



Civil Servant Status and Labor Relations

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Abstract: *Albania, as a signatory of the Stabilization and Association Agreement, is legally obligated to meet European standards, even for public administration. This modest work attempts to provide a regulatory overview of the status of public administration employees, the impact of political forces on sustainability, and the continuity of employment relationships of civilian servants.*

The primary goal of the entire regulatory system governing the status of civil servants is to establish uniform regulation for all positions related to the exercise of public authority and responsibility for safeguarding the overall interests of the state. Simultaneously, it aims to strengthen legal protection, impartiality of civil servants, political independence, job stability, professionalism, efficiency, and the optimal protection of individual rights and legitimate expectations of citizens from public administration.

This work seeks to highlight these elements as reflected in Law No. 152/2013, as amended, also bringing to light the shortcomings or issues related to the implementation of this law.

In the paper, an evolution of public administration has been reflected up to the present day, highlighting the issues related to recruitment, and movements within and outside public institutions. Efforts to establish sustainability in administrative positions through career progression, and staff motivation based on job performance, which should be objective and serve the purpose for which such a system has been established, are discussed. We have also endeavored to address these elements related to the status of civil servants in this work.

1. INTRODUCTION

This study aims to give an analytical and descriptive state of the civil servant according to Albanian law.

More specifically the objectives are: To analyze the improvements brought to Albanian legislation on civil servant employees and efforts taken by Albanian institutions in reaching the EU standards in this field.

Despite the crisis that happened in the last years in Albania and all over the world, it seems that Albanian has continued to remain the overall focus on reaching out the reforms and standards according to the agenda prescribed by EU bodies.

Per each year one of the indicators of the EU monitoring on the field of reaching the EU standards towards integration is also the improvements in the public administration of Albania.

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Even though there has been limited progress in the field there is still work to do, on many aspects of public administration and civil servant status. Full decentralization is needed in a way to create a sustainable administration independent from the political impact in public administration, the latter has as its function to realize its duty in compliance and protection of the public interest.

With the opening of the negotiations for integration on 19 July 2022, the reform in the public administration seems to be one of the fundamental elements to be discussed during these meetings. As long as the configuration of the civil service system and rules of governing public employees are a reflection of the state sovereignty.

Methods: Sorting and analyzing the data received from different yearly reports of DoPA and EC reports and analyzing the legal framework of the civil servant and its evolution.

2. CIVIL SERVICE NOTION

Civil service often is misconfused with public service as a synonym concepts but public service is a broader concept, which includes, the exercise of all public activities legislative, executive, or judicial. On the other hand, civil servant is just a part of public service which includes employees employed by the executive power in the government. Taking into this aspect is difficult to achieve the de-politization of civil servants, at a time when they are directly related to the governing power.

A “civil servant” is a person who performs the functions for the exercise of administrative public authority, on a merit and professional basis, who participates in the drafting and implementation of policies, monitors the implementation of administrative rules and procedures, ensuring their execution, and providing general administrative support for their implementation ([Law on Civil Servant](#)).

Public administration has been one of the focal areas for EU integration, and improvements are made one achieving the standards and requirements of the EU, obligations falling under the respective chapter for integration.

Mainly the improvements were focused on achieving the following objectives:

- Transforming the recruitment process, on a wider scale.
- Digitalizing the application procedure;
- Making the competition exams more transparent;
- Making career management for civil service more accessible;
- Stimulating performance;
- Improving the tools needed for effective work.

Following this paper, we can identify the pros and cons of this system and also weaknesses that need to be improved.

The first years of the establishment of democratic institutions, showed a week of public administration and mostly this happened because in the post-communism the resources were focused on raising the private sector, meanwhile, the state was focused more on building the fundamental central democratic institutions and leaving in one side the public administration. In the last

decade, improvements have been made, starting with the legal framework regulating the status of civil servants. Albania like other post-communist countries is trying to develop a civil servant system independent from politics. This challenge is hard in a reality where Albania for approximately 50 years period of communism, there was no apparent distinction between political party apparatuses, public administration, and the idea of the State as an independent reality both from public administration and political party.

Following the EU integration, Albania is walking in similar steps on the frame governing the job relations in the civil servant system. In a way to achieve and guarantee the legal independence of officials, the ties between officials and administration are regulated by law.

Albania must achieve a full separation and independence of the civil servants from the government. Taking in consideration that we aim to be part of an EU organization, where challenges related to civil servants consist of achieving the independence of humans working in communitarian institutions from their state of origin. One solution found by the EU administration is regulating the status of these positions through regulations of the EU, which would guarantee legal independence from the states and secure a real career prospect for the staff. (European Parliament, n.d.)

3. ORGANIZATION OF THE PUBLIC ADMINISTRATION IN ALBANIA

Just like in other countries, also in Albania, the public administration is organized hierarchically, at the top of which is put the prime minister, and after him comes the other bodies.

If we would present the organization in a figure way, it would look like the following:

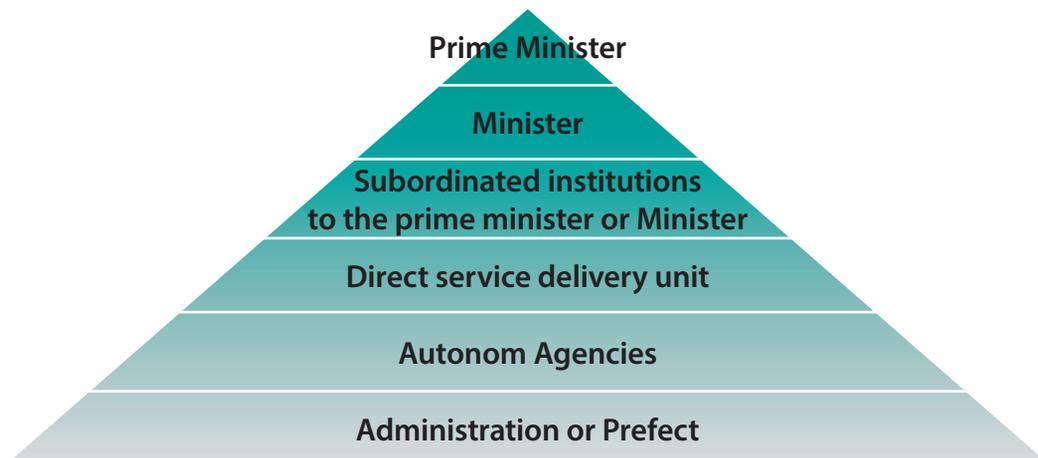


Figure 1. Organization of the public administration

Source: Authors

The civil Servant is split into four main levels:

- First, the Top Management level includes General Secretaries, Director of departments, and General Directors.
- Second, are Mid-level management, including Director of Directorates.
- Third, Low-level management included the head of Sectors.
- Finally, Executive Level which are specialist.

Based on Law for Civil Servant article 2, it's stated that the scope of this law applies to any civil servant (hereinafter referred to as "civil servant"), exercising a public function in a state administration institution, independent institution, or in a local government unit, except for some employees on state institutions that have specific positions ([Law on Civil Servant](#)).⁴

From the beginning of the Civil Servant with first law on 1999, we can notice that the scope of the application is extended in public administration, and many positions that were regulated by the Labor Code now are under the scope of law for Civil Servants. This fact can be seen also in the yearly reports published by the Department of Public Administration, on their official website. ([Administration, n.d.](#))

4. IMPROVEMENTS IN THE PUBLIC SERVICE

As prescribed in the above sections the reform of the civil servants started with the approval of the law on civil servants in 2013 and is still an ongoing process towards EU standards according to the Stabilization Association Agreement signed by Albania.

Law on civil Servant foresees a few new bodies aiming to establish a civil servant system, that grants fulfillment of public functions in respect of law on one side, quality in offering the services and same time assures and protects the civil servants on their rights, by establishing a system based in transparency, equality and merits.

One of these bodies is also the Albanian School of Public Administration (ASPA), which is a central public institution, with administrative and academic autonomy, with the mission of training the civil servants of central government, local government, and independent institutions ([Law on Civil Servant](#)). Based on the reports and data published by ASPA the results of training are as follows ([ASPA, n.d.](#)):

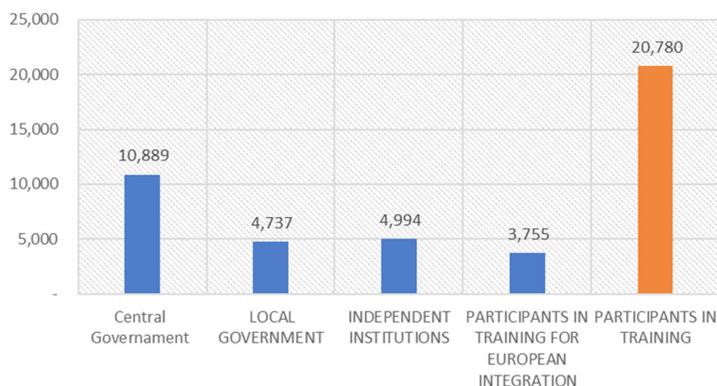


Figure 2. Training during 2022 according to the typology of the institutions

Source: [ASPA, n.d.](#)

⁴ Law no 152/2013 Article 2 "This law applies to any civil servant (hereinafter referred to as "civil servant"), exercising a public function in a state administration institution, independent institution, or in a local government unit, with the exception of: a) elected persons, b) ministers and deputy ministers; c) officials appointed by the Assembly, the President of the Republic or Council of Ministers; d) judges and prosecutors; e) judicial administration employees; dh) militaries of the Armed Forces; e) personnel of the state intelligence service; ë) personnel of the direct service delivery units; f) members and chairmen of the steering collegial bodies of the committees or institutions under the authority of the Prime Minister or a Minister; g) administrative employees; gj) cabinet functionaries; "h) the employees assuming the powers of the Judicial Police agent/officer and those permitted to carry weapons under the law; i) civil employees of the Armed Forces structures; j) employees of the Financial Surveillance Authority; k) employees of the drainage boards; l) advocates at the State Advocacy".

Another body foreseen by the law is also the Commissioner for Civil Service Monitoring (COCM). The Commissioner for Civil Service Monitoring is an independent, legal public entity, which is responsible for monitoring the legality in the management of the civil service. He reports directly to the Parliament at the end of each year. The commissioner ex officio or upon a request monitors the enforcement of civil law in all institutions under the scope of this law. During 2021 there have been investigated and closed 118 cases (Servant, n.d.).

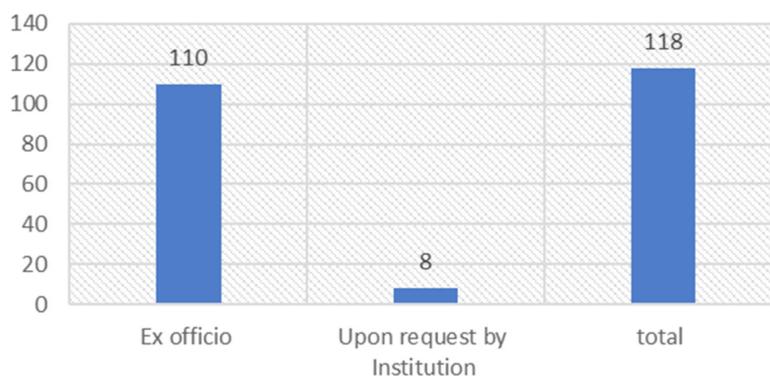


Figure 3. Investigations on infringement of law during 2021

Source: Servant, n.d.

If during the inspection, the Commissioner finds a violation of law in the management of the civil service, he shall, by a written decision, warn the institution, leaving tasks to improve the situation and set a reasonable deadline for their implementation. In case of non-execution of the decisions issued following paragraph 1 of this Article, the Commissioner can fine the person responsible for the non-fulfillment of the measures. The fine amount shall range from 20 to 30% of the monthly salary of the responsible person. In case of further failure to implement the decision, the Commissioner can impose a higher fine of up to 50 % of the monthly salary of the liable person (Law on Civil Servant).

From the yearly reports of DoPA there we can notice some positive steps in some aspects of the civil servant up to date.

It's increased the number of employees with civil status. In 2015 there was a distribution of the staff as in the graphic below:

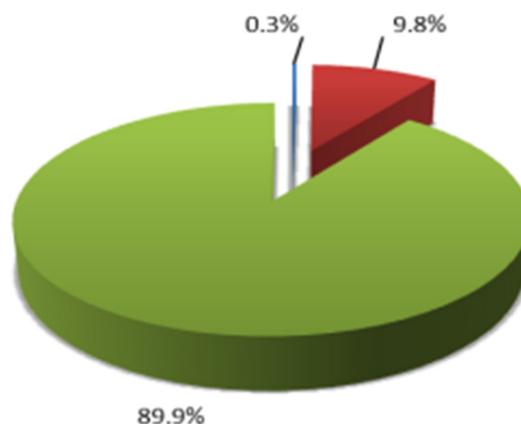


Figure 4. Staff distribution - status

Source: Administration, n.d.

It resulted that 89.9 % were employees with a different status than civil servant like staff regulated by the Labor code, teachers, armed forces personnel, state police employees, doctors, and nurses, etc. 0.3 % were staff with political functions and only 9.8 % were civil servants (Administration, n.d.).

With the extension of the scope of the application of law for civil servants according to Article 2, the number of staff with the status of civil servant has increased significantly. Based on data published by INSTAT, in the Public Sector, there has been a progressive increase in the staff in these positions (INSTAT, n.d.).

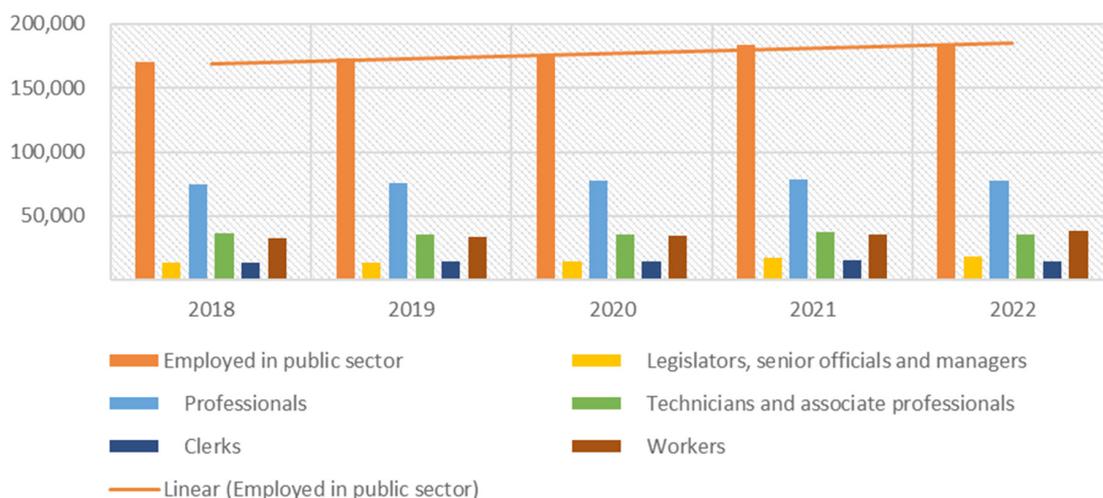


Figure 5. Employment in the Public sector from 2018-2022

Source: INSTAT, n.d.

Based on data analysis from INSTAT, we can notice that even for 2023 the highest number of employees are localized in the private sector, 75 % of the employees during the II-quarter of 2023 are working in the private sector and only 25 % are working in the public sector (INSTAT, n.d.).

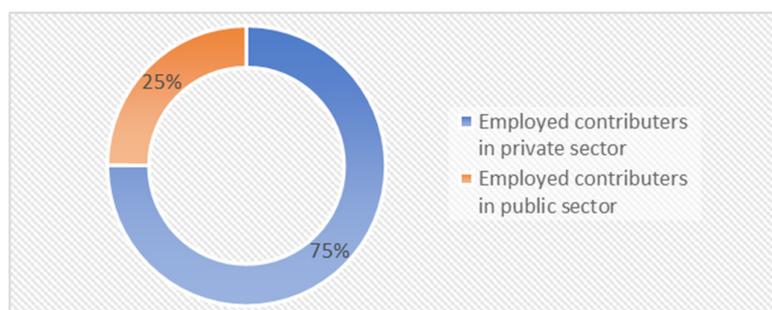


Figure 6. Employed contributors in the private sector account for the majority of ‘II quarter - 23’.

Source: INSTAT, n.d.

This ratio between the two sectors is influenced by different reasons such as salaries, and requests for employees, which is higher in the private sector rather than in the public one, also the possibility of accessing the public sector in Albania seems to be more difficult than in the private sector, this because de-politicization isn’t still achieved in the highest scale and also nepotism that in a small country like Albania is present.

4.1. Recruitment Procedure for Civil Service

The procedure to access the Civil Service in Albania has been improved through the years regarding transparency and facilities for publication and application, but there is no fundamental change regarding the selection Procedure. The only substantial change is related to the final phase of choosing the winning candidate. According to law no. 8549 /1999 the ad hoc commission proposed three winning candidates and the direct superior of the hiring institution would select the most suitable one (*servant, n.d.*). Meanwhile, nowadays the winning candidate is the one with the highest score at the end of the recruitment procedure (*Law on Civil Servant*).⁵

Other facilities are related to the application. Digitization in the field of civil servants has also been significantly improved, and the publication of vacancies on the DoPA website and the receipt of candidacies online through the system are full proof of the application of the principle of transparency in this process.

Despite this, we cannot overcome the fact that in the test phase, there are a lot of problems related to the written test and interview. No matter what the positions and backgrounds are, the formulation of the test is focused on testing the legal knowledge of the candidates rather than professional ones. This may come out due to a lack of professional knowledge in the DoPA personnel, responsible for developing the test questions. The same approach is followed also in the interview phase where most of the questions are related to technical legal knowledge, even though for the position the legal background is not requested.

4.2. Human Resource Management System

HRMS is a system for management of the personal files and automatization for the calculation of salaries. Up to date in Albania, there is an HRMS, which fulfills the criteria of saving the staff file, but yet automatization of salaries isn't reached. With the approval of DCM No. 833, dated October 28, 2020, which relates to rules regarding the content, procedures, and administration of personnel files and the Central Personnel Register, and the approval of Guidance No. 1, dated May 21, 2021, which pertains to the format, elements, and completion of the monthly payroll and expenditure order for salaries in general government units were important steps towards the automatization of the salaries.

Obstacles in this process may be considered the lack of knowledge for the staff dealing with the calculation of the salaries, and missing infrastructure in achieving this development in all of Albania.

So first, the administrative capacities must be well established by developing training in this field and also ensuring the infrastructure for reaching the scope.

Even though digitalization is a focal point for the state, nowadays a considerable number of services are being offered through the state system (e-Albania). This has had a good impact on reducing the risk of corruption among public employees by avoiding physical contact. On the other hand, problems may also related to the process of appraisal of performance for the civil

⁵ Law No. 152/2013 On civil Servant, Article 23 "1. The successful candidates, determined in accordance with Article 21/5 of this law, starting from the best ranked, have the right to chose to be appointed in any position of the group for which the competition was organized, and to any other vacant position of the same group made vacant within the period of the validity of the list, in accordance with the point 3 of this Article"

servants, which should be based on objective indicators and well-formulated templates by DoPA in collaboration with the institution. The performance is done twice per year and this appraisal system helps in growing the career of civil servant. This system must serve to establish the motivation policy in a way to create a sustainability of professional and well-formed staff in the civil service.

During the 2022 monitoring that the EC has done to the Albanian progress regarding public reform, it is stated that limited progress is made but further steps are needed mostly in this points (European Commission, n.d.):

- Increase the capacities for policy planning and monitoring and ensure that the central administration's supervisory and subordinated bodies are well-structured and assigned clear roles;
- prepare new public administration and public financial management strategies in line with relevant sectoral strategies, while at the same time reviewing the effectiveness of the current monitoring structures;
- effectively implement the provisions on merit-based recruitment in the civil service law at all levels, especially at senior level; reform the salary system for civil servants and further expand the automation of the payroll system.

However, the implementation of the public administration reforms requires a continued political steer. Financial sustainability needs to be improved through better reviewing of overall financial resources, as currently, the reform implementation depends heavily on funding from external donors.

5. CONCLUSION

Public administration remains attractive in the job market. The salary scale is regulated for managerial positions. Seniority pay has been increased to reward experience for positions in public administration. Even though better work needs to be done in all units of Human Resources, that should be more effective in preparing motivational policies and facilities for the civil servants in performing their jobs.

Recruitment in public administration institutions is based on open competition, following the principle of merit, ensuring the selection of the best candidates. ASPA has extended the training program to increase the administrative capacities of civil servants in new fields such as digitalization and EU integration. Even though further steps must be taken in this area to increase staff knowledge in better performing their duties.

As analyzed above the recruitment procedures despite the improvements in the legal framework, need to be better organized, specifically in the test phase, in a way to achieve to take well-professionalized people in the right positions.

The Civil Servant System is a system where the status and career of the employee are strictly regulated by law, this way ensures better job stabilities and security and opens the door for a clear career path for the people. So it is a good incentive that should be taken into consideration in the labor market.

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