

The Institution of Civil Servants and Civil Servants in Romania, According to Current Legislation

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Abstract:

All the functions and responsibilities established by the law in order to carry out the legal powers of public power by the central public administration, the local public administration and by all autonomous administrative authorities, designate the institution of the civil service. All the legislation in force defines the civil servant as the natural person, appointed under the law in a public position in Romania, who carries out the activities stipulated by the normative acts in force, activities that involve the exercise of the powers of public power. The total number of civil servants within the public administration central and local authorities and within the autonomous administrative authorities are the Corps of Civil Servants in Romania. The public state functions are established and approved according to the law, within the ministries, the specialized bodies of the central public administration, as well as within the autonomous administrative authorities. Territorial public functions are established and approved, according to the law, within the prefect institution, the deconcentrated public services of the ministries and the other bodies of the central public administration in the territorial-administrative units. The local public services are established and approved, according to the law, within their own apparatus, the local public administration authorities and the public institutions subordinated to them.

Keywords: public function, civil servant, public administration, senior civil servants

Function and civil servant in Romania

According to the legal provisions (See the Provisions of Law 188 of 1999 republished and updated in 2018), all the functions and responsibilities established by the law in order to carry out the legal attributions of public power by the central public administration, by the local public administration and by all autonomous administrative

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authorities, designate the institution of the civil service. All the legislation in force defines the civil servant as the natural person, appointed under the terms of the law in a public position in Romania, carrying out the activities provided by the normative acts in force, activities involving the exercise of public authority, such as:

- 1) application of the laws and other normative acts;
- 2) the adoption of normative acts and other regulations specific to the public administration institutions, starting from the principle of subsidiarity and the relationship with the citizens they represent;
- 3) adopting the policies and strategies, programs, studies, analyzes and statistics necessary for the implementation of the public policies necessary for the development of the territorial administrative unit to which it belongs;
- 4) internal public advisory, control and auditing activities;
- 5) Human resources and financial management activities;
- 6) collection of budgetary receivables;
- 7) the interests of the administrative authority or public administrative institution to which it belongs, in its relations with the natural or legal persons of public or private law, from the country or abroad, within the limits of the legal competences;
- 8) performs activities compliant with the strategy of informatization of the public administration.

All civil servants within the central and local public administration, as well as within the autonomous administrative authorities are the Corps of Civil Servants in Romania. In accordance with its legal regime, the public service institution in Romania may be (Negoiță, 2009: 67): the public state function; the territorial public function; the local public function;

The public state functions are established and approved according to the law, within the ministries, the specialized bodies of the central public administration, as well as within the autonomous administrative authorities.

Territorial public functions are established and approved, according to the law, within the prefect's institution, the deconcentrated public services of the ministries and the other bodies of the central public administration in the territorial-administrative units.

The local public offices are established and approved, according to the law, within the own apparatus of the local public administration authorities and of the public institutions subordinated to them.

The public functions are divided into 3 distinct classes, in relation to the level of studies necessary for the occupation of the respective public function, as follows:

a.) Class I, includes the public positions for which is required a graduate diploma, respectively long-term higher education, graduated with a bachelor's degree or an equivalent;

b.) Class II comprises the public positions for the employment of which short-term higher education is required, graduated with a bachelor's degree;

c.) The third class includes the public positions for the occupation of which secondary education is required, i.e. high school secondary education, completed only with a baccalaureate diploma.

According to the level of the public office holder's attributions, they are divided into three main categories, as follows:

1.) public functions corresponding to the category of senior civil servants;

2.) public functions corresponding to the category of civil servants;

3.) public functions corresponding to the category of civil servants of execution;

1.) In the category of senior civil servants are included the persons who hold one of the following public functions:

a) Secretary General of the Government and Deputy Secretary General of the Government;

b) secretary general of ministries and other specialized bodies of the central public administration;

c) prefect;

d) deputy secretary general of ministries and other specialized bodies of the central public administration;

e) subprefect;

f) government inspector.

2.) The category of civil servants includes persons who hold one of the following public functions:

a) general manager and deputy general manager of the apparatus of the autonomous administrative authorities, of the ministries and of other specialized bodies of the central public administration, as well as in the specific public functions assimilated to them;

b) director and deputy director of the apparatus of the autonomous administrative authorities, of the ministries and of the other specialized bodies of the central public administration, as well as in the specific public functions assimilated to them;

c) secretary of the administrative-territorial unit;

d) Executive Director and Deputy Executive Director of the deconcentrated public services of the ministries and of other specialized bodies of the central public administration in the administrative-territorial units, within the prefect institution, within the own apparatus

of the local public administration authorities and of the public institutions subordinated to them, as well as in the specific public functions assimilated to them;

e) the head of service, as well as in the specific public functions assimilated to it;

f) the head of office, as well as in the specific public functions assimilated to it.

3.) Public execution functions are structured on professional grades, as follows:

- a) superior, as maximum level;
- b) principal;
- c) assistant;
- d) debutant.

According to the legal provisions, the institution of public function in Romania is based on the following principles:

- a) the principles of legality, impartiality and objectivity;
- b) the principle of total transparency;
- c) the principle of efficiency and maximum effectiveness;
- d) the principle of responsibility for its application in strict compliance with the legal provisions;
- e) the principle of continuous orientation towards the citizen;
- f) the principle of stability in the exercise of public office;
- g) the principle of hierarchical subordination of the public office.

Category of high civil servants

High civil servants perform top management in the central public administration and autonomous administrative authorities. In order to occupy a public function corresponding to the category of high civil servants, the person must cumulatively fulfill the following conditions (Bondar, 2017: 132):

- a. be a graduate of a bachelor's degree program, graduated with a diploma or a long-term university degree, graduated with a Bachelor's degree or an equivalent;
- b. have at least 5 years of seniority in the studies necessary for the exercise of public office;
- c. be a graduate of specialized training programs for a public position corresponding to the category of high civil servants or have exercised a full mandate of parliamentarian;
- d. to promote the national competition to entry into the category of high civil servants.

Specialized training programs to occupy a public position corresponding to the category of high civil servants are organized according to the law.

Entry into the category of high civil servants is done through a national competition. The recruitment is performed by a permanent, independent, seven-member committee, appointed by the Prime Minister's decision. Members of the commission have fixed ten-year mandates and are appointed by rotation. The structure, the criteria for designating the members, the attributions and the way of organization and functioning of the commission stipulated in par. (1) shall be established by the Government Decision, at the proposal of the National Agency of Civil Servants. The persons who have promoted the national competition to entry into the category of high civil servants can be appointed to the public positions corresponding to the category of high civil servants. The appointment, modification, suspension, termination of service relations, as well as disciplinary sanctioning of senior civil servants shall be done, according to the law, by the Romanian Government or by the Prime Minister according to the legal competencies. Upon dismissal from public office, senior civil servants are entitled to material compensation under the law on the unitary pay system for civil servants. The evaluation of the individual professional performances of the senior civil servants is done annually, according to the law.

The general evaluation of the senior civil servants is done every two years, in order to confirm the professional knowledge, skills and abilities necessary for the exercise of public office.

High civil servants have the obligation to attend vocational training courses on an annual basis, according to the law. The annual evaluation and general assessment provided for by the law is carried out by an evaluation commission, whose members are appointed by decision of the Prime Minister, at the proposal of the Minister of Internal Affairs (Negulescu, 2013: 149).

Conclusions

The public state functions are established and approved according to the law, within the ministries, the specialized bodies of the central public administration, as well as within the autonomous administrative authorities. Territorial public functions are established and approved, according to the law, within the prefect's institution, the deconcentrated public services of the ministries and other bodies of the central public administration in the territorial-administrative units. The local public functions are established and approved, according to the law, within the

own apparatus of the local public administration authorities and of the public institutions subordinated to them. The public functions are divided into 3 distinct classes, in relation to the level of studies necessary for the occupation of the respective public function, thus:

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REFERENCES:

Alexandru, I., *Structuri, mecanisme și instituții administrative*, Editura All, București, 2015.

Bondar, F., *Politici publice și administrație publică*, Editura Polirom, Iași, 2017.

Brătianu, C., *Paradigmele managementului universitar*, Editura Economică, București, 2012.

Negoită, A., *Drept administrativ și Știința administrației*, Editura All Beck, București, 2009,

Negulescu, P., *Tratat de drept administrativ*, Editura Lumina Lex, București 2013.