also guaranteed by Article 49 of the Constitution of the RA, which states that every citizen has the right to enter public service under general conditions. It is well established that the state bears both positive and negative obligations to protect and ensure every constitutional right. In particular, by enshrining each right in the Constitution, the state assumes a positive obligation to guarantee that right, to create all conditions for its realisation, to develop appropriate legislation, and also bears a negative obligation not to unreasonably restrict or impede the realisation of that right. Disputes involving the state (when it acts in its public power capacity) and concerning constitutionally guaranteed rights inherently relate to the protection of public interests and the state's responsibility to uphold constitutional principles. While some disputes may appear to affect only the immediate parties, in a broader interpretation, they can play a significant role in strengthening the rule of law and promoting the public interest, thereby providing them with a public nature.

To conclude, the right to enter public service includes, in addition to labour rights, the opportunity to exercise authority and participate in public administration. This perspective aligns with the position expressed in the RA Constitutional Court's decision No. DCC-1704 dated November 21, 2023, which states:

"The right to enter public service, as a manifestation of democratic governance, serves as a guarantee for citizens of a democratic state governed by the rule of law to access public service under the conditions and procedures prescribed by law. By exercising this right, citizens not only participate in the implementation of policies defined by public authorities but also engage in labour activities in the public service sector according to their knowledge and skills."

However, the foregoing does not mean that relations related to entering public or alternative service, the performance thereof, or dismissal from service are not labour relations. In this regard, it seems indisputable that these relations are of a labour nature, taking into account that in all cases they are characterized by the features of ordinary labour legal relations; their participants are essentially in employer-employee relations and are endowed with certain labour rights and

obligations. It is noteworthy that general legal norms governing labour relations in public service are set forth in the Labour Code of the RA. However, due to the specific nature of public service, the legislator has also introduced specific regulations unique to these relations only, resulting in dual-layered legal regulation. Therefore, labour relations related to public service cannot be viewed as classic labour relations, at least from the perspective of substantive law. Thus, labour law, as such, is both private and public law, depending on whether or not an exercise of public functions by a public authority is involved in that labour law relation.

In addition to the foregoing, a factor of essential importance for determining the legal nature of public service labour disputes is the circumstance that, even following the change in jurisdiction, such disputes will continue to be resolved on the basis of procedural rules borrowed from administrative proceedings, which are not applicable to the resolution of other labour disputes. Thus, taking into account the organic link between substantive and procedural norms, it may be argued that a legal dispute whose resolution requires the application of procedural rules used exclusively for the adjudication of other public-law disputes likewise possesses a public-law character.

In summary of the foregoing, we conclude that public service labour disputes are of a public-law nature and, accordingly, should be adjudicated by the Administrative Court. Consequently, the legislative amendments transferring such disputes to the jurisdiction of courts of general jurisdiction cannot be regarded as consistent with the law.

In this regard, it should be emphasized once again that the rules governing jurisdiction do not determine the legal nature of the underlying disputed legal relationship but are derived from it. Thus, public service labour disputes did not become public-law disputes merely because procedural legislation expressly provided that such cases are to be adjudicated under administrative procedure; on the contrary, the procedural designation followed from the substantive legal reality. Moreover, even in the absence of an explicit statutory provision stating that public service labour disputes fall within the jurisdiction of the Administrative Court, such disputes should nevertheless be adjudicated by that court for the simple reason that they arise from public-law legal relations. In this connection, it should also be noted that the provision repealed by the Law of 2 May 2024 No. HO-220-N “On Making Amendments and Additions to the Administrative Procedure Code of the Republic of Armenia” was linked to the general rule for determining subject-matter jurisdiction enshrined in Article 10(1) of the APC through the term “including”. This indicates that the repealed provision merely had a clarifying character, specifying which types of disputes also arise from public-law relations, rather than establishing an exception whereby a case that did not stem from public-law relations would nevertheless fall within the jurisdiction of the Administrative Court. In other words, even in the absence of Article

10(1)(1) of the APC, public service labour disputes should still fall within the jurisdiction of the Administrative Court by virtue of their legal nature. As a result, under the existing regulations of the two procedural codes, public service labour disputes may formally fall within the jurisdiction of both courts of general jurisdiction and the Administrative Court: in the former case by virtue of a specific statutory provision, and in the latter by operation of the general rule. For the purposes of ensuring formal legal certainty and eliminating contradictions between the APC and the CPC, it is necessary either to amend Article 10(1) of the APC to provide that all disputes arising from public-law relations fall within the jurisdiction of the Administrative Court, with the exception of disputes related to entering public or alternative service, the performance thereof, and dismissal from service, or to stipulate in paragraph 2 of the same article that such disputes fall within the jurisdiction of courts of general jurisdiction. This would be consistent with the approach of the APC, under which all disputes of a public-law nature that do not fall within the jurisdiction of the Administrative Court are expressly enumerated.

3.3. The practical consequences of the change in jurisdiction

When examining the issue of changing the jurisdiction of disputes, primary importance should be accorded to its practical consequences, bearing in mind that for interested parties (citizens) it is not decisive which specific court hears a given dispute, but rather what procedural guarantees, rights, and obligations are afforded to them in the course of its adjudication, which differ depending on the form of judicial protection of rights, namely civil judicial protection and administrative judicial protection.

Administrative procedure provides several important guarantees to ensure the effective protection of individual rights in disputes involving public authority. First, the “*ex officio*” principle requires the court to actively investigate the facts of the case on its own initiative, rather than depending solely on the evidence and arguments presented by the parties. This helps to address the inherent imbalance between the individual and the state. Second, Article 83 of the APC guarantees the automatic suspension of the contested administrative act once a claim is accepted for proceedings. This mechanism protects the plaintiff from any negative consequences that could result from the immediate enforcement of the act. Third, the administrative procedure grants individuals a two-month time limit to bring challenge claims against administrative acts, counted from the date the act comes into legal force. This extended period allows individuals adequate time to prepare and exercise their right to judicial protection.

The institute of administrative proceedings is unique, especially in terms of the guarantees provided to the plaintiff within its framework. This is not accidental. This issue needs to be discussed starting from the essence and goals of this institute. The entire concept of administrative proceedings is built on the idea that in an administrative court, the parties are initially in an

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unequal position, a reality that is also characteristic of administrative substantive law. The participants in these legal relations are private individuals with limited resources and the state (when it acts in its public power capacity), with all its levers, endowed with power and having access to wider resources. Naturally, in such conditions, from the point of view of the procedural principle of equality of rights, it is necessary to somewhat balance the opportunities of the parties, providing certain guarantees to private individuals, as the weaker party. This is the whole essence of administrative proceedings. Unlike in civil courts, where the judge plays a passive arbiter role, administrative courts conduct active investigations, creating a more favorable situation for the “weaker” party.

It seems that the above already testifies to the strictly disadvantageous nature of the legislative amendments under consideration for the applicant, yet the situation is not that obvious. This is conditioned by the fact that cases involving labour disputes are not considered “general” civil cases even in civil jurisprudence, and they are examined under the rules of a specific procedural type. It has already been mentioned that the CPC includes special provisions that regulate the examination of labour disputes, and as a result of the legislative amendments under discussion, relevant amendments were made to that chapter, supplementing it with provisions related to the public service. Referring to the content of these amendments, the importance is attached to the fact that, in terms of disputes related to the public service, the court of general jurisdiction must clarify the circumstances of the case by applying the “*ex officio*” principle, which is traditionally characteristic of administrative proceedings. This provision implies that the court is obliged to take the necessary steps on its own initiative to clarify the factual circumstances of the case, without relying exclusively on the evidence and motions presented by the parties. In this regard, from the point of view of the guarantees for the protection of the rights of the private plaintiff, no negative impact is observed, since the application of the “*ex officio*” principle is an important tool, which allows ensuring an objective and comprehensive examination of the dispute, protecting the interests of the most vulnerable party in the case.

Within the framework of the analysis of the guarantees for the exercise of the right to judicial protection, it is necessary to pay special attention to the procedures for the practical exercise of this right, in particular, the time limits provided for judicial protection. The administrative procedural legislation establishes clear deadlines for filing a claim, based on the peculiarities of the types of claims. One of these types of claims is a challenge claim, which is based on the question of the legality of an administrative act; the mentioned type of claim was quite applicable to disputes related to public service. In the case of this type of claim, the deadline for applying to

the administrative court is set at two months from the moment the administrative act enters into force¹.

At the same time, as a result of the amendments mentioned in this work to the CPC, it is provided that the deadline for applying to the court in the case of disputes related to public service is only one month². This amendment itself implies a shorter period, which, however, in our opinion, is not justified. The establishment of a time limit for applying to court is generally intended to guarantee the implementation of the principle of legal certainty, but it must also ensure that citizens have a real opportunity to protect their violated rights. Therefore, shortening this time limit may lead to practical difficulties, taking into account the time that may be needed to take appropriate measures and gather evidence.

One of the most important procedural guarantees for the exercise of the right to judicial protection is preliminary judicial protection. Preliminary judicial protection plays a crucial role in safeguarding individuals' rights by ensuring that potential harm is prevented before a final decision is reached. The absence or weakening of such safeguards can significantly undermine the right to a fair trial and effective remedy. The key goal of this mechanism is to ensure the protection of the plaintiff's rights by preventing possible damage before the adoption of a final judicial act in the case. In other words, the preliminary protection measure is designed to neutralize the dangers that may arise during the examination of the case, and that may negatively affect the protected right. Article 83 of the APC stipulates that, with certain exceptions, the operation of the contested administrative act is suspended from the moment the claim is accepted for proceedings. This means that from the moment the claim is accepted for proceedings, the execution of that act is temporarily suspended, preventing possible negative consequences for the plaintiff that could arise in the event of the immediate implementation of the act. The CC, in its decision on administrative case No. VD/6397/05/23 dated 24 May 2024, specifically emphasized:

“Legal practice should develop in such a way that in order to ensure the effectiveness of the right to judicial protection for a person and the application of procedural procedures necessary for its implementation, all procedural rules related to the type of contested claim should be applied in cases challenging the legality of individual legal acts interfering with the rights of a public servant, including the regulations on the institute of suspension of the execution of an administrative act, as defined in Article 83 of the Administrative Procedure Code of the Republic of Armenia”.

¹ Article 72, APC.

² Article 210, CPC.

At the same time, it should be noted that within the framework of special claim proceedings for the resolution of labour disputes, the CPC does not provide for specific procedures for the application of preliminary judicial protection measures. In this case, the general procedural logic applies, according to which the plaintiff, when filing a claim or during the examination of the case, where the grounds provided for by the Code exist, may file a petition to apply a measure of security for the claim, or the court may do so *proprio motu*. In other words, the preliminary judicial remedy for securing the claim shall not be applied automatically. In addition, the plaintiff is obliged to substantiate the need for the application of the measure requested by the petition, presenting appropriate arguments, legal justifications, and evidence that will confirm that, without the application of such a measure, his rights may be endangered. The same also applies to the court's application of interim measures on its own initiative: they cannot be applied in the absence of the necessary grounds and clear reasoning. In this context, it becomes obvious that the procedural guarantees of persons with the right to apply to court are significantly reduced, taking into account that the conditions for the implementation of preliminary protection measures in civil proceedings are highly dependent on the active actions of the plaintiff. Moreover, preliminary protection measure may be applied only in the presence of grounds expressly established by the CPC, and not automatically, as was the case in administrative proceedings (suspension mechanism), which will significantly reduce the scope and frequency of its application, which in turn constitutes an unequivocally negative change from the claimant's perspective as the party seeking protection of infringed rights.

It should be emphasized that the impact of the amendments is not limited to the examination of cases at first instance. Thus, a comparison of the regulations of the APC and the CPC concerning the institution of submitting new evidence at the appellate stage shows that the rules established by the CPC significantly worsen the procedural position of a party with regard to the submission of new evidence compared with the procedures accepted in administrative proceedings. In administrative proceedings¹, as a general rule, the submission of new evidence at the appellate stage is permissible, and its admission is essentially limited only by the exceptional circumstance that the evidence lacks material significance for the resolution of the case. The only evident drawback in administrative proceedings is that, if evidence is submitted at the appellate stage and such delay is not due to circumstances beyond the party's control, the participant bears the court costs, which creates an additional financial burden, but does not in itself deprive the party of the opportunity to submit evidence². At the same time, in civil proceedings,³ a party is deprived of the

¹ Article 144, APC.

² Article 60, *Ibid.*

³ Article 378, CPC

opportunity to submit new evidence at the appellate stage, except in cases where such evidence was not submitted at first instance for reasons beyond the party’s control. In our assessment, this constitutes a rather stringent standard that is rarely surmountable from an evidentiary standpoint. Moreover, even in such cases, the consequence of the new evidence being material to the resolution of the case is not the determination of the merits by the appellate court, but rather the quashing of the judicial act and the remittal of the case for a new examination, which naturally entails a prolongation of the overall duration of the proceedings¹.

In conclusion, although the legislator has attempted to incorporate certain procedural safeguards from the administrative court system into the new civil procedure framework, it is evident that these efforts have not fully preserved the level of protection previously available to public service employees. Some important guarantees, such as access to prompt preliminary protection, the possibility of submitting evidence at the appellate stage, more flexible timelines, and procedures tailored to the specific nature of public law disputes, have either been weakened or significantly modified. While it cannot be said that these safeguards have been entirely eliminated, the overall impact of the amendments points to a noticeable reduction in the quality and scope of judicial protection. This shift may affect the effectiveness of legal remedies available to individuals in public service, potentially undermining their ability to fully assert their rights in court.

3.4. The necessity and effectiveness of the amendments

The justification for the adoption of a law or amendments, as a rule, presents the circumstances that served as the basis for the development and adoption of a given legal act. The justification usually describes the need for legislative amendments, their purpose, as well as possible comparisons based on international good practice. However, it was not possible to find such justification in publicly available sources regarding the amendments provided for in the APC and the CPC.

Nevertheless, an examination of the parliamentary hearings on the legislative initiative makes it possible to identify the main possible reasons underlying the amendments in question. First, disputes related to public service are considered labour disputes, therefore, they should be examined in the same court that hears labour disputes. And second, the need to reduce the workload of administrative courts, which will contribute to their more efficient operation.

Public Service Disputes’ Labour Nature

Within the framework of this article, a comprehensive analysis has already been carried out of the nature of legal relations related to public service, as a result of which it was concluded that, although these legal relations are of a labour nature, this in no way means that they are deprived

¹ *Ibid.*

of their public-law character. On the contrary, labour relations can be classified to private and public, and disputes related to public service, by their very nature, are subject to such a regulation that takes into account their specific nature. From this point of view, the shift in jurisdictions that occurred as a result of the legislative amendments, which provides that these disputes should be examined in courts of general jurisdiction, does not seem adequate and justified. The fact that the importance of the specific features of public service was not taken into account in the justification of the legislative amendments is difficult to justify. Disputes related to public service imply the existence of administrative legal relations, and if the legislative amendments were guided by the nature of legal relations, then it would be logical that these disputes would remain under the jurisdiction of administrative courts.

It is noteworthy that even the authors of the legislative amendments themselves actually accept the unique status of these disputes. A proof of this is that a special procedural order has been provided for, within the framework of which it has been established that exclusively in the case of these disputes the court is obliged to clarify the circumstances of the case *“ex officio”*. This principle is, in fact, one of the fundamental elements of administrative proceedings, and its application to these disputes within the framework of civil proceedings indicates that they are not classic labour disputes. Otherwise, it would not be fully clear why a special procedure for their examination was established and why the rules of conduct of the court differ from other labour disputes. At the same time, the justification for the legislative amendments lacks any clear explanation as to why it was considered preferable to transfer disputes related to public service to the courts of general jurisdiction, when their examination essentially retained the logic of administrative proceedings (with some differences). Thus, the shift of procedural powers is not only not well-founded, but also raises serious questions regarding the legality and logical justification of the legislative amendments.

In addition, it is important to note that, alongside the right to freely choose one’s employment, the Constitution also proclaims the right of every citizen to enter public service. This circumstance underscores that relations arising in connection with the right to enter public service are not merely labour relations; otherwise, the constitutional approach of providing for a separate constitutional norm on the right to enter public service would be rendered meaningless¹.

Workload of Administrative Courts as Justification for the Amendments

Regarding the second basis for the amendments, the issue of reducing the workload of the Administrative Court, first of all, we consider it necessary to note that the responsibility for

¹ **Henrik Khundkaryan**, Jurisdiction Over Disputes Related to Entering Public Service, Performing it, and Dismissal from Service. *Judicial Power Journal*, 2025 1-3 (307-309), <https://doi.org/10.59546/18290744-2025.1-3-33>.

resolving the overload of courts is entirely the responsibility of the state, and any measures aimed at overcoming it should not negatively affect the rights of citizens. In other words, an individual should not suffer because the state did not foresee the problem of overloading courts in advance or did not undertake alternative and legitimate solutions to it, such as increasing the number of judges, introducing alternative and equivalent mechanisms for resolving disputes, steps to optimize procedural processes, etc. We consider that reducing court workload, in itself, cannot justify legislative amendments, especially when the given amendment clearly leads to a deterioration, worsening in the procedural status of persons applying to the court.

It is also noteworthy that, if a fundamental legislative change was implemented in order to ease the workload of the Administrative Court, there is no objective or systematic data whatsoever to substantiate its necessity¹. This means that the judgments underlying the legislative change were, in fact, based on assumptions, rather than on factual data and sound analysis. There is no evidence that disputes related to public service were one of the significant reasons for the overload of the Administrative Court, and it is still unclear to what extent this change will bring the expected result.

Within the framework of the justifications discussed, we believe that the envisaged legislative changes may lead to certain problems in the resolution of disputes arising from public legal relations by non-specialised courts, as well as in the application of procedural mechanisms that are not typical for them. As for reducing the workload, without having clear statistical data, nevertheless, having studied the available information sources, we can state that the number of disputes related to public service cannot be qualified as significant, and we do not believe that the results of these changes will allow achieving the intended goal.

As a result, it can be concluded that the legislative amendments in question are neither effective nor necessary.

4. International Practice

The approach of distinguishing public service-related relationships from ordinary employment relationships is also evident in other jurisdictions.

4.1. Germany

This section will discuss the example of Germany, which is valuable not only because both German administrative law is leading among continental law countries and is a source of inspiration for other countries, but also because the legislation of the RA concerning administrative law was drafted being strongly influenced by the German example.

¹ An inquiry was sent to the Judicial Department, and a reply was received stating that no separate data or statistics are maintained on that matter.

One of the distinctive features of the German judicial system is that, in addition to courts of general jurisdiction dealing with civil and criminal matters (*ordentliche Gerichtsbarkeit*) and administrative courts (*Verwaltungsgerichtsbarkeit*), there also exist specialised professional courts established specifically to resolve disputes arising from labour relations, namely labour courts (*Arbeitsgerichtsbarkeit*).

Art. 95(1) of the Basic Law (*Grundgesetz – GG*) provides for a separate branch of labour jurisdiction and establishes the Federal Labour Court (*Bundesarbeitsgericht*) as the highest court of this branch¹. Labour courts have jurisdiction over civil-law disputes arising from individual employment relationships, including disputes between employees and employers, concerning the existence, performance, and termination of employment contracts².

At the same time, for labour-related disputes concerning civil servants (*Beamte*) in Germany, labour courts are not competent. Civil servants (*Beamte*) are in a public-law service and loyalty relationship (*öffentlich-rechtliches Dienst- und Treueverhältnis*)³, not in an employment contract.

Moreover, § 5(1) ArbGG defines who qualifies as an employee, while § 5(2) ArbGG explicitly states that civil servants are not employees (*Arbeitnehmer*) for the purposes of labour jurisdiction and as a result, labour courts lack jurisdiction over disputes involving civil servants.

Whereas, administrative courts have jurisdiction over all public-law disputes of a non-constitutional nature, unless another court is expressly competent⁴. Thus, taking into account that disputes involving civil servants are public-law disputes, and no other jurisdiction is assigned, they are subject to administrative jurisdiction.

In essence, the German system separates private employment law from public service law, with labour courts for the former and administrative courts for the latter, ensuring specialised handling for civil servants. The example of Germany vividly demonstrates the fundamental differences between public service relations and general labour relations. In this respect, even a court specifically established to examine labour disputes lacks jurisdiction to adjudicate labour disputes related to public service, which, *a fortiori*, excludes the examination of such disputes by courts of general jurisdiction.

¹ Basic Law for the Federal Republic of Germany in the revised version published in the Federal Law Gazette Part III, classification number 100-1, as last amended by the Act of 22 March 2025 (Federal Law Gazette 2025 I, No. 94). https://www.gesetze-im-internet.de/englisch_gg/englisch_gg.html (access 30/12/2025).

² § 2(1) Labour Court Act (ArbGG) https://www.gesetze-im-internet.de/arbogg/_2.html (access 30/12/2025).

³ The term can be found both in the constitution (Art. 33 para. 4 GG) and in the ordinary legal regulations on civil service law (§ 3 BeamtStG; § 4 BBG).

⁴ § 40(1) Administrative Court Procedure - Verwaltungsgerichtsordnung (VwGO) <https://www.gesetze-im-internet.de/vwgo/> (access 30/12/2025).

4.2. France

The contribution of France to the development of modern administrative law is difficult to overestimate; therefore, the discussion of the latter example is extremely useful and necessary within the framework of the issue at hand. France, often considered the birthplace of administrative law and the modern civil service, follows a dual legal system with a clear distinction between judicial courts¹ (*ordre judiciaire*) and administrative courts² (*ordre administratif*). At the same time, the latter category also includes courts established to adjudicate private labour disputes³ (*Conseil de prud’hommes*). It is also noteworthy that in France, there are special courts created to resolve conflicts of jurisdiction between courts (*Tribunal des conflits*), whose primary function is to determine whether a given dispute falls within the jurisdiction of the administrative courts or the judicial courts.

The establishment of such a system was rooted in the French Revolution. In August 1790, the famous law enshrining the separation of powers was adopted, which, *inter alia*, prohibited courts from interfering in the exercise of executive or legislative powers, thereby creating the above-mentioned dual legal system. In particular, the Law provided that judicial bodies were not entitled, under any circumstances, to disturb the operations of administrative authorities or to summon administrators before them in connection with the performance of their functions. In particular, the Law provided that “The courts may not take any part, directly or indirectly, in the exercise of legislative power, nor may they prevent or suspend the execution of the decrees of the Legislative Body, sanctioned by the King, on pain of forfeiture⁴. On the other hand, Article 13 of the same Law provided that judicial functions are distinct and shall always remain separate from administrative functions, which created the negative rule that judicial courts are incompetent in administrative matters⁵.

As a result of the foregoing, as was logically to be expected, the question arose as to who should restrain and supervise the administration. This systemic gap was addressed by the adoption of Napoleon’s Constitution in 1799 (the Constitution of the Year VIII), which laid the foundations

¹ Article L.111-1 Code de l’organisation judiciaire
https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006071164/ (access 30/12/2025).

² Article L. 111-1 Code de justice administrative
https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070933/ (access 30/12/2025).

³ Article L. 1411-1 Code du travail
https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/ (access 30/12/2025).

⁴ Article 10 of the law as cited in Carpentier, Mathieu, *Constitutionally Conforming Interpretation in France* (March 18, 2022). Forthcoming in M. Klatt ed., *Constitutionally Conforming Interpretation: Volume I* (Hart Publishing, 2022), Available at SSRN: <https://ssrn.com/abstract=4060978> (access 30/12/2025).

⁵ Loi des 16-24 août 1790 sur l’organisation judiciaire
<https://www.legifrance.gouv.fr/loda/id/JORFTEXT000000704777> (access 30/12/2025).

of administrative justice and established the *Conseil d’État*, which today constitutes the highest authority of administrative justice in France, equivalent to a court of cassation.

From such a principled separation between the administrative and ordinary judicial systems, it logically follows that disputes arising in connection with public service cannot be attributed to the latter, and this is indeed the case in France. The jurisdiction of the ordinary judicial system (*ordre judiciaire*), and in particular of the labour courts (*conseil de prud’hommes*), extends to individual disputes arising in connection with a private law employment contract between employees and employers or their representatives¹. By contrast, public servants hold a statutory rather than a contractual legal status, which clearly underscores the public law nature of these legal relationships. On the other hand, administrative courts in France have general jurisdiction over disputes involving the administration and arising from public-law relationships or the exercise of public authority, pursuant to Article L. 211-1 of the *Code de justice administrative*. This includes, *inter alia*, challenges to administrative acts, public contracts, administrative liability, and civil service disputes², while private-law disputes and employment contracts of private law fall within the jurisdiction of the judicial courts.

In summary of the experience of the countries examined, it can be concluded that even in legal systems where special professional courts have been established to resolve disputes arising from labour relations, disputes related to public service employment remain within the jurisdiction of administrative courts. This approach confirms the public law nature of such disputes and highlights their fundamental distinction from private labour relations.

5. Legislative Amendments in the Light of the ECHR

The ECHR, as well as the case-law of the European Court established on its basis, as a phenomenon that develops and interprets the Convention and constitutes its integral part, are essential actors in the development of not only the domestic law of the RA, but also the law of all the member states of the Council of Europe. It is indeed difficult to overestimate the influence of the Convention and the case-law of the European Court in the continuous development of Armenian law.

In light of the above, it is important to address the following question: whether the legislative amendments in question and, as a result, the change in the jurisdiction of the disputes under consideration may be regarded as problematic in the light of the ECHR from the perspective of human rights protection.

¹ Article L. 1411-1 Code du travail

https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/ (access 30/12/2025).

² <https://www.conseil-etat.fr/decisions-de-justice/jurisprudence/analyses-de-jurisprudence/dossiers-thematiques/le-juge-administratif-juge-de-la-fonction-publique> (access 30/12/2025).

Article 6 of the ECHR states: “In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law (...)”. From the wording of Article 6 of the ECHR, it is clear that the right to a fair trial applies in both *civil* and *criminal* cases, as it explicitly refers to “the determination of civil rights and obligations or of any criminal charge”.

In such a case, with a positivist interpretation of the text of the Convention, it can be concluded that in public relations regulated by administrative law, individuals are not protected by the guarantees of a fair trial. Naturally, this is not the case. Making a brief remark on the absence of a mention of administrative law in Article 6 of the Convention, it is worth emphasizing that the Convention was written after the Second World War and the main author of the drafting of the text was one of the victorious states - the United Kingdom, which at that time was “skeptically” approaching the French-inspired concept of the separation of “administrative law”, therefore it was not included in the text of the Convention signed in 1950.

British Constitutional lawyer Albert Venn Dicey even wrote in 1885 that administrative law was a peculiar feature of the continental countries, particularly of France and also of Germany, which was unknown to the common law of England¹.

The above-mentioned gap was resolved by the European through the “autonomous concepts” of the Convention. Autonomous interpretation of Conventional terms ensures consistency and broad protection across diverse legal systems, irrespective of national classifications. The autonomous nature of these terms emphasizes substance over form, which means that it guarantees individuals the protection under Article 6 regardless of whether their cases are classified as civil, criminal, or administrative at the national level. The ECtHR has made it clear that the concept of “civil rights and obligations” cannot be interpreted solely by reference to the state’s domestic law; it is an “autonomous” concept deriving from the ECHR, and Article 6 applies irrespective of the parties’ status, the nature of the legislation governing the “dispute” (civil, commercial, administrative law etc.), and the nature of the authority with jurisdiction in the matter (ordinary court, administrative authority etc)².

Moreover, the ECtHR has affirmed that disputes concerning public servants generally fall within the scope of Article 6. If the applicant had access to a court under national law, Article 6 applies, and to justify any exclusion, the state must show both that domestic law explicitly denies court access to a specific category of civil servants and that such exclusion serves legitimate public

¹ **Albert Venn Dicey**, Lectures Introductory to the Study of the Law of the Constitution (1885). http://files.libertyfund.org/files/1714/0125_Bk.pdf (access 25/11/2025).

² *Georgiadis v. Greece*, § 34; *Bochan v. Ukraine* (no. 2) [GC], § 43.

interests. If these conditions are not met, public service employees retain their right to a fair trial under Article 6¹. Thus, from the point of view of the ECHR, the issue of changing the jurisdiction of disputes arising from a legal relation at the level of domestic legislation is of no significance, especially taking into account the fact that administrative cases arising from public legal relationships are mostly viewed as civil from the point of view of the autonomous nature of the terms of Article 6.

In conclusion, it can be stated that the recent legislative changes shifting jurisdiction over public service labour disputes from administrative to civil courts do not appear to conflict with the ECHR and do not have any substantive relevance in this context. The case law of the ECtHR makes clear that disputes concerning public servants generally fall within the scope of Article 6, and the classification of a dispute under domestic law, whether civil or administrative, is not decisive. As long as individuals have access to an independent and impartial tribunal, the right to a fair trial is preserved.

CONCLUSION

Thus, based on the results of the study conducted, we arrive at the following conclusions:

1. Disputes arising from labour relations in public service are of a public-law nature and differ substantially from other labour disputes.
2. The transfer of jurisdiction over public service labour disputes from the administrative courts to the courts of general jurisdiction can not be considered to be in line with the law.
3. Regardless of the absence of an explicit reference in the Administrative Procedure Code, public service labour disputes are subject to examination by the administrative courts on the basis of Article 10, Part 1 of the Administrative Procedure Code, taking into account the public-law nature of such disputes.
4. For the purposes of ensuring formal legality and eliminating contradictions between the Administrative Procedure Code and the Civil Procedure Code, it is necessary either to supplement Article 10, Part 1 of the Administrative Procedure Code by stipulating that all cases arising from public-law relations fall within the jurisdiction of the administrative courts, with the exception of disputes related to entering public or alternative service, the performance of such service, or dismissal from service, or to provide in Part 2 of the same article that such disputes fall within the jurisdiction of the courts of general jurisdiction. This would be consistent with the approach of the Administrative Procedure Code, according to which all cases of a public-law nature that are not subject to the jurisdiction of the administrative courts are expressly specified.

¹ Derived from *Vilho Eskelinen and Others v. Finland* [GC], § 46-49 and *Baka v. Hungary* [GC], § 102.

5. The legislative amendments transferring jurisdiction over public service labour disputes from the administrative courts to the courts of general jurisdiction are neither necessary nor effective.
6. The transfer of jurisdiction over public service labour disputes from the administrative courts to the courts of general jurisdiction will negatively affect the effectiveness of judicial protection of the rights of public servants.
7. The study of international best practices demonstrates that public service labour disputes fall within the jurisdiction of administrative courts, even in legal systems where specialised courts exist exclusively for resolving labour disputes.
8. The legislative amendments transferring jurisdiction over public service labour disputes from the administrative courts to the courts of general jurisdiction do not have a significant impact from the perspective of the European Convention on Human Rights.

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Ամփոփագիր

Հոդվածը նվիրված է հանրային ծառայության աշխատանքային վեճերի ենթակայության որոշման խնդրին: Մասնավորապես, հետազոտության ուշադրության կենտրոնում են Հայաստանի Հանրապետության վարչական դատավարության օրենսգրքում և Հայաստանի Հանրապետության քաղաքացիական դատավարության օրենսգրքում կատարված օրենսդրական փոփոխությունները, որոնք ուժի մեջ են մտել 2025 թվականի հունվարի 1-ից: Այդ փոփոխությունների արդյունքում հանրային ծառայությանը վերաբերող բոլոր վեճերը՝ կապված ծառայության անցնելու, այն իրականացնելու և ծառայությունից ազատման հետ, վերապահվել են ընդհանուր իրավասության քաղաքացիական դատարանին և, համապատասխանաբար, հետայսու ենթակա են լուծման քաղաքացիական դատավարության կարգով: Արդյունքում հանրային ծառայությանը վերաբերող այն վեճերը, որոնք նախկինում դիտարկվում էին որպես հանրային-իրավական հարաբերություններից բխող և քննվում էին Հայաստանի Հանրապետության վարչական դատարանում վարչական դատավարության կարգով՝ կիրառելով այդ դատավարությանը բնորոշ բոլոր հատուկ սկզբունքներն ու ընթացակարգերը, այժմ փոխանցվել են մի դատարան, որը մասնագիտացած է մասնավոր-իրավական հարաբերություններից ծագող վեճերի լուծման մեջ:

Հոդվածի շրջանակներում փորձ է արվել համապարփակ ուսումնասիրել տեղի ունեցած օրենսդրական փոփոխությունները՝ ուշադրություն դարձնելով հարցի թե՛ տեսական, թե՛ պրակտիկ ասպեկտներին, որի արդյունքում քննարկման առարկա են դարձվել և գնահատվել ոչ միայն փոփոխությունների իրավաչափությունը և համապատասխանությունը ճյուղային օրենսդրությունների սկզբունքներին, այլ նաև՝ փոփոխությունների պրակտիկ նշանակությունը հանրային ծառայողների խախտված իրավունքների պաշտպանության համատեքստում, խնդրո հարցի առնչությամբ միջազգային լավագույն փորձը և փոփոխությունները Մարդու իրավունքների և հիմնարար ազատությունների պաշտպանության մասին Կոնվենցիայի (ՄԻԵԿ) համատեքստում:

Ընտրված թեմայի արդիականության մասին են վկայում խնդրո առարկա օրենսդրական փոփոխությունների համապարփակ մեկնաբանման անհրաժեշտությունը՝ ներառյալ դրա հիմքում ընկած դրդապատճառների, փաստացի հետևանքների

ՍԱՀՄԱՆԱԴՐԱԿԱՆ ԴԱՏԱՐԱՆ  ՏԵՂԵԿԱԳԻՐ  1(122) 2026

վերհանումը, ինչպես նաև փոփոխությունների վերաբերյալ մասնագետների՝ միասնական տեսակետի բացակայությունը:

Հիմնաբառեր. հանրային ծառայություն, քաղաքացիական դատավարություն, վարչական դատավարություն, դատական ենթակայություն, աշխատանքային վեճեր:

ЮРИСДИКЦИЯ ПО ТРУДОВЫМ СПОРАМ В СФЕРЕ ГОСУДАРСТВЕННОЙ СЛУЖБЫ

Аннотация

Статья посвящена вопросам определения юрисдикции по трудовым спорам в сфере государственной службы. В частности, в центре внимания работы находятся законодательные изменения, внесенные в Административно-процессуальный кодекс Республики Армения и Гражданский процессуальный кодекс Республики Армения, которые вступили в силу с 1 января 2025 года. В результате этих изменений все споры, связанные с государственной службой, в том числе возникающие при поступлении на службу, ее прохождении и освобождении от нее, были отнесены к компетенции суда общей юрисдикции по гражданским делам и, соответственно, подлежат разрешению в порядке гражданского судопроизводства. Вследствие этого дела, связанные с государственной службой, которые ранее рассматривались как публично-правовые отношения и, соответственно, разрешались в административном суде Республики Армения в порядке административного судопроизводства с применением присущих ему специальных принципов и процедур, были переданы на рассмотрение суда, специализирующегося на разрешении споров, вытекающих из частноправовых отношений.

В рамках статьи предпринята попытка комплексного анализа произошедших законодательных изменений с уделением должного внимания как теоретическим, так и практическим аспектам рассматриваемой проблемы. В результате исследование охватывает не только вопросы законности внесенных изменений и их соответствия принципам отраслевого законодательства, но и их практическое значение в контексте защиты нарушенных прав государственных служащих, соответствующей международной передовой практики, а также оценку данных изменений в свете Конвенции о защите прав человека и основных свобод.

Актуальность выбранной темы обусловлена необходимостью всестороннего толкования указанных законодательных изменений, включая анализ лежащих в их основе мотивов и фактических последствий, а также отсутствием единой позиции среди специалистов относительно данных изменений.

Ключевые слова: государственная служба, гражданское судопроизводство, административное судопроизводство, юрисдикция, трудовые споры.

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