

CIVIL SERVANT, LAW **NËPUNËSI CIVIL, LIGJ**

DISCLAIMER

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Unofficial translation of the consolidated version of the Law 152/2013 on the Civil Service, containing the initial law and the following amending acts:

Amended by Normative Act of the Council of Ministers no 5, dated 30/09/2013¹

Amended by Constitutional Court Decision no 5, dated 05/02/2014²

Amending Law no 178/2014³

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LAW

No. 152/2013

ON CIVIL SERVANT

¹ This Normative Act was approved on 30/09/2013, published in the Official Journal no 159, page 7213, year 2013. The Assembly of Albania, in reliance on Article 81, point 2, letter 'e' of Article 101 of the Constitution, decided in its plenary hearing dated 17/10/2013, the approval of the normative act by the law no 161/2013. This act is with the following contents: The following amendments shall be affected to the Law no 152/2013, dated 30/05/2013, "On civil servant":

Article 1

Article 70 shall be amended as follows:

Article 70

'The Law no 8549, dated 11/11/1999 "Civil servant status", as well as any other provision running counter to this law, shall be repealed upon this law expanding its effect.'

Article 2

Article 72 shall be amended as follows:

Article 72

This Law shall enter into effect on 1 October 2013 and its effect shall be expanded 6 months since its entry into effect. Until the effect of this law is expanded, the Law no 8549, dated 11/11/1999 "Civil Servant Status" shall be applied.

Article 3

This normative act enters into effect immediately and shall be published in the Official Journal.

² **Constitutional Court Decision no 5, dated 05/02/2014, entering into effect on the day of announcement, determined: - Repealing the CM normative act no 5, dated 30/09/2013 "On some amendments to the Law no 152/2013 "On civil servant" and of the Law of the Assembly no 161/2013 "On approval of the normative act no 5, dated 30/09/2013"**

³ This law was approved by Parliament on 18/12/2014, published on 14/01/2015 in the Official Journal no. 211, year 2015, p. 12727 and will enter into force on 29/01/2015 and contains a temporary provision as follows:

Article 26

Entry into effect

This law shall enter into effect 15 days after its publication in the Official Journal.

Pursuant to Articles 81, point 2, 83 point 1 and 107 of the Constitution, upon the proposal of the Council of Ministers,

**ASSEMBLY
OF THE REPUBLIC OF ALBANIA
DECIDED:**

**CHAPTER 1
GENERAL PROVISIONS**

**Article 1
Aim and Object**

1. This law aims at establishing a stable and professional civil service, based on merits, moral integrity and political impartiality.
2. The law regulates the legal relationship between the state and the civil servant (hereinafter referred to as “civil service relationship”) and determines the administration rules of the civil service. The civil service relationship is a legal relationship of administrative law nature.

**Article 2
Scope of application**

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;
- ç) judges and prosecutors;
- d) 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”.

Article 3

Special statutes

1. The police officials and the foreign service officials are civil servants and this law applies to them, to the extent it is not otherwise provided for by the special law.

~~2. Special laws may regulate some of the elements of the civil service relationship, on:~~

~~a) the foreign service~~

~~b) the structures, which according to the law are allowed to carry weapons.~~

~~2. Elements of the civil service relations in the foreign service may be regulated by specific law”~~

3. The special laws mentioned in paragraph 2 of this Article, may regulate:

- a) additional conditions for recruitment;
- b) specific rights or obligations other than those provided for by this law;
- c) specific positions;
- ç) special rules on the career development in accordance with a grading system.

Article 4

Definitions

1. In this law, the following terms have the following meanings:

a) A “state administration institution” is the Council of Ministers structure, the ministries, the central institutions subordinated to the Prime Minister or to a minister, including its territorial branches, as well as the administration of the Prefect.

b) An “Independent institution” is the administration of the Assembly, the President, local government, Constitutional Court, High Court, Prosecution Office, as well as every independent institution provided by the constitution or established by law which reports to the Assembly, including its territorial branches.

c) A “civil servant” is a person who performs the functions for the exercise of administrative public authority, on a merit and professionalism bases, who participates in drafting and implementation of policies, monitoring the implementation of administrative rules and procedures, ensuring their execution and providing general administrative support for their implementation.

ç) A “cabinet official” is the official employed in the cabinet of the President, Speaker of Parliament, Prime Minister, Deputy Prime Minister, Minister, as well as of the head of any other independent institution or of an official appointed by the Assembly or President, if provided by the law, who assumes the office of the cabinet director, advisor, assistant, spokesperson or personal secretary to the head of the cabinet.

d) An “administrative employee”, is the employee carrying out administrative, secretarial, maintenance, service and custodian duties and does not exercise a public authority.

dh) "Public direct service units" are the administrative units delivering directly to the citizens the public service of pre-university and university education, health care, culture, sports, arts, social assistance and other social services.

e) A "direct superior" is:

i) The head of the institution, for the civil servant of senior management category, including the civil servants assigned to a special coordinator position and the head of subordinated institution;

ii) The general secretary or the employee at equivalent position with him, for the directors of directorates and directors of territorial branches of the institution;

iii) The head of a subordinated institution for the directors of the institution;

iv) The director of the directorate for all the civil servants in other positions.

ë) A "special coordinator" is an ad hoc position and temporary, which covers duties of coordination, representation, chairing of institutional or inter-institutional working groups, assigned by the Premier or a Minister and under the authority of the latter.

f) A "responsible unit" is the Department of Public Administration (DPA) for the state administration institutions and the human resources unit of independent institutions and local government units.

2. The terms "private interest", "conflict of interests" and "continuous conflict of interest" have the meaning as defined by the legislation on the prevention of the conflict of interest in the course of assuming public functions.

CHAPTER II

MANAGEMENT OF THE CIVIL SERVICE

Article 5

Civil service management principles

The civil service management shall be governed by law and shall be based on the principles of equal chances, non-discrimination, merits, transparency, professionalism and political impartiality, and it shall guarantee the stability of the civil servants as well as the continuity of the civil service.

Article 6

Council of Ministers

1. The Council of Ministers:

a) approves the bylaw acts for the implementation of this law;

b) approves the way of organization and functioning of the institutions responsible for the professional training of civil servants;

c) annually reports to the Assembly on the policies in the civil service and their implementation.

~~2. The Minister of Interior is responsible for the general management of the civil service policies.~~

Article 7

Department of Public Administration

~~1. The Department of Public Administration is part of the Ministry of Interior apparatus and is under the direct authority of the Minister of Interior.~~

~~1. The Public Administration Department shall report to the minister responsible for the public administration.~~

2. DoPA, has the following responsibilities:

- a) prepares and monitors the implementation of the state policies on the civil service;
- b) prepares primary and secondary legislation related to the civil service;
- c) supervises the implementation of the civil service legislation in the state administration institutions;
- ç) prepares opinions on any draft act proposed by other institutions related to the employment relationships in the public administration;
- d) approves and supervises the implementation of the civil service training programs;
- dh) prepares the annual staffing plan for the state administration institutions;
- e) represents the Council of Ministers, jointly with the Ministry of Finance, in the negotiations and consultations with the trade unions and representative of civil servants on the general working conditions in civil service;
- ë) manages the Central Registry of Personnel;
- f) assists and advises the institutions in the proper implementation of this law;
- g) prepares general guidelines and manuals to guarantee a homogeneous implementation of the civil service legislation at the state administration institutions;
- gj) presents to the Prime Minister, upon the proposal of the state administration institutions, their structure and organogram in accordance with the legal provisions for budget system management in the Republic of Albania.
- h) in accordance with applicable law, drafts and cooperates for the salary structure for officers and employees of central and local level public administration;
- ~~h/1 drafts and approves recommendations for civil servants training policies.~~
- i) exercises any other competence attributed by this law or based on it.

3. DoPA is entitled to:

- a) request and receive any information necessary to fulfill its responsibilities from any state administration institution, independent institution or local government unit.
- b) inspect any file and document related to a decision on the labour relationship in civil service, at the state administration institutions.

4. Any institution employing civil servants, as well as any public functionary and civil servant having competencies in management decisions or holding relevant information are obliged to cooperate with DoPA.

Article 8

Albanian School of Public Administration

1. The Albanian School of Public Administration (hereinafter referred to as “ASPAs”) is established under the subordination of the ~~Minister of Interior~~ minister responsible for the public administration as a central public institution, with headquarter in Tirana.
2. ASPA has administrative and academic autonomy. Its aim is the vocational training of civil servants, as well as any other national or international individual who is not part of the civil service and that meets the required criteria.
3. Vocational training includes in-depth training program of candidates for the category of the senior level management civil servants, members of the senior level management corps and continuous vocational training program for civil servants, as well as any other individual outside the service.
- ~~4. ASPA's budget is determined as a separate budget line under the budget of the Ministry of Interior.~~
4. ASPA budget is a separate item of the State Budget in the program approved for the public administration.
5. ASPA's governing bodies are:
 - a. Governing Board;
 - b. Director.
6. Governing Board is composed of 12 members and is headed by one of the rectors of universities, elected by the Conference of Rectors of Albania. The Board is composed of **ASPAs Director**, representatives and senior officials from line ministries, local government, DoPA, universities, civil society and business, as defined by the Decision of the Council of Ministries
7. The Governing Board approves the policies, strategies and partnerships of ASPA, designs its regulatory framework, as well as approves the draft budget and the organizational draft structure of ASPAs. Detailed tasks of the Board are determined by the Decree of the Council of Ministers.
8. In determining the selection and vocational training policies, ASPA is obliged to cooperate with DoPA ~~taking account of the recommendations approved by it~~, as the entity responsible for preparing and overseeing the implementation of state policy in the civil service.
9. ASPAs director is appointed and dismissed in accordance with the criteria and rules established for members of the Senior Level Management Corps. By way of exception, ASPAs Director is appointed by the Council of Ministers, upon the proposal of the ~~Minister of Interior~~ minister responsible for the public administration, until the beginning of the effects of this law.
10. ASPAs employees shall be appointed by the Director of ASPA, according to the procedures of the Labor Code until the beginning of the effects of this law.
11. The Council of Ministers adopts the detailed rules for the organization and operation of ASPA.

Article 9

Vocational Training Programs

1. ASPA has a duty to provide vocational training, through including the programs, as follows:

a) in-depth vocational training program, which trains the candidates for being members of TMC;

b) continuous training program, which trains continuously and in issues related with the work of civil servants of all categories, as well as any other individual outside this service.

2. ASPA, versus a fee, offers the possibility of preliminary preparation for candidates who want to take part in the open competition for the executive category.

3. ASPA conducts studies and publications in the field of public administration.

4. ASPA's students selected from civil society, business, and individuals outside the civil service, are obliged to pay the fee.

5. The Council of Ministers approves the relevant fees.

Article 10

Institution's human resource management units

1. As a rule, every institution within the scope of this law must establish a human resource management unit. The human resources management unit is responsible for the management of the civil servants of the institution, except, the cases when is stated explicitly in this law that a decision / a specific administrative act that is related to the civil service relationship, is attributed to another official or to an especially established body in accordance with this law.

2. The Council of Ministers may decide that several state administration institutions establish a joint human resource management unit or that part of the functions of the human resource units of a subordinated institution be carried out by the superior institution.

Article 11

Commissioner for Civil Service Monitoring

1. The Commissioner for Civil Service Monitoring (hereinafter referred to as "Commissioner") is an independent, legal public entity, which is responsible of monitoring the legality in the management of the civil service.

2. The Commissioner is supported by the Secretariat of the Commissioner for Civil Service Monitoring (hereinafter Secretariat). The Secretariat has its staff and equipment necessary to support the Commissioner in the performance of duties assigned by law.

3. The Commissioner has its own independent budget, which is funded by the State Budget and from various donations.

4. The Assembly decides for the salary of the Commissioner for Civil Service Monitoring, organizational structure and the classification of the salaries for the employees of the Secretariat.

5. The Commissioner reports to Parliament at the end of each year and whenever is asked about his activities.

6. The Secretariat is organized and operates according to the regulations, approved by the Commissioner.

Article 12

The election and the Incompatibilities

1. The Commissioner is elected by the Assembly for a five-year term, eligible for reappointment only once.
2. The Commissioner must meet the general requirements for admission to the civil service, under Article 21 of this law and should have at least 10 years experience in its profession or in public administration.
3. The Function of the Civil Service Commissioner is incompatible with any other state function, with the membership in political parties and participation in their activities, as well as any other profitable activity, except for teaching.

Article 13

The end of mandate

1. The commissioner mandate ends when he:
 - a) loses the Albanian citizenship
 - b) is convicted for a criminal offence by a final judicial decision
 - c) loses the full legal capacity to act
 - ç) becomes unable due to health reasons to perform his duties, certified by competent medical committee;
 - d) reaches the age of retirement
 - dh) resigns or
 - e. the 5-year mandate expires.
2. The Commissioner may be discharged by the Assembly:
 - a) due to violations of the provisions of this law or other legal acts;
 - b) if he conducts activities that create a conflict of interest;
 - c) cases of incompatibility of its function are discovered;
 - ç) when being absent from office without reason for more than 30 consecutive days.
3. Where the position of the Commissioner remains vacant, the Assembly shall elect the Commissioner within 15 days since the creation of the vacancy.

Article 14

Competencies of the Commissioner

1. The Commissioner oversees ex officio or upon the request of institutions, the law enforcement in the civil service management in all institutions that employ civil servants.
2. In the exercise of its competencies The Commissioner:
 - a) carries out a complete administrative investigation in accordance with the Code of Administrative Procedures;

- b) requests and receives any information necessary to fulfill its responsibilities from any institution;
 - c) inspects the files and any document related to the administration of the civil service;
 - ç) solicits, ex officio or upon request, statements from each employee or functionary of the institution;
 - d) examines and inspects each management practice in any institution that employs civil servants.
3. Any institution employing civil servants, as well as any public functionary and civil servant having competencies in the management of civil service or holding relevant information are obliged to cooperate with the Commissioner.

Article 15

Supervision

1. If during the inspection, the Commissioner finds 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.
2. In case of non-execution of the decisions issued in accordance with 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.
3. The fine can be appealed before the competent court for the administrative disputes.

Article 16

Execution of fines

The decision of the penalty executed in accordance with the legislation in force for administrative contraventions.

Article 17

Personnel Files and Registry

1. Any state administration institution, independent institution and unit of local government shall create and administer the personnel files of every person employed in the respective institution (the personnel file). The personnel file contains the professional data of every employee and civil servant as well as any other data, related to the employment relationship.
2. The Department of Public Administration establishes and manages the Central Personnel Registry, which is a unique state database that includes the professional and any other data related to the employment of every employee in the central administration institutions, independent institutions and local government units.
3. Each state administration institution, independent institution and unit of local government shall be obliged to provide the data provided for by paragraph 2 of this Article.

4. The Council of Ministers shall establish detailed rules on the content, procedure and the administration of the personnel files and Central Personnel Register, the data held in the register, as well as the way of keeping, entering, updating and using these data.

Article 18

Annual staffing plan in the civil service

1. The management of civil service is based on the annual staffing plan.
2. The Council of Ministers shall, not later than end of February, approve the annual staffing plan for the state administration institutions. Each independent institution and local government units shall, not later than end of February, approve their staffing plan. The annual staff planning approve according to this paragraph are published.
3. The Council of Ministers approves:
 - a) the rules on the content, approval deadline and the way of publication the annual staffing plan;
 - b) the detailed procedures for the preparation and approval of the general annual staffing plan for the state administration institutions.

CHAPTER III

CLASSIFICATION OF CIVIL SERVICE POSITIONS

Article 19

Classification

1. Civil service positions are classified based on the category, class and the nature of the position.

The classification is made based on the job description for each position.
2. Civil service positions are divided in following categories:
 - a) senior level management;
 - b) middle level management;
 - c) junior level management, and
 - ç) executive level.
3. Each category, provided for in paragraph 2 of this Article, is subdivided into classes.
4. Senior level management category civil servants are the following positions:
 - a) secretaries general;
 - b) directors of departments;
 - c) directors of general directorates; and
 - ç) equivalent positions of the first three types.
5. Middle level management category civil servants are the following positions:
 - a) directors of directorates; and
 - b) equivalent positions to them.
6. Junior level management category civil servants are the following positions:
 - a) head of sectors;

b) equivalent positions to them.

7. Civil servants of the executive level category shall be the specialists.

8. The positions of the executive category in the civil service are classified according to the type of position into:

a) the group of general management positions, including positions that relate to administrative responsibility in all institutions of the civil service and whose exercise requires knowledge of general administration;

b) the groups of special management positions, including positions that deal with specific responsibilities in one or more institutions of the civil service and the exercise of which requires special knowledge of a particular profession or similar to it.

9. The Council of Ministers approves:

a) the classes applicable for each of the categories;

b) general job description for each of the categories, classes or groups provided for by this Article and the groups of specialized administration;

c) general job requirements for each of the categories, classes and groups provided for by this Article;

ç) the positions titles part of each category, class and group;

d) the methodology for the classification of a position to a given category, class or a certain group.

CHAPTER IV RECRUITMENT TO THE CIVIL SERVICE

Section 1

General provisions on the recruitment to the civil service

Article 20

Recruitment principles of the civil service

1. Recruitment to the civil service is based on the principles of equal opportunities, merit, professional capacity, non-discrimination and is performed through a transparent and fair selection procedure.

2. The selection procedure is based on the assessment of the professional skills of the candidates, through a national competition, including a written test, an oral test and other appropriate form of verification of skills as well as the assessment of the professional background of the candidates.

Article 21

General requirements to enter the civil service

1. In order to be admitted into the civil service, the candidate shall meet the following requirements:

- a) being Albanian citizenship
- b) having full legal capacity to act,
- c) commanding the Albanian language, written and spoken;
- ç) being in appropriate health condition to carry out the respective duties;
- d) not being sentenced by a final court decision for the commission of a crime or a criminal contravention committed by intention;
- dh) not having been dismissed from the civil service as a disciplinary sanction which has not lapsed in accordance with this law;
- e) fulfillment of the specific criteria related to education, experience and others for the respective category, class, group and position.

Section 2

Recruitment to executive-level civil service positions

Article 22

Recruitment to the civil service

1. The recruitment into the civil service at the executive level positions is done through an open competition.
2. The competition is organized periodically by the respective responsible unit, for each of the groups provided for by Article 19 point 8 of this law.
3. The competition consists of two phases:
 - a) preliminary screening whether the candidates meet the general and special requirements, as published in the announcement;
 - b) evaluation of the candidates.
4. The preliminary screening is made by the responsible unit while the evaluation of the interested candidates is done by a Permanent Admission Committee constituted for each of the groups provided in point 8 Article 19 of this law.
5. The successful candidates, obtaining more than 70% out of the total assessment points, are ranked by the Permanent Admission Committee, in the list of successful candidate (hereinafter referred to as the 'list').
6. The Council of Ministers approves the detailed rules on the establishment, composition and the activity of the permanent admission committees, as well as the detailed rules for the admission procedure and evaluation of candidates.

Article 23

Appointment in the Civil Service

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.

2. The responsible unit appoints the candidates to the position selected in accordance with point 1 of this Article.

3. The list of successful candidates, not yet appointed under point 2 of this Article, is valid for a two year period since the announcement of winners. If another competition procedure is organized in the meantime for the same group, the successful candidates of the lists, who are not appointed yet, are re-ranked accordingly referring to the final result.

3/1. The vacancies, created temporarily, may be filled in by the winning, not yet appointed candidates, following their ranking in the list set out in point 3 of this Article. The process shall never be applied in absence of the consent of the winning candidates and it shall not affect the rights they enjoy under point 3 of this Article. The responsible unit shall in such a case make the temporary appointment of these employees, after obtaining their consent.

4. Any appointment to an executive position, contrary to this Article, is absolutely invalid.

5. The Council of Ministers approves the detailed procedure in accordance with this Article.

Article 24

Probation period

1. An employee being appointed for the first time to civil service shall be subject to a one-year probation period, from the date of the act of appointment.

2. During the probation period, the civil servant is subject to mandatory training programs at ASPA and performs his duties under the coaching by senior civil servants of the same or superior category.

3. At the end of the probation period, the institution where the civil servant is employed shall decide:

a) confirmation of the civil servant;

b) extend the probationary period once for a period of up to six additional months in case that for justified reasons a full appraisal of the employee was not possible;

c) non-confirmation of the civil servant.

4. The decision, in accordance with point 3 of this Article is always based on the results of the individual performance and on the results of the exam at the end of the mandatory training program at ASPA.

5. The Council of Ministers determines the obligations of the civil servants during the probation period, as well as the criteria and procedure for the decisions provided for by point 3 of this Article.

CHAPTER V

LATERAL TRANSFER AND PROMOTION

Article 25

~~Lateral transfer~~

Parallel transfer within the executive category

1. The vacant positions of executive level category, junior or middle level management category are first opened to the existing civil servants of the same category through a lateral transfer procedure.

2. Civil Servants of the same category in the same or another institution of the civil service fulfilling the conditions for lateral transfer and the specific criteria for the vacant position are entitled to apply in accordance with point 1 of this Article by way of the procedure for the lateral transfer, for occupying the vacancy.

3. The assessment of the interested candidates is made by an internal committee, set up in every institution, through a procedure organized following the principles provided for in point 1 of Article 20 of this law. The representative of the responsible unit is a member of the internal committee.

~~4. At the end of the evaluation the committee may decide to:~~

~~a) select the best suitable candidates to be appointed in the vacant position;~~

~~b) conclude the procedure without a selectee in case none of the candidates fulfills the specific requirements and conditions for the vacant position.~~

~~4. Upon the completion of the evaluation, the Committee may decide:~~

~~a) selection of the candidate being the first in ranking among the candidates having obtained at least 70 per cent of the points; or~~

~~b) completion of the procedure without any selected candidate, as long as none of the candidates obtained at least 70 per cent of the points".~~

5. The Council of Ministers approves:

a) the conditions that the civil servants have to meet for the lateral transfer and the detailed procedure of lateral transfer;

b) the rules on the establishment and composition of the committee provided for by paragraph 3 of this Article.

Article 26

Promotion

~~1. Promotion consists in a competition procedure organized by the responsible unit, for one or several vacant positions, based on the principles provided for by Article 20 of this law.~~

~~If a vacant position of middle or low level management category is not completed in accordance with Article 25 of this law, it is filled through the promotion.~~

~~2. Civil servants belonging to a lower level category, employed in the same or another institution of the civil service may apply for promotion in accordance with paragraph 1 of this Article, if they fulfil the conditions for promotion and the specific criteria required by the vacant position.~~

~~3. If the vacant position is not filled through promotion procedure, a new procedure of lateral transfer or promotion could be organized within three months. Until the final occupation of the vacancy, if necessary, the temporary transfer procedure in the interest of the institution may be applied, as provided for by Article 48/1, letter "a" of this law.~~

~~4. The Council of Ministers approves the conditions that the civil servants have to meet for the promotion and the detailed procedure for the promotion.~~

Filling in the vacancies at the low or medium management category

1. Filling in the vacancies at the low or medium leading category shall initially occur through the parallel transfer procedure and, in the event of failure to fill in the vacancy, through the promotion procedure.
2. These procedures shall be organised by the responsible unit for one or many similar vacancies, based on the principle referred to in Article 20 of this Law.
3. Entitled to apply under the procedure of point 1 of this Article shall be:
 - a) civil servants of the same category, at the same or different institution of the civil service, meeting the specific conditions and requirements for the vacancy(ies), through the parallel transfer;
 - b) the civil employees of a lower category, employed at the same or at a different institution of the civil service, as long as they meet the specific conditions and requirements for the vacancy(ies), through the promotion.
4. By way of exception, the Council of Ministers with regard to the state administration institutions and the body competent for the dependant institutions may decide that the procedure for filling in the low or medium leading category vacancies be open even for other candidates meeting the conditions and requirements for the vacancy(ies). Filling in the vacancies in this category shall never exceed 20 per cent of the total number of vacancies in every calendar year.
5. Competition shall be conducted in two stages:
 - a) preliminary verification whether the candidates meet the specific conditions and requirements for the vacancy(ies);
 - b) evaluation of candidates.
6. The preliminary verification shall be conducted by the responsible unit, while the evaluation of the candidates shall be done by the admission committee being set up by the responsible unit.
7. Upon the completion of the evaluation, the committee may decide:
 - a) the selection of the candidate being ranked first among the candidates having obtained at least 70 per cent of the points; or
 - b) completion of the procedure without any selection, as long as none of the candidates did not obtain at least 70 per cent of the points.
8. If the vacancy is not filled in through the procedures provided for in points 1, 2 and 3 of this Article, the secondment procedure shall, as long as it is necessary, be applied in the interest of the institution under letter "a", point 1, of Article 48 of this law.
9. The Council of Ministers shall approve the conditions and detailed procedure for filling in the vacancies of the low or medium leading category.

CHAPTER VI SENIOR LEVEL MANAGEMENT CIVIL SERVANTS

Article 27

Senior level management Corps

1. The senior level management civil servants in the state administration institutions, appointed in accordance with the Article 28 of this law constitute the corps of senior level management civil servants (hereinafter referred to as "TMC").
2. The total number of civil servant of Senior level Management, members to TMC, is equal to the number of the regular positions of the existing senior management category at the approved or scheduled to be approved within the budget year, at the state administration institutions, plus a reserve of 15% of this number.

3. The total number of the TMC members is established in the annual budget law, while the number of the members to be recruited annually is established in the annual staffing plan.

~~4. Admission to TMC can be done only by persons who have completed in-depth training in ASPA.~~

4. Admission to TMC may only occur from the persons having completed the profound training at ASPA, with the exception of cases provided for in point 5 of this Article and in Article 30, point 5/1, of this Law.

5. Exceptionally, until the first graduation of students from ASPA or if the number of graduates from ASPA is not enough, admission to TMC is done through a national competition, under Article 29 of this Law.

Article 28

Recruitment to the TMC through ASPA

~~1. The admission into the in-depth training program for TMC at ASPA, is done through a national competition, which is open only to the midlevel civil servants, as well as for every other individual, local or foreign, not being part of the civil service, however, fulfilling the specific requirement of admission to the TMC.~~

1. Admission to the profound training program for TMC at ASPA shall occur based on a national competition, which shall be open only to the civil servants of the medium leading category and senior leading civil servants at the independent institutions, as well as to any other individuals not being part of the civil service, however, meeting the specific requirements for being admitted to TMC.

2. The admission procedure to the in-depth training program organized by the DoPA, in cooperation with ASPA, according to the principles of Article 20 of this Law.

3. The evaluation of candidates for admission to the in depth training program for TMC at ASPA is made by the National Selection Committee, established under Article 31 of this law.

4. The candidates assessed over the minimum threshold of 70% out of the total assessment points of the national competition evaluation, referring to the sequence of ranking and within the number approved for the recruitment to the TMC, established in the annual staffing plan, are admitted to study for the in-depth training for TMC.

5. Candidates who complete the in-depth training are appointed by DoPA as civil servants in senior level management, members of the TMC, based on the final ranking.

6. The Council of Ministers approves the specific criteria for the recruitment to the TMC and the detailed recruitment procedure for the in-depth training program at ASPA.

Article 29

The direct admission to TMC

1. Admission to TMC, in the case provided for in paragraph 5 of Article 27 of this law, is made directly through a national competition, which is open only to the category of middle managers civil servants, who meet specific requirements for admission to TMC. Exceptionally, the Council of Ministers may decide that admission to TMC is also open to other candidates that meet specific requirements for admission to TMC.

2. The admission procedure to the TMC is organized by the DoPA, according to the principles of Article 20 of this Law.
3. The assessment of the candidates is conducted by a National Selection Committee, established in accordance with Article 31 of this law.
4. The candidates assessed over the minimum threshold of 70% out of the total assessment points, referring to the sequence of ranking and within the number approved for admission to TMC, established in the annual staffing plan, are appointed by DoPA as senior level management civil servants, members of the TMC.
5. The Council of Ministers approves the specific conditions and criteria for the recruitment to the TMC and the detailed recruitment procedure.

Article 30

Appointment of a member of TMC in a regular position

1. The members of the TMC can be assigned either to any appropriate position of senior level management provided for by paragraph 4 of Article 19 of this law or appointed as special coordinators.
2. The assignment to a position of senior level management category in a state administration institution may be done only with one TMC member. Each appointment of a senior level management category, contrary to the provisions contained in this law, is absolutely invalid.
3. A member of the TMC can also be appointed with his consent and non-objection from DoPA to a position of mid-level management.
4. The TMC members appointed to a special coordinator position or into a mid-level management position:
 - a) for the first two years are entitled to the remuneration corresponding to the lowest class of the category of senior level management.
 - b) if not appointed to an appropriate position for at least 6 months in the first 2 years, receive 50 percent of the salary of the lowest class of the category of senior level management, for an ensuing two-year period;
 - c) if not appointed to a regular position for at least 8 months in the first 4 years, he remains a member of TMC with no entitlement to salary.
5. An independent institution or a local government unit, with the consent of the involved civil servant and non-objection from Department of Public Administration, can also choose a member of TMC to a senior level management position in the respective institution.

5/1. The Public Administration Department may, upon the request of the civil servant of the senior management category at the independent institutions and after obtaining the consent of the responsible unit in the institutions, appoint this civil servant to a TMC position at the public administration institution. The civil servant shall, in this case, follow the profound training program of the candidates for members of the civil servants of the senior leading level at ASPA.
6. The Council of Ministers approves the rules on the management and mobility of the TMC member.

Article 31

National Selection Committee of TMC

1. The TMC National Selection Committee is composed of nine members:

~~a) one representative of DoPA,~~

~~b) two representatives of ASPA, not ASPA's employees, one of whose is a foreign expert;~~

a) a PAD representative, presiding over the commission;

b) two ASPA representatives, one of them not being ASPA employee.

c) one representative of TMC

ç) five independent personalities of recognized professional experience and integrity.

2. The five independent personalities are nominated by the Council of Minister, for a 5-year mandate except from the first members of committee, one of whose, being elected by lots, is substituted every year.

3. The Council of Ministers approves the detailed rules on the composition, selection, decision making and payment of the members of the National Selection Committee of TMC.

Article 32

Admission of senior level management category civil servants in the independent institution and local government units

~~1. The recruitment to the senior level management positions in independent institutions and local government units is conducted through a competition procedure organized for one or more positions and open only to the mid-level management civil servants. Any appointment of senior level management category, contrary to the provisions contained in this law, is absolutely invalid.~~

1. The admission into the category of the senior management civil servants at the independent institutions and local governmental units shall occur through a competition organised for one or many vacancies and it is open to the civil servants of the medium management category. The head/body of the decision-making institution may, by way of exception, decide that the admission procedure be open even to other candidates, outside the civil service, meeting the specific criteria for being admitted into this category, however, this number shall under no circumstances be higher than 15 per cent of the total number of the senior leading category members for that institution. Any appointment of the senior leading category conducted at variance with provisions of this law shall be absolutely invalid.

2. The competition is organized in accordance with Article 20 of this law by the human resource management unit of the institution.

3. The Council of Ministers approves the detailed rules on the establishment, composition and the activity of the permanent, admission committees as well as the detailed rules on the recruitment and evaluation procedure of the candidates.

CHAPTER VII

RIGHTS AND DUTIES IN THE CIVIL SERVICE

Section 1

Rights of civil servants

Article 33

The right to appropriate working conditions and right of protection from the state

1. Civil servants have the right to appropriate working conditions. The state institutions guarantee appropriate conditions for the protection of physical and moral integrity as well as of the dignity of the civil servant.
2. Civil servants shall be protected by the state while exercising their duties in the civil service. The state institution where the civil servant exercises his duties, shall ensure the protection of civil servants in the course of performing his duty or in connection with it, requesting, if necessary, the support of specialized bodies in accordance with the law.
- ~~3. The Council of Ministers approves the detailed rules and procedures for the implementation of paragraph 2 of this Article.~~

Article 34

The right to salary and its structure

1. Civil Servants have the right to remuneration for the duties performed in the civil service, in accordance with the law.
2. The remuneration shall consist of the basic salary of the category, the supplement of the respective class to which the position belongs to and the allowance for the working conditions.
3. In addition to what is provided for in paragraph 2 of this Article, for any class there are salary steps in ascending order. Progression from one salary step to another is based on the following:
 - a) the seniority in the civil service;
 - b) the performance appraisal results;
 - c) successful conclusion of the professional training activities for each step.
4. The Council of Ministers approves the bylaw acts on the salary structure and levels, in accordance with this Article.

Article 35

The right to strike

Civil servants have the right to strike, unless otherwise provided by law. In any case, the right to strike is not permitted in the area of essential services of the state activity such as transport, public television, water, gas and electricity supply, prison administration, administration of justice system, national defense services, emergency medical services, services for the food supply or services for the air traffic control.

Article 36

The right to join trade unions and professional associations

1. Civil servants have the right to establish and join trade unions or professional associations aiming at protecting their rights in the civil service. He also has the right to be elected in their steering organs and participate in their activities, outside office hours.

2. It is forbidden that a civil servant from the senior management category to be elected at the steering bodies of a trade unions or professional associations.

Article 37

Political rights

1. Civil servants have the right to participate in political activities, outside office hours. Civil Servants shall refrain from expressing their political persuasions or preferences publicly.

2. Civil servants in senior level management category cannot be members of political parties. Civil servants of other categories are eligible to be members of political parties, but cannot be members of their governing bodies.

2. Civil servants have the right to run as candidates or be elected for the assembly of the Republic of Albania or for local government bodies. In this case a civil servant shall request for his suspension from the civil service.

Article 38

Right to professional training

Civil servants have the right to improve their professional capabilities through professional and continuous training financed out of public funds, foreign donors or personal income.

Article 39

Right to consultation

1. Civil servants have the right to be consulted, through their trade unions or the representative of the civil servants of the institution on decisions pertaining to legal and bylaw acts, affecting the civil service relationship and working conditions.

2. The trade unions where the civil servant is a member, or the representative of the civil servants of the institution, where the civil servant performs his duties, are entitled to be consulted on any individual decisions involving a civil servant represented by it.

3. The Council of Ministers approves the detailed rules for the exercise of the right of consultation in accordance with this Article.

Article 40

Work duration, leaves and holidays

1. Civil servants have the right to annual paid leave and other paid and non-paid leave.

2. The rules on the duration of work and leave, overtime and compensation, as well the compensation of the expenditures for the performance of the duty outside the working place are approved by the Council of Ministers.

Article 41

Right to information and appeal

1. Civil servants have the right to be notified on the initiation of any administrative procedure and any final decision related to their civil service relationship.
2. Civil servants have the right to inspect their personnel file and to request the modification of the data.
3. Civil servants have the right to appeal before the competent court for administrative disputes against any action or omission that violates the rights and legitimate interests in the civil service relationship.

Section 2

Civil servants obligations

Article 42

Obligation to respect the law and vocational training

1. A civil servant shall perform his duties in the civil service with professionalism, neutrality, without discrimination and in accordance with the law.
2. Civil servants shall be obliged to respect the Constitution and protect the human rights and freedoms and Serve to the public interest.
3. A civil servant is obliged to improve professional skills through vocational training and continuous training financed by public funds.

Article 43

Obligation of accountability and refusal of illegal orders

1. Civil servants bear full responsibility for the lawfulness of their actions or omissions, while performing their duty in the civil service.
2. Civil servants shall be obliged to comply with the orders of their superiors, in accordance with the law and internal regulations of the institution.
3. In case of doubts on the legality of the orders of the superior, a civil servant shall not implement the order, but without delay shall inform the superiors having issued the order and ask for a written confirmation.
4. The civil servant is obliged to obey to the written order, in accordance with paragraph 3 of this Article, except when its execution, would constitute a criminal offence.

Article 44

Obligation of transparency and confidentiality

1. Civil servants shall be obliged to perform their duties in the civil service with transparency and ensure to the parties as well as to the large public the requested information, except the cases when such information is classified as state secret by law.
2. Civil servants shall not use information collected while on duty for purposes other than the ones establish by law. Civil servants have an obligation to ensure the protection and non-distribution of personal data and those related to commercial or professional activities of

persons protected by law, which come to his knowledge during the performance of his duties.

Article 45

The obligation of good administration of state property and working time

1. Civil servants shall be obliged to manage in an appropriate way the state property assigned to them for the exercise of their duties and use it only for the purposes determined by law or internal rules of the institution.
2. Civil servants shall be obliged to use working time efficiently and only for the performance of his duties.

Article 46

Conflict of interest

1. Civil servants shall avoid any conflict between their private interest and the public interest during the exercise of their duties in the civil service.
2. The legal regime of the conflict of interest is regulated by specific law.

Article 47

Duty of declaration of interests and property

1. A civil servant is obliged to inform his superiors in advance of any profit activity he aims to exercise outside its duty in the civil service and can exercise such activity only if authorized in written form by the institution.
2. A civil servant is also obliged to inform his superiors without delay in case of doubts on a possible conflict of interest obey their instructions for the prevention of such a conflict of interest.
3. A civil servant is obliged to submit the declaration of its private interests and assets in accordance to the law in power.

CHAPTER VIII

TRANSFER IN THE CIVIL SERVICE

Section 1

Temporary transfer

Article 48

Temporary transfer

1. A civil servant can be temporarily transferred to another civil service position of the same category on the following grounds and time-limits:
 - a) in the interest of the institution for up to 6 months during a two year period;
 - b) to improve the performance of the civil servant for up to 3 months during a 2-year period;

c) on temporary medical grounds or during the pregnancy based on the decision of the competent commission as provided by the law, as long as necessary, as determined by the respective commission.

2. The transfer can be done:

a) within the institution where he is employed, including its territorial branches;

b) to a dependent institution in the subordination of the institution where the civil servant is employed;

c) to another civil service institution;

3. The civil servant may refuse the transfer in the following cases:

a) his health situation, certified by a medical certificate, makes the transfer impossible.

b) if the location where transferred is more than ~~30 km~~ 45 km away from the domicile.

4. Upon the expiry of the deadline of temporary transfer the civil servants resumes his previous position.

5. During the transfer period the civil servant is entitled to the highest remuneration between that of the previous and that of the position he was transferred to. In any case, if applicable, the civil servant is entitled to the supplement for the working condition corresponding to the position where transferred.

6. Civil servants can also be temporarily transferred, in the state or institution interest, to an international organization to which the Republic of Albania is a member or to an international institution.

7. The Council of Ministers approves the conditions and procedures of the temporary transfer in accordance with this Article.

Section 2

Permanent transfer

Article 49

Permanent transfer

Permanent transfer is the mandatory transfer of the civil servant to another position in the civil service, in the cases of:

a) health incapacity in properly performing the tasks of his previous position.

b) avoiding a continuous conflict of interest as provided for in Article 52 of this law;

ç) in the case provided for by point 1 Article 56 of this law.

Article 50

Transfer in case of closure and restructuring of the institution

1. If in case of closure or restructuring of an institution, the previous position of a civil servant ceases to exist, the incumbent is transferred to another position in the civil service of the same category.

2. The transfer referred to in paragraph 1 of this Article is, by preference, made in accordance with the following order:

- a) within the same institution where the civil servant is employed;
- b) in the institution to which the institution was dissolved or merged with, in one of the institutions to which the institution was split up or in the institution having assumed the functions that the civil servant previously accomplished;
- c) into the subordinate institutions of the restructured institution;
- ç) into another institution in the civil service.

3. In case of closure or restructuring, a Restructuring Committee is established. The committee verifies possibilities of employing the civil servants in the available vacant positions and proposes the transfer of the civil servant to a vacancy, where he meets the specific criteria. The final decision on the transfer is taken by the respective responsible unit, based on the proposal of the commission.

4. A civil servant can refuse to be transferred only on the grounds provided for by Article 48 of this law. The transfer refusal in any other cases leads to the release from the civil service.

5. The restructuring committee, as provided in paragraph 3 of this Article, is chaired by the respective responsible unit and composed of representatives of the involved institutions provided by letters "a", "b", "c" of paragraph 2 of this Article, as appropriate.

~~6. The Council of Ministers approves the detailed procedures for the re-appointment of the civil servants, due to closure or restructuring and the detailed composition of the restructuring committee.~~

~~6. The ending of employment relations at the civil service due to the re-structuring or abolishment of an institution shall not be permitted, except, where as a consequence of these procedures, there is a reduction of the total number of the civil servants and the transfer in accordance with point 2 of this Article is not possible.~~

~~7. The civil servants belonging to the institution being restructured or abolished shall be notified 1 month in advance about the initiation of this procedure and, in the events provided for in point 6 of this Article, the laid-off civil servants shall be entitled to damages, referring to his seniority at work, under the following categories:~~

- ~~a) up to one year working experience as civil servant, to a 1 month salary;~~
- ~~b) from 1 to 3 years experience as civil servant, to a 3 months salary;~~
- ~~c) from 3 to 6 years experience as civil servant, to a 6 months salary;~~
- ~~ç) from 6 to 9 years experience as civil servant, to a 9 months salary;~~
- ~~d) above 9 years experience as civil servant, to a 12 months salary.~~

~~8. The civil servants being laid off from the civil service as a consequence of restructuring or abolishing the institution shall, within a 2 year period after the ending of the employment relationship within the civil service, be entitled to:~~

- ~~a) compete as civil servants for the procedures of lateral transfer or promotion in office, in accordance with Article 25 and 26 of this law;~~
- ~~b) appointed temporarily by the responsible unit, upon their request, to positions within the civil service.~~

~~9. The Council of Ministers shall approve the detailed procedures for the implementation of this Article.~~

Article 51

Transfer in case of health incapacity

1. In case of a health incapacity in performing the tasks of the previous work position, certified by the competent medical commission in accordance with the law, the civil servant is transferred to another position where he is able to perform properly.
2. The decision of transfer is made by the responsible unit upon the request of the direct superior or of the civil servant himself. Point 2 of Article 48 of this law shall apply with the necessary changes as a priority order for the institution where the transfer is done.
3. The Council of Ministers approves the detailed procedures of transfer due to health incapacity.

Article 52

Transfer to avoid conflict of interest

1. In case that a civil servant is found in a situation of a continuous conflict of interest, which is declared by himself or referring to other cases of the conflict of interest, provided for in accordance with the current law, he shall be transferred to another position in the civil service, if the conflict can be avoided with the transfer.
2. The decision of transfer is issued by the responsible unit upon request of the direct superior or of the civil servant himself. In the case of a central administration institution, the responsible unit can decide also on request of the human resource unit of the institution where the civil servant is employed. Point 2 of Article 48 of this law applies with the necessary changes as a priority order for the institution where the transfer is done.
3. The decision of transfer in accordance with this Article could be done also to other position of a lower category, upon consent of the civil servant.
4. The Council of Ministers approves the detailed transfer procedures in accordance with this Article.

CHAPTER IX

SUSPENSION FROM THE CIVIL SERVICE

Article 53

Suspension from the civil service

1. The suspension is the temporary interruption of the civil service relationship, in the following cases:
 - a) due to one of the grounds of suspension provided for by Article 54 of this law;
 - b) upon the request of the civil servant;
 - c) during the disciplinary procedures as provided for by point 6 of Article 59 of this law.
2. During the suspension period, the civil service relationship cannot be terminated or modified, except upon request of the suspended civil servant or when explicitly provided for by this law.

Article 54

Suspension by the law

1. The civil servant is suspended from the civil service in the following cases:
 - a) appointment to a position provided for, by letters “b”, “c” and “g” “gj” of Article 2 of this law, for the respective appointed period;
 - b) transfer to an international organization, foreign government or international institution in the interest of the institution or of the state, for the respective period;
 - c) when the court decides to suspend the civil servant as a preventive measure of exercising his duties of public services, under the applicable law;
 - ç) declared as disappeared by a final court decision, up until he shows up or until a final court decision on the declaration of death is announced;
 - d) registered to run as a candidate in the central or local elections, in accordance with the law,
for the period from registration until the announcement of the final outcome or ending of the mandate.
 - dh) in case of emerging of a continuous conflict of interest situation, which is properly and timely declared in accordance with the law on the prevention of the conflict of interest, until the permanent transfer to another position in accordance with Article 52 of this law or through taking of other measures by the civil servant himself in accordance with the law.
 - e) while attending the in depth training program in ASPA, for the period that follows the full-time program;
 - ë) in any other cases provided for by the law;
2. In addition to the cases provided for by paragraph 1 of this Article, the civil servant of senior level management category is also suspended from the civil service for the period assuming functions at the steering bodies of the trade unions.
3. The suspension finding is declared upon being informed on the suspension cause by:
 - a) the human resources unit of the institution where the civil servant is employed;
 - b) DoPA, in the case of the TMC members.

Article 55

Suspension upon request of the civil servant

1. A civil servant is suspended upon his own request on the following grounds and periods:
 - a) while carrying on activities for other international organizations and institutions, in other cases as those provided for by point 6 of Article 48 of this law, for the respective period
 - b) for periods of study, longer than 1 month up to 2 years period;
2. A civil servant may also be suspended upon his justified request because of another lawful interest *in accordance with the provisions made by the Council of Ministers* for a period up to 2 years.
3. The suspension request, in accordance with paragraph 1 and 2 of this Article, is submitted in written, at least 15 days before the requested date of the suspension.
4. The declaration of the suspension in accordance with paragraph 1 of this Article, and approval of the suspension in accordance with paragraph 2 of this Article is made by an act of:
 - a) the human resources unit of the institution;

b) DoPA, in the case of the TMC members.

Article 56

Suspension effects

- ~~1. Upon expiry of the suspension period, except when the termination of the civil service relationship is decided in accordance with this law, the civil servant resumes the same position or, in case his previous position has been permanently filled, he is transferred to another position of the same category.~~
- ~~2. In case of suspension for a period less than 3 months the institution shall not fill the position permanently.~~
- ~~3. The suspension period in the cases provided for, by letter "c" of Article 53, by letters "a", "b" and "dh" of point 1, Article 54, and by letter "a" of point 1, Article 55, will count in calculating the seniority in civil service.~~
- ~~4. A civil servant, during the suspension period, is not entitled to remuneration. In the events provided for by letter "c" of Article 53 and letter "dh" of Article 54, the incumbent is entitled to 50% of the full remuneration, in addition to the supplement for the working conditions. In the cases provided in point 1, Article 54, letters "c" and "e" the employee receives full salary, except working conditions supplements.~~
- ~~5. Council of Ministers approves the detailed procedure of suspension.~~

Effects of suspension

- ~~1. Upon the expiry of the time period or upon the disappearance of the suspension cause, unless the ending of the employment relationship in civil service has been determined in accordance with this law, the civil servant shall be returned to the previous work position or, if the previous position has been filled in, he shall be transferred to another position of the same category. If this is impossible, the civil servants shall be registered on a list, which shall be administered by the responsible unit. They shall stay on this list until their appointment to an appropriate position in the civil service.~~
 - ~~1/1. The responsible unit shall be obliged to offer initially a vacancy being created in the civil service to these civil servants, meeting the respective criteria, abiding, in any event, by the causes referred to in Article 48, point 3, of this law, which in this case shall be applied with the respective amendments.~~
 - ~~1/2. These civil servants shall, temporarily and upon their consent, be appointed even to filling in the vacancies, created temporarily. The responsible unit shall in this case make the temporary appointment of these civil servants.~~
- ~~2. In the event of a suspension up to a time period of 3 months, the previous work position shall not be filled in before the expiry of the suspension.~~
- ~~3. The suspension period shall, in the events provided for in letter "c", Article 53, in letters "a", "b" and "dh", point 1, Article 54, and in letter "a", point 1, Article 55 of this law, be considered as seniority in civil service.~~
- ~~4. The civil servant shall in the course of suspension period benefit no salary. In the events provided for in Article 53, letter "c", and in Article 54, letter "dh", the civil servant shall benefit 50 percent of the full salary, in addition to the difficulty allowance. In the events provided for in Article 54, point 1, letters "c" and "e", the civil servant shall benefit the full salary, in addition to the difficulty allowance.~~
- ~~5. The Council of Ministers shall approve detailed rules for the implementation of this Article."~~

CHAPTER X

DISCIPLINE IN THE CIVIL SERVICE

Article 57

Responsibility for disciplinary measures

1. A civil servant is responsible for breaking by fault the civil servants obligations under the law. Violations in the civil service are divided into:

- a) very serious violations;
- b) serious violations;
- c) minor violations.

2. More serious violations are:

- a) serious breach of duty;
- b) repeated failure to respect time limits in performance, which have very serious consequences;
- c) failure to explicitly obey legal provisions for operational performance;
- ç) abandonment of work, or continuous and unexcused absence for 7 days or more, when the absence has very serious consequences in the performance of the institution;
- d) benefit directly or indirectly, gifts, favors, promises or preferential treatments, which are due to duty.

3. Serious violations are:

- a) Failure of performing duties;
- b) abandonment of work or unexcused absence and continuing for 3 days or more, the absence has serious consequences;
- c) repeated violation of the rules of ethics in the civil service;
- ç) inappropriate recurring conduct during working hours with the superiors, colleagues, dependents and the public;
- d) damage of the state property, its use outside the official designation or misuse of state property;
- dh)) recurring conduct, during working hours, damaging the image of the civil servant, institution or civil service in general.
- e) violation of rules for maintaining the classified information or trust concerning the data classified as such;
- ë) breach of the obligations set forth in this law.

4. Are minor violations:

- a) unexcused absence from work for up to 3 days;
- b) violation of the rules of ethics;
- c) irregular behavior during work time, with superiors, peers, subordinates and the public;
- ç) commission of acts, within or outside office hours, that violate civil servant figure, institution or civil service as a whole.

Article 58

Types of disciplinary measures

1. The disciplinary sanctions applied to the civil servants are as follows:

- a) reprimand;
- b) withholding up to 1/3 of the remuneration for a period up to 6 months;
- c) suspension of the right to any type of promotion, including in the salary step, for a period up to two years;
- ç) dismissal from the civil service

Article 59

Competence and procedure for disciplinary measures

1. The disciplinary sanction provided for by letter “a” of Article 58 of this law is under the competence of the direct superior. The direct superior is obliged to start the disciplinary procedure in case of any established factual indication for an infringement of the duties by the civil servant.
2. The disciplinary sanctions, provided for by letters “b” “c” and “ç” of Article 58, of this law are under the competence of the Disciplinary Committee.
3. The disciplinary committee for the TMC members is The National Selection Committee for TMC established in accordance with the Article 31 of this law. Whilst for the other civil servants a permanent disciplinary committee is established in each institution including at least one representative of the human resources unit of the institution and one representative of DoPA in the case of the state administration institutions.
4. The disciplinary committee initiates the disciplinary procedures, upon:
 - a) request of the direct superior of the civil servant;
 - b) recommendation of any other public body or unit with administrative control, financial inspection or audit competencies or of any other official with hierarchic control functions over the civil servant;
 - c) with the initiative of any member of the committee, based on any established factual indication for an disciplinary infringement;
5. In addition to what is provided for in point 4 of this Article, in the event of a TMC member, the Disciplinary Committee initiates the disciplinary procedure, also upon the request of DoPA.
6. If there are reasons to believe that the continuation of the duty from the civil servant, to whom has been started a disciplinary proceeding, would hinder the disciplinary investigation or the proper performance of the duties, the disciplinary committee can take the decision of suspending the civil servant or any other appropriate measure until a final decision is made.
7. The administrative disciplinary procedure guaranties the right of the civil servant to be notified of the initiation of the proceeding, of the factual alleged breaches and relevant evidences, as well as of the right to be heard and to present evidence, the right to legal representation and the right to assistance and the right of appeal against the final decision. The civil servant could, during the disciplinary proceedings, also be assisted by a representative of the Trade Union he is part of, a lawyer or representatives of the civil servants in the institutions in case he is not a member of a trade union.

8. The disciplinary proceeding shall start without a delay, at the moment the information on the disciplinary offense is received, not later than a 2-year time-limit, since the violation was committed. In the case of serious breaches that could result with the disciplinary measure of dismissal from the civil service the time limit is 8 years.

9. The disciplinary sanctions are registered in the personnel file of the civil servant.

10. The Council of Ministers approves the detailed rules on the disciplinary procedures and the rules for the creation, composition and the decision-making rules of the disciplinary committee within the general rules provided for in the Code of Administrative Procedures.

Article 60

Principles for escalation and individualization of the disciplinary measure

1. To determine the applicable disciplinary measure, the direct superior or disciplinary commission is based on:

a) the causes, circumstances and seriousness of the breach, importance and ensuing consequences;

b) degree of guilt;

c) the existence of previous disciplinary sanctions not yet deleted in accordance with Article 61 of this law.

2. The disciplinary measure is given to be proportional to the offense committed.

3. For more serious offenses, as provided in paragraph 2 of Article 57 of this Law, the disciplinary measure provided in the letter "ç" of Article 58 of this Law is provided.

4. For serious violations set forth in paragraph 3 of Article 57 are given the disciplinary measures provided in letters "b" or "c" of Article 58 of this Law.

5. For minor violations set forth in point 4 of Article 57 are given disciplinary measures provided in paragraph "a" of Article 58 of this Law.

6. For each violation is imposed only one disciplinary measure.

Article 61

Lapse of the disciplinary sanctions

1. The disciplinary measures shall lapse, due to the law, after the expiry of these deadlines:

a) 2 years from the notification of the measure provided for by letter "a" of Article 58, of this law;

b) 3 years since the expiry of the term, for which the measure provided for by letters "b" to "c" of Article 58 of this law has been applied;

c) 7 years since the notification of the measure provided for under letter "ç" of Article 58, of this law;

2. The declaration of termination is made, ex officio or upon request, by an act of the human resources unit of the institution where the civil servant is employed, or of DoPA in case of a TMC member. The sanction is deleted from the personnel file and the respective personnel register.

CHAPTER XI
PERFORMANCE APPRAISAL OF THE CIVIL SERVANT
EVALUATION OF THE CIVIL SERVANT

Article 62

Appraisal of civil servant performance

Performance Evaluation

~~1. The performance appraisal is the process of the annual verification of the overall achievements by a civil servant of the objectives set at the beginning of the assessment period and of his professional strengths and weaknesses in the performance of his duty. The evaluation of the performance at work is the process of the verification of the overall meeting of objectives, set out at the beginning of the evaluation period, as well as of the skills and weaknesses of the civil servant in the course of performing the tasks, being conducted every 6 months. The performance appraisal exercise is aimed at ensuring the improvement of the professional capabilities of the civil servant and quality of services.~~

~~1/1 In addition to the evaluation in accordance with point 1 of this Article, the civil servants shall be evaluated periodically, in accordance with the provisions of a Council of Ministers Decision, even to the effect of obtaining and updating the additional necessary knowledge for accomplishing their functions, in compliance with the category/group of general/specific administration they are part of. The evaluation process conducted in accordance with this point shall always guarantee the anonymity of the evaluated civil servant.~~

2. The civil servant is evaluated in one of the following:

- a) "very well"
- b) "well"
- c) "satisfactory"
- ç) "non-satisfactory".

~~2/1. In the event of an evaluation scale 'unsatisfactory' in the procedure of the evaluation of the additional knowledge in accordance with point 1/1 of this Article, the civil servant shall be subject to a mandatory training and 3-month re-evaluation.~~

3. The evaluation of the TMC members is conducted by the National Selection Committee of TMC, established in accordance with Article 31 of this law.

4. The Council of Ministers approves the detailed procedures of the performance appraisal and the competencies of the evaluation.

CHAPTER XII
TERMINATION OF CIVIL SERVICE RELATIONSHIP

Article 63

Termination of civil service relationship

The civil service relationship ends by:

- a) release from civil service;
- b) dismissal from the civil service, as a disciplinary sanction;
- c) presence of one of the grounds provided for by Article 65 of this law.

Article 64

Resignation

1. Civil Servants may notify the termination of their civil service relationship by submitting a written resignation to the human resource unit of the institution where they assume their duties or to DoPA in the case of the TMC members.
2. The resignation does not need to be motivated and produces its effects until 30 days from its submission.
3. In justified cases, upon motivated request of the civil servant and upon approval of the bodies provided for by paragraph 1 of this Article, the resignation could produce its effects before the 30 day period since its submission.
4. The civil servants having left the civil service as a consequence of resignation shall be entitled to compete as civil servants in the procedures of lateral transfer or promotion, in accordance with Articles 25 and 26 of this law, up to 2 years following the end of the employment relationship within the civil service.

Article 65

Termination of the relationship in the civil service due to the law

1. The civil service relationship also terminates based on the law due to:
 - a) death of the civil servant or the date when the court decision of declaration of the death of civil servants becomes final;
 - b) the civil servant loses the Albanian citizenship or from the date when the court decision to limit or deprive him of the legal capacity to act becomes definitive.
 - c) the civil servants fulfils the age for retirement;
 - ç) when the appointment act to the civil service is found to be null and void;
 - d) when sentenced by a final judgment for committing a criminal offense;
2. The termination of the civil service relationship, based on law, is found out 5 days since its occurrence or recognition by:
 - a) the human resource unit of the institution, where the civil servant is employed;
 - b) DoPA in the case of a TMC member.

Article 66

Release from the civil service

1. The civil service relationship ends by way of release in the following cases:
 - a) unjustified refusal by the civil servant to accept a permanent transfer in the cases provided for by Article 50, 51, 52 of this law;
a/1) as a consequence of abolishment or re-structuring of the institution, in accordance with points 6 and 7, of Article 50, of this law;
 - b) the civil servant is declared in a situation of health incapacity by the competent medical commission in accordance with the law;
 - c) after two “non-satisfactory” evaluations ~~in two consecutive years~~ for the performance;

- ç) the civil servant exercises his right to reduced elderly pension, in accordance with the law;
 - d) in the case the civil servant is found in a situation of a continuous conflict of interest, declared by the employee and, in accordance with the law, does not take the measures provided for avoiding conflicts of interest within the time specified, or if the transfer in a different position would not prevent the constant state of conflict of interest;
 - dh) the employee resigns from the civil service;
 - e) when senior level management civil servant becomes member to a political party or when senior level management civil servant becomes member of their steering bodies;
 - e/1) as long as the TMC member, elected in accordance with point 5/1 of Article 30 of this law does not successfully complete the ASPA training;
 - e/2) in the event provided for in Article 56 of this Article;
 - e/3) as long as he is evaluated again at the scale 'unsatisfactory', upon the completion of the re-evaluation period, in accordance with point 2/1 of Article 62.
 - ë) in any other case, prescribed by law.
2. A member of the TMC is released from the civil service when it is not assigned to a regular position for at least 8 months in a 5-year period.
 3. The termination of the civil service relationship in the case provided for by letter "c" of point 1 of this Article is declared within 10 days from the second "non-satisfactory" appraisal, while in other cases within the same time the recognition of the cause of the release.
 4. The release is declared upon the decision of:
 - a) human resources unit of the institution where the employee carries out his duties;
 - b) DOPA for members of the TMC.
 5. The Council of Ministers approves the detailed procedures on the release from the civil service.

Article 66/1

1. The final judgements returning the civil servants to the previous office shall be implemented immediately by the respective unit.
2. If the return of civil servants to the previous office in accordance with point 1 of this Article is objectively not possible, they shall be registered on a waiting list until their appointment to an appropriate position in the civil service. The list shall be administered by the responsible unit.
3. The civil servants shall, while being on the list, be paid with reference to their previous position they had in the civil service.
4. The responsible unit shall, since the very moment of the creation of a vacancy in the civil service, be obliged to appoint initially, upon their consent, the civil servants registered on the list, in accordance with the respective category and meeting the job description criteria.
5. These employees shall, upon their consent, be appointed even to fill in the vacancies temporarily. The responsible unit shall in this case make the temporary appointment of these employees.

CHAPTER XIII TRANSITORY AND FINAL PROVISIONS

Article 67

Status of the current officials and employees

1. Incumbent civil servants in senior Management level, at the apparatus of the Council of Ministers and ministries, recruited in accordance with law no. 8549, date 11.11.1999 "On the status of civil servants", are, due to the Law, TMC members.
2. Existing employees who are employed in the senior level management positions, part of the civil service, under this law, in the institutions subordinated to the Prime Minister or a minister, are obliged to go through TMC admission procedures, within 1 year since this law becomes effective. If these incumbents are not appointed as members of TMC at the end of this period, their relationship ends due to the law.
3. Incumbent employees holding positions deemed to be civil service positions in accordance with this law and who were recruited by a competitive recruitment procedure similar to the one in accordance with law no. 8549, date 11. 11. 1999 "On the status of Civil Servant" or have been holding their position for a period of not less than 1 year, are deemed to be civil servants.
4. Incumbent employees holding positions deemed to be civil service positions in accordance with this law and not meeting the conditions provided for by paragraph 3 of this Article, shall be civil servants on probation period and subject to the provisions of Article 24 of this law. The probation period shall start on the date this law enters into force.
5. The declaration of the termination of the employment in the case provided for by paragraph 2 is done by the responsible unit within 30 days from the expiration of the one year period.
6. The declaration of the status of employment in the case provided for by paragraphs 1, 3 and 4 of this Article is done by the responsible unit after the verification of the recruitment procedure.
8. Against the decision of the responsible unit, an appeal may be filed under paragraphs 5 and 6 of this Article before the competent court for administrative disputes.
9. The Council of Ministers approves the detailed rules for the appliance of this Article.

Article 68

Applicable law on the pending procedures

1. No new procedure of filling a vacancy, according to Law no. 8549 dated 11.11.1999 "On the civil servant status", within the scope of this law, shall begin 3 months before the date that this law extends its effects.
2. Any other pending procedure initiated before this law enters into force shall continue in accordance with law no. 8549, date 11.11.1999 "On the status of civil servants".

Article 69

Bylaw acts

The Council of Ministers is in charge to adopt, within three months from the entry into force of this Law, the bylaws provided for in Article 6, in the point 11 of Article 8, point 5 of Article 9, point 2 of Article 10, point 4 of Article 17 , points 2 and 3 of Article 18, point 9 of Article 19, point 6 of Article 22, point 5 of Article 23, point 5 of Article 24, point 5 of Article 25, point 4 of Article 26, point 6 of Article 28 , point 5 of Article 29, point 6 of Article 30, points 2 and 3 of Article 31, point 3 of Article 32, point 3 of Article 33, point 4 of Article 34, point 3 of Article 39, point 2 of Article 40 , point 7 of Article 48, point 6 of Article 50, point 3 of Article 51, point 4 of Article 52, point 5 of Article 56, point 10 of Article 59, point 4 of Article 62, point 5 of Article 66, and in the point 8 of Article 67 of this Law.

Article 70

Abrogation

~~Law no. 8549, date 11.11.1999 on the status of civil servants and any other provision contrary to this law is herewith abrogated.⁴~~

~~The Law no 8549, dated 11/11/1999 “Civil Servant Status” and any other legal provision being at variance with this law shall be repealed since the date of extension of the effects of this law.~~

Article 71

Transitional provisions

1. Secretary General of the Council of Ministers, within 7 days from the entry into force of this law, notifies to the Parliament the list of bylaws to be changed, in order to be in compliance with the provisions in this law.
2. Bylaws, provided for in Article 69 of this Law, shall enter into force no later than 6 months from the entry of this law into force.
3. Complaints submitted to the Civil Service Commission, shall be reviewed until the date of entry of this law into force. For complaints filed, but not reviewed by the Civil Service Commission, the applicant is entitled to file a complaint before the competent court for administrative disputes within 60 days since the date of entry of the law into force.

Article 72

Entry into force

~~This law enters into force on first of October 2013.⁵~~

~~This law shall enter into force on 1 October 2013 and it shall extend its effects 6 months after the entry into force. Until the date of the extension of the effects of this law, the Law no 8549, dated 11/11/1999, “Civil Servant Employee” shall apply.~~

Speaker of Parliament

⁴ Upheld again upon the decision of the Constitutional Court Decision no 5, dated 05/02/2014

⁵ Upheld again upon the decision of the Constitutional Court Decision no 5, dated 05/02/2014

Jozefina TOPALLI (ÇOBA)

Approved on 30.05.2013