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RECRUITMENT AND PROFESSIONAL TRAINING OF CIVIL SERVANTS

Theoretical article

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Abstract

An ever increasing feature of public office is the way in which the recruitment and training of civil servants are controlled by legislation. Civil servants are a basic component of public administration but they are also important for labor law because civil service relations have the characteristics of an employment relationship and also specific features resulting from the rules of public law. The relevant expression of the interferences between public and private law for civil servants is recruitment and training. The originality of this article lies in the multidisciplinary character, combining elements of labor law, administrative law and human resources management, character reflected in the bibliography used. Another merit of this study is that the authors correlated the provisions of various laws: Constitution, Labor Code, Law no. 161/2003 on the transparency in exercising public dignities and public functions, Government Ordinance no. 137/2000 regarding the prevention and sanction of all discrimination forms, Government Ordinance no. 129/2000 concerning adults' professional training.

General considerations

In the doctrine there is a debate concerning the integration of the civil servants status either in the field of labor law or in the field of administrative law (Ștefănescu, 2002, pp. 27-30; Țiclea, 2011, p. 23). From the point of view of labor law, their relations of civil service actually represent labor relations characterized by some particularities caused by the incidence of some public law norms (Cernat, 2012, p. 27; Ștefănescu, 2012, p. 21; Țiclea, 2011, p. 23).The interferences between public and private law in the matter of civil servants' recruitment and training makes more difficult the scientific approach of the authors of this paper. This study has a multidisciplinary character, combining elements of labor law, administrative law and human resources management. There are many laws which have incidence in the recruitment and professional training of civil servants, considering their affiliation to both branches of law: administrative law and labor (employment) law.Recruitment and training of civil servants, which includes the promotion in public functions, requires the correlations between the provisions of various laws: Constitution, Labor Code, Law no. 161/2003 on the transparency in exercising public dignities and public functions, Government Ordinance no. 137/2000 regarding the prevention and sanction of all discrimination forms, Law no. 202/2002 concerning the equality of chances for men and women, Government Ordinance no. 129/2000 concerning adults' professional training, Law no. 319/2006 concerning labour safety and security etc.

Recruitment of civil servants and the interdiction of discrimination

Recruitment is the process through which the persons holding the characteristics needed by the vacant posts are identified. Recruitment process provides the employer with persons among which the selection will be made. In order to decide who should be employed or not, the company must decide what method to adopt (Sandu, 2005, p. 61):

a) publicity, which is the most frequently used method of recruitment and in the same time compulsory for public institutions;
b) circle of acquaintances is a procedure through which the employer resort to colleagues, friends, relatives who can give information about the persons interested in being employed. The main disadvantage of this method is its subjectivism and the peril of discrimination between the candidates because one can intervene and make pressures in the favor of a certain candidate;
c) recruitment counselors which know where to find the proper candidates and how to convince them to participate at the selection process/examination;
d) searching for the proper candidates is the most difficult and complex method of recruitment because it implies the activity of identifying the persons having the training, qualities or experience asked for the job and also determining and motivating them to apply;
e) card index with potential employees, drawn out by the recruitment compartment of the company;
f) marketing activities through which the vacant posts, especially the leading positions, are presented in a very attractive way for the interested.

Concerning to the Romanian legislation, it is unlawful for an employer to discriminate in the arrangements made for the purpose of deciding who should be employed, on the terms on which a person is offered a job, by refusing to employ a person because of his sex, age, ethnicity or other discrimination criteria. Selection procedures should focus on the suitability of the candidate as regards professional training and aptitudes for the job and not on the candidate's gender, race or other particularity.

Government Ordinance no. 137/2000 regarding the prevention and sanction of all discrimination forms expressively incriminates:

a) the refusal of a natural or juridical person to employ a person on the ground of his affiliation to a race, nationality, ethnicity, religion, social category or disadvantaged category, respectively because of thought, age, sex or sexual orientation;
b) the conditioning of holding a post on the basis of the affiliation to a race, nationality, ethnicity, religion, social category or disadvantaged category, age, sex or sexual orientation, respectively the convictions of the candidates, with the exception of "positive discrimination" cases.

Article 5(2) of the Romanian Labor Code forbids any direct or indirect discrimination on the basis of sex and other criteria. In accordance with Law no. 202/2002 concerning the equality of chances for men and women, direct (sexual) discrimination refers to a situation in which a person is less favourably treated, on grounds of sex, than another person is, was or would be treated in a similar situation; on the other hand, indirect (sexual) discrimination is defined as a situation in which a disposition, a criterion or a practice, apparently neutral, would disadvantage especially the persons belonging to a certain gender in comparison with persons of the opposite sex, excepting the case when this disposition, criterion or practice is objectively justified by a legitimate

purpose and the means of accomplishing this purpose are proper and necessary. It means that, generally speaking, indirect discrimination occures when the provision, criterion or practice puts or would put certain persons (from a particular cathegory) at a particular disadvantage when compared with other persons. The fact that the applicant/employee/civil servant is put in a disadvantage often mean having been deprived of the chance of applying for a job, or an application being rejected for not meeting the required provision, criterion or practice. In order to deny any indirect discrimination, an employer has to show justification in imposing the requirement, criterion or recruitment condition.

If the problem of determining the existence or non-existence of direct discrimination is apparently simple because it means only to settle if a person is less favourably treated than another person is, was or would be treated in a similar situation, the situation is completely different in the case of indirect discrimination. Indirect discrimination is a form of hidden discrimination, covered by the fact that the acts of exclusion, distinction, restriction or preference of one employee in comparison with others are apparently based on criteria other than those stipulated by law, although they produce the same effect as direct discrimination (Radu, 2008a, p. 194). An action or a fact which may at first sight appear as non-discriminating, may on reflection be said to indirectly discriminate against a person or a group of people. For example, the requirement of a test of Romanian language as an examination test would have a discriminatory character because it would disadvantage a large number of persons belonging to ethnical minorities. Exception makes the case of civil servants, because the Law no. 188/1999 on the status of public servants stipulates that in administrative-territorial units in which persons belonging to a national minority have a share of over 20%, some civil servants from departments that have direct contact with the citizens will know the respective minority language (article 108). Similarly, the demand that all applicants have their domicile in a certain region of the city would exclude the ones coming from area with a population prevalently belonging to a certain ethnicity (Radu, 2008a, p. 194).A situation of incompatibility can not be intrepreted as discrimination. Incompatibilities are “those limitations or restrictions of legal capacity, expressly and strictly regulated by law in order to protect the person or defense the general interests of society”, their existence attracting the nullity of the individual employment contract or of the relation of civil service(Ghimpu & Țiclea, 2000, p. 138).The incompatibilities for civil servants are stipulated by article 94 of Law no. 161/2003 for ensuring transparency in the exercise of public dignities, public functions and the business environment, the prevention and punishment of corruption.

Recruitment is a method of civil service employment, along with promotion, transfer, redistribution, and other means provided by law. Recruiting for entry into the body of civil servants is made through competition (contest), in the limit of the vacant public functions reserved for this purpose in the plan of employment in civil service.

The fundamental criterion for employment and promotion of civil servants remains the professional capacity. The contest is based on the principles of open competition, transparency, competence and professional merit, as well as that of equality of access to public functions for every citizen who meets the legal conditions. The employer cannot introduce his own unjustified (arbitrary) criteria, different from the common ones: the conditions of studies, the minimum conditions of seniority, the Romanian citizenship, domicile in Romania, knowledge of Romanian language, at least 18 years of age, full capacity of exercise, proper health condition, as well as other conditions stipulated by art. 54 of Law no. 188/1999.The employer could conclude an employment contract taking into consideration some other criteria, among which the sex of the future employee, but only in those circumstances in which he faithfully considers that these particularities could be necessary for the normal performance of the activities required by the employment contract (Radu, 2008b, p. 27) and he has to demonstrate that his actions were justified as a proportionate mean of achieving a legitimate aim. This is a case of permitted discrimination: when the sex or the marital status of the person required is a genuine occupational qualification, e.g. for reasons of physiology (as in the employment of an actress/actor or of a model) or for reasons of decency or privacy (as in the case of an attendant in a public lavatory).

Another example of forbidden discrimination and permitted discrimination can be found in Law no. 202/2002 on the equality of chances for men and women which prohibits discrimination by using practices disadvantageous for persons belonging to a certain gender on the occasion of announcing, organizing competitions or examinations and selecting applicants for vacant posts in the public or private sector (prohibited discrimination), excepting those occupational activities for which, by reason of their nature or the particular context in which work is carried out, gender particularities constitute a determining factor (permitted discrimination). In light of the above considerations, we must emphasize that exercising a public function is not a case in which gender particularities constitute a determining factor.

Along the same line of accepting certain differences of treatment and positive actions, Law no. 202/2002 on the equality of chances for men and women does not consider as being discrimination the following situations:special measures stipulated by the law in order to protect maternity, pregnancy and nursing;positive actions intended to protect certain categories of men and women; a difference of treatment based on a gender characteristic when, due to the nature of specific occupational activities or the context in which they are carried out, the sex of the person constitutes an authentic and determining professional requirement as long as the objective is legitimate and the demand is commensurate(article 6 par. 5 of Law no. 202/2002 on the equality of chances for men and women).

The question raised from these legal stipulations is: Which are the activities for the fulfillment of which "the sex of the person constitutes an authentic and determining professional requirement"? Romania does not have, as the United Kingdom, a Sex Discrimination Act (1975) that recognizes eight situations when discrimination is permitted because sex is a genuine occupational qualification for the job (Keenan, 2007, pp. 419-420):

"1. The job needs to be done by a man or woman for reasons of physiology (excluding physical strength or stamina) or in dramatic performances or other entertainment for reasons of authenticity.

2. The job needs to be done by a man or woman to preserve decency or privacy because it is likely to involve physical contact with men or women, and these people would object to the presence of someone of the opposite sex.

3. The job involves working or living in a private home and there may be either a degree of physical/social contact with the person living in the home or the worker may acquire intimate knowledge of the person's life.

4. The nature of the job means that the employee will have to live at his place of work and the accommodation provided is only suitable for either men or women, and it is not reasonable to expect the employer to make adjustments to that accommodation.

5. The job involves working in a single-sex prison or hospital.

6. The holder of the job will be expected to provide individuals with personal services promoting welfare or education, and those services could most effectively be provided by a man or a woman.

7. The job needs to be held by a man because it is likely to involve duties outside of the United Kingdom in a country where laws or customs would prevent a woman from being able to carry out their duties effectively or at all.

8. The job is one of two to be held by a married couple" (Nairns, 2008, pp. 57-58).

As long as the Romanian law does not specify for what kind of activities it will be possible for an employer to discriminate, their determination is up to the judge.

Another issue raised by the principle of equal treatment and chances is the one of the criteria on which discrimination is founded. Placing it among the fundamentals of the Romanian state (Dănișor, 2008, p. 36), article 4 par. 2 of the Constitution sets out the equality of citizens as follows: "Romania is the common and indivisible country of all its citizens, irrespective of race, nationality, ethnicity, language, religion, sex, opinion, political affiliation, fortune or social origin".

In a strict interpretation given by the Constitutional Court to the principle of non-discrimination meaning that "... through its content, article 16 paragraph 1 of the Constitution needs to be correlated with the provisions of article 4 par. 2 of the basic law which identify the non-discrimination criteria, which are race, nationality, ethnicity, language, religion, sex, opinion, political affiliation, fortune and social origin"(Decision no. 70/1993 of the Romanian Constitutional Court, Motive no. 4), it would result that "only what is explicitly prohibited by the constitutional text as being discrimination is contrary to equality, otherwise equality is presumed" (Tănăsescu, 1999, p. 30). Following this argument, the principle of non-discrimination would prohibit only the discrimination based on the criteria strictly enumerated by the basic law, other forms of differentiation based on criteria other than these but pursuing the same purposes and having, basically, the same effects as discrimination, not being incriminated. Such an interpretation cannot be accepted because there are many other non-discrimination criteria mentioned in the sources of international law. For example, Convention no. 111 of the International Labor Organization (I.L.O.) stipulates that discrimination consists of "any distinction, exclusion or preference based on race, color, sex, religion, political opinion, nationality or social origine, which has as a result the distroying or alteration of the equality of chances and treatment in the field of employment and occupation". Article 14 of the European Convention on Human Rights prescribes that "exercising the rights and liberties stipulated by the present Convention has to be ensured, without any distinction, based especially on sex, race etc.". Having in view the fact that Romania is a signatory to these international treaties, and, in accordance with article 20 of the Constitution, citizens' rights and freedoms shall be interpreted and applied in compliance with the Universal Declaration of Human Rights, to agreements and treaties to which

Romania is signatory, we can conclude that the enumeration of the criteria in article 4 is only illustrative, not restrictive (Dănișor, 2008, pp. 53-57). The immediate consequence is the fact that every time a difference of treatment is perceivable but cannot be placed among the cases and criteria enumerated under article 4 par. 2 of the Constitution, the judge has to make use of international reference norms.

Moreover, Ordinance no. 137/2000 prohibits all forms of direct or indirect discrimination, based on a variety of criteria: race, nationality, ethnicity, language, religion, social category, beliefs, sex, age, disability, non-contagious chronic diseases, AIDS, belonging to a disadvantaged category, "as well as *any other criterion* which has as a purpose or result the limitation, removal of the recognition, use or exercise, in conditions of equality, of human rights and fundamental freedoms recognised by law in the political, economic, social and cultural fields or in any other domain of the public life". From this one can infer that any other criterion (such as height, weight, physical aspect etc.) used for such a purpose or having the same effect represents a discrimination criterion.

As regards disability, it is unlawful to discriminate against disabled persons in deciding whom to interview, whom to offer the job to and the terms of the offer. The potential employer can defend himself if he believes on reasonable grounds that the nature of the disability will substantially affect the disabled person's ability to carry out the required tasks. According to Law no. 319/2006 concerning labour safety and security, employers are required to make reasonable adjustments in the working conditions and the workplace to accomodate disabled persons (such as widening a doorway, specialised equipment or flexible working hours for the disabled), but costs must be taken into account when deciding what is reasonable.

As for the nature of the non-discrimination criteria (enumerated by the Romanian Constitution), the specialty literature identifies two categories of criteria : the first category – race, nationality, ethnicity, language, religion, sex, social origin – is characterized by the fact that "they represent personal features on which individuals do not have any control or have a very low control, and which make them be naturally attached to a group, the affiliation to it playing an self-identification role" (Dănișor, 2008, p. 53), while the second category (political opinion or affiliation) consists of criteria which are dependent on the subject's will. Obviously, placing within these two categories such criteria as sexual orientation or transsexuality remains difficult as long as having sexual intercourse either with same sex persons, with opposite sex persons, or both of them, as well as changing sex are conceived as being the result of a willful act, or a manifestation connected with sexual psychism.

It is also unlawful to give unfavourable treatment to a person by way of victimization. The Emergency Government Ordinance no. 137/2000 incriminates the notion of victimization, seen as any adverse treatment that constitutes a reaction to an intimation or complaint submitted to a court concerning the violation of the equal treatment principle. This happens when the person has taken proceedings in respect of non-discrimination principle or has threatened to do so, as when an employer refuses a job to a female applicant because she is involved in an unresolved sexual harassment case.

The person who considers himself discriminated can introduce a petition to The National Council for Fight against Discrimination (NCFD) within a term of one year from the date of commission of the act or from the date when this person could have known about its commission. The Council solves the petition through the sentence of the Directing Committee. Through the petition introduced, the person who considers himself discriminated has the right to require that the consequences of the discrimination acts should cease and the situation previous to discrimination act be re-established. The person interested has the obligation to prove the existence of certain facts implying the existence of discrimination, direct or indirect, while the person against which the complaint was made must demonstrate that facts do not constitute a case of discrimination. An employer may not intentionally discriminate against an applicant but may still be found to have discriminated unlawfully if all the conditions stipulated by law for direct or indirect discrimination are fulfiled. The Directing Committee of NCFD adopts a decision within a term of 90 days from the date of receiving the complaint. The decision is communicated to the parties within 15 days from the date of the adoption and produces effects from the date of communication. The decision is attackable in front of the court of administrative control.

In accordance with Law no. 202/2002, the fact of comitting any act of discrimination represents a contravention and is punishable by a fine of 1.500 lei (~400 euro) up to 15.000 lei (~4000 euro). In the case of discrimination based on multiple criteria, the contraventional sanctions will be cumulated without being possible to surpass the double of the maximum fine established for the most serious contraventions or, as the case may be, the general maximum established for the contraventional imprisonment (6 months, respectively 300 hours) or the obligation to carry out an activity for the community benefit(article 10 par. 2 of Emergency Government Ordinance no.

2/2001 concerning the juridical regime of contraventions).

Cases of discrimination

The most frequent cases of discrimination recorded in Romania are:

- sexual discrimination – job offers only for men, job recruitment announcements exclusively for women;

- age discrimination – age limits for men's employment; age limits for women's employment; neutral age limits – in order to constitute a case of discrimination, these age limits should be imposed by the employer, not by the law;

- discrimination on the basis of the previous experience for the application post – requirement of previous experience for men, requirement of previous experience for women;

- discrimination motivated by the image of a person – agreeable physical aspect or height/weight limits as a requirement in the case of men employment, women employment or as a demand not related to sex; solicitation of a photography before the employment as a condition for men/women or as a demand not related to sex(The Center for Social Development Sighișoara, 2003, p. 25).

Although in the employment practices the most frequent criterion of discrimination is the one regarding the gender, from the statistics of the National Council for Fight against Discrimination one can infer that the most frequent petitions sent to be solved to NCFD, were formulated mainly by men and had as object the discrimination on grounds of ethnicity (Rroma mainly), the social category, age or religion. Regarding the discrimination made on the gender or sexual orientation criterion, the low number of petitions shows the fact that persons who confronted with such situations either did not know who to address a complaint to or did not have the courage to do it (The Center for Social Development Sighișoara, 2003, p. 25).

In the matter of age discrimination it seems that its proportions are much more reduced, representing almost half of the gender discriminations, fact that shows that employers discriminate mainly on the ground of sex and afterwards on the ground of age. Women seem also much more affected by age discrimination than men.

Discrimination motivated by the image of a person are more difficult to be recorded in practice, with the exception of evident discrimination cases – the introduction of a pleasant physical aspect requirement in the employment advertisements or the express solicitation of a photography.

Cases of discrimination on grounds of only one criterion are extremely rare. As a rule, most cases of discrimination are based on a variety of criteria. Research emphasized the existence of multiple discriminatory behaviors, respectively discrimination founded on more than one criterion – gender discrimination combined with age discrimination or discrimination based on personal image.

Drawing the conclusions, we can affirm that discrimination in the field of employment and selection of employees still maintain themselves at alarming quotes and could become chronic through the inclusion of all sectors in which it can act. The elimination of discrimination or even only its attenuation is one of the necessary conditions for constructing an equitable democratic society, this one implying the intervention of state authorities, changes in employers' vision, but also in every citizen's mentality.

Professional training of civil servants

General considerations concerning professional training

Generally speaking, professional training consists of "any form of education which prepares a qualification for a profession, a trade or a specific job or confers a particular aptitude in their practice, no matter the age or the level of training and even if the educational program contains a part of general education" (Gîlcă, 2005, p. 189). This notion does not contain the activities of scientific research.

The Treaty of Maastricht has a whole chapter dedicated to professional training. Article 127 regards the application of Community's policy of professional training which supports and completes the actions of the member states, by respecting entirely their responsibility for the content and organization of professional training. With this aim in view, Union's action regards the following aspects: facilitating the adaptation to the industrial changings, especially through professional training and retraining; improving the initial vocational training and the permanent training in order to facilitate the professional insertion and reinsertion on the labor market; facilitating the access to professional training and encouraging the mobility of the instructors and the trainees, especially the young; facilitating cooperation between education and training establishments and enterprises; developing the exchange of information and experiences concerning the common problems of the member states systems of professional training.

In Romania, the initial professional training is achieved through the national system of education so if this is structured by the Law on education no. 1/2011.

Taking into consideration the characteristics of the economy being in full process of restructuration, characteristics which need a

labor market which should be rapidly adaptable to new demands, it is required the necessity of organizing an efficient system of professional training and requalification of the grown-ups.

Government Order no. 129/2000 concerning adults' professional training, approved, with modifications and completions, by Law no. 375/2002, stipulated that in Romania the professional training of the adults represents a national priority (article 1, paragraph 1). By imposing the principle of equal access to professional training, without discrimination, the rights and obligations of the employees and employers during the period the employees are taking courses of professional training, are to be stipulated in the collective labor contract or in the individual employment contract, as the case may be.

The present Code of Labor gives also a special attention to the professional training in Title VI. Until the adoption of the new Labor Code, a series of normative acts detailed the objectives and institutions responsible for performing activities of professional training.

According to Government Order no. 129/2000, professional training of the adults has the following main objectives:

a) facilitating social integration of the individuals in accordance with their professional aspirations and the needs of the labor market;

b) training the human resources capable of contributing to the increasement of the work force competitivity;

c) refreshing the knowledge and perfecting the professional training in the basic profession, as well as in professions related to it;

d) changing the qualification, caused by the economic restructuration, social mobility and modifications of the capacity of work;

e) assimilating advanced knowledge, modern methods and proceedings necessary for accomplishing job tasks.

Adults' professional training contains initial vocational training and continuous professional training, organized through other forms than the ones specific to the national system of education. Initial vocational training of the adults ensures the training necessary for obtaining the minimum professional competence. In exchange, continuous professional training is subsequent to initial training and ensures to the adults either the development of professional competence already obtained or the obtaining of new competence.

Professional perfecting of civil servants

The stress that Law no. 251/2006 concerning the modification and completion of Law no. 188/1999 regarding the Statute of civil servants laid on the professional perfecting and promotion of the civil servants is explained, on the one hand, by the fact that the principle of professional training is a fundamental principle of labor law and, on the other hand, by the reality that only some good-trained civil servants can act rationally and efficiently, increasing the quality of administration. Civil servants represent one of the basic components of public administration, reason for which "it is natural that human resources have a great importance which is presently reflected in the higher and higher demands concerning the employment on a post requiring such a quality" (Popa & Ondină, 2003, p. 266). This is why Law no. 251/2006 concerning the modification and completion of Law no. 188/1999 regarding the Statute of civil servants introduced Section no. 3, entitled "Professional perfecting of civil servants" and Section no. 5, entitled "The system of rapid promotion in the civil service".

Article 49^1 of Law no. 188/1999 regarding the Statute of civil servants, introduced by Law no. 251/2006, regulated the principle of civil servants' professional perfecting like that: "Civil servants have the right and obligation to improve permanently their abilities and professional training".

During the period when civil servants take courses of professional perfecting, they benefit of the proper salary rights, in the case these courses are:

a) organized at the initiative or for the interest of the public authority or institution;

b) taken at the initiative of the civil servant, with the consent of the public authority or institution's leader.

Civil servants which attend forms of professional perfecting whose duration is longer than 90 days during a calendar year, organized in our country or abroad, financed by the state or local budget, are forced to make a written pledge that they will work in public administration between 2 and 5 years from the end of the programs, proportional to the number of days of professional perfecting, if it is not stipulated other period of time for the respective program.

Civil servants which attended forms of professional perfecting in the above-mentioned conditions and whose relations of civil service end before the term stipulated, in accordance with the stipulations of article 84 b), d), e)[the relation of civil service ends through the agency of the written agreement of the parts; dismissal from the civil service; resignation], article 84^1 paragraph 1 f), g)[the relation of civil service ends when the civil servant is convicted by a verdict for an act stipulated by article 50 h) or which decided the application of a custodial penalty, at the time of the final verdict; respectively as a result of the prohibition to exercise the profession or the civil service, as a measure of security or supplementary

penalty, at the time of the final verdict which ordered the prohibition] or article 84^2 paragraph 1 d) [the relation of civil service ends for professional incompetence, in the case of obtaining the "unsatisfactory" mark at the evaluation of individual professional performances], are forced to give back the value of the expenses made with the occasion of the perfecting, as well as, as the case may be, the salary rights obtained during the perfecting, calculated under law conditions, proportional to the rest of the period until the fulfilment of the term, excepting the case when the civil servant does not own anymore the civil service because of reasons not involving his guilt. When the persons which attended a form of perfecting, did not graduated it because of their fault, they are forced to give back to the public institution or authority the value of expenses made for the perfecting, as well as the salary rights obtained during the perfecting period, calculated under law conditions, if these ones were not covered by the public authority or institution.

Public authorities or institutions have the obligation to stipulate in their own yearly budget the sums necessary for supporting the expenses made for the professional perfecting of civil servants, organized at the initiative or for the interest of the public authority or institution. The academic and doctoral studies are not considered to be forms of professional perfecting and cannot be financed by the state or local budget.

The promotion of civil servants

The policy of civil servants recruitment (Popa & Pană, 2003, p. 269) and the civil service management involve the adoption of some general principles such as, for example, the fact that administration has in view the employment of better and better trained civil servants or those well-trained civil servants will be taken into consideration in case of promotion on free posts etc.

Civil servant has the right to career, stability and continuity in civil service (Iorgovan, 1996, p. 667), fact that must not be seen as a "settlement" in the post until his retirement but, on the contrary, as a stimulus for the perfecting of his professional training for the purpose of promotion. Promotion is the method of career development through occupying a superior civil service which offers to the civil servants "the guarantee that the effort made by them in order to improve their professional training will be capitalized for the interest of the society and theirs" (Corbeanu, 1998, p. 182).

Promotion represent the removal of the civil servant to a superior level in the hierarchy of civil services from State machinery, becoming natural that, after a certain period of time and on the basis of the results obtained, he should be moved to a superior civil service(Popa & Pană, 2003, p. 279). Promotion is based on the evaluation of the professional competence of the person willing to be promoted, having the advantage of an objective estimation of its activity and its encouragement for the permanent professional training and perfecting.

Activity evaluation has in view the aim of estimating the way in which the civil servant has accomplished his tasks, knowing the possibilities and chances of promotion, including giving salary rights depending on the professional performances shown.

Inside of the process of evaluating professional performances of civil servants there are established the demands of professional training for civil servants. After the evaluation of individual professional performances, civil servant gets one of the following marks: "very well", "well", "satisfactory", "unsatisfactory". The marks obtained with the occasion of professional evaluation are taken into consideration at the advancement in remuneration degrees, promotion in a superior civil service, dismissal from civil service.

In his career, civil servant can be promoted and advanced in remuneration degrees, under law conditions. Class promotion, promotion in professional degrees and advancement in remuneration degrees are not conditioned by the existence of a free post.

Promotion in the professional degree superior to the one owned by the civil servant is made through the agency of a yearly competition or exam, by changing the post occupied by the civil servant as a result of the competition/exam graduation. The post record of the civil servants which has promoted in the civil service will be filled in with new duties and responsibilities.

The exam of promotion in the professional degree is organized by the public authority or institution, with the assent of the National Agency of Civil Servants, in the limit of the posts ment for promotion and the budgetary funds allocated for this purpose.

In order to participate to the exam of promotion in the professional degree superior to the one owned by him, the civil servant has to meet the next cumulative conditions:

a) have at least 4 years of seniority in the professional degree of the civil service in which is promoted;

b) have at least 2 years of seniority in the remuneration degree from which he is advanced;

c) have obtained at least the "well" mark at the evaluation of individual performances in the last 2 years;

d) have not a disciplinary sanction not erased, under law conditions, from his service record.

Civil servants which do not meet the conditions of seniority stipulated for the promotion in the professional degree superior to the one owned by each of them, can participate to the competition organized, under law conditions, for the purpose of rapid promotion in civil service.

In order to participate to the competition of promotion in a leading function, civil servants have to meet the following cumulative conditions:

a) have graduated a master or post academic studies in the field of public administration, management or in the specialty of the studies necessary for exercising civil service;

b) be appointed in a first class civil service;

c) meet all the specific demands stipulated by the post record;

d) meet all the conditions stipulated by article 51^1, paragraph 6;

e) have not a disciplinary sanction not erased, under law conditions, from the service record.

The advancement in remuneration degrees is made under the conditions of the law concerning the unitary system of civil servants remuneration.

As a result of getting a diploma of superior studies in the specialty of their activity, the execution civil servants have the right to participate at the exam organized for the occupation of a civil service in a class superior to the one in which they are employed. Promotion under these conditions is made through the agency of transforming the post occupied by the civil servant as a result of passing the exam.

The system of rapid promotion in civil service

Law no. 251/2006 concerning the modification and completion of Law no. 188/1999 regarding the Statute of civil servants regulated for the first time in Romania a system of rapid promotion in civil service, system by which can benefit:

1. the persons who graduated programs organized, under the conditions of the law, for the purpose of obtaining the status of public manager;
2. civil servants which do not meet the conditions of seniority asked for the promotion in the professional degree superior to the one owned and promoted the competition organized for the rapid promotion in the civil service to which can participate only if they meet the following cumulative conditions:

a) have at least 1 year of seniority in the professional degree of the civil service from which they are promoted;

b) have obtained the "very well" mark at the evaluation of individual professional performances from the previous year;

c) have not a disciplinary sanction not erased, under the conditions of the law, from the service record;

d) have attended at least a form of professional training during the previous year(article 60^1 of Law no. 188/1999, introduced by Law no. 251/2006).

The competition for the rapid promotion in civil service is organized every year by the National Agency of Civil Servants, in the limit of the number of civil services ment for rapid promotion.

The period during which a person have been attended programs organized, under law conditions, for the purpose of obtaining the status of public manager is assimilated with the probation period. In case of not graduating the programs for obtaining the status of public manager, the probation period does not constitute either seniority in the specialty of the studies necessary for occupying civil services or seniority in civil service.

The regulation of all these demands and conditions a civil servant has to meet in order to be promoted emphasizes the importance presented by the professional perfecting for the organization and functioning of public administration, meaning the selection of the best civil servants according to the principle "the proper man to the proper place".

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