

## The management of public functions and public servants

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### **Abstract**

*The diversity and complexity of public function raises the problem of their management in a coherent global system based on norms and principles common to all public functions applicable to all public servants.*

*As such, the current management of human resources and public functions is organized and realized within every authority and public institution by a section specialized in the domain that applies strategies and management politics of the public function contributing to the efficiency of the administrative system and improvement of the relations between them and the civil society.*

*The material presents specific aspects of the public functions management both on a functional plan and in an organizational one.*

**Keywords:** *public function, public administration, management of public functions, human resources sections, parity committees, professional file*

### Introductory considerations

The diversity and complexity of public functions, their organization and exercise on a micro social or macro social level, starting with local public authorities and institutions to the top level of public authorities and institutions raises the issue of their management in a coherent global system and based on norms and principles common to all public functions and applicable to all public servants.

As such, the ensemble of public functions must be organized and must function as a well constructed mechanism satisfying the social interest it expresses.

The status of public servants regulates [1, chap.V] the management of public functions and public servants and the specialized literature speaks of the public function management [2, 142], [3, 25].

As the administration, in general, and public administration, in particular, is defined by specialized literature both under an organizational aspect (as organizational structures) and as an activity (under the form of administrative acts and technical and administrative operations) the management of public functions can too be regarded and analyzed under these aspects, it being a determiner of administrative activity so of some structures of public administration.

In a functional plan the management of public functions implies a number of activities that mainly regard: elaborating the policies and strategies of this matter, the projects and normative acts referring to function and public servant as well as their application; the salary of public servants; evaluating their activities on objective criteria; their professional training and perfecting, the entry in the public servants corpus and their professional promotion, ensuring the application of the norms that constitute the status of public servants, in general, including some categories of public servants with special status [4, 92].

In an organizational plan the management of public functions implies the constitution of some special organizational structures to accomplish the activities mentioned above and to function together based on judicial principles and norms. Considering the above we could define the management of public functions as the ensemble of activities developed, according to law, by organizational structures specially created for elaborating and applying the politics and strategy as well as the regulations regarding the public servants [5, 483].

### **The management of public functions**

For managing the public functions through the Status of public servants there has been instituted the organization and functioning of some special organizational structures subordinated to public authorities or institutions, central or local, to which it has as well stated their competence.

These are the organizational structures:

- The National Agency of Public Servants;
- the human resources sections;
- the joint committees;
- The disciplinary committees.

The application on a national level of the strategy and the Government Program in the field of the management of public functions and public servants is ensured by the Ministry of Administration and Interior as a specialized organ of the central public administration with judicial personality.

### **The National Agency of Public Servants**

For creating and developing a professional, stable and impartial corpus of public servants there has been founded the National Agency of Public Servants as a specialized organ of the central public administration with judicial personality [6, 125].

The National Agency of Public Servants has the following main attributions:

- elaborates the politics and strategies regarding the management of the public function and the public servants;
- elaborates and approves projects of normative acts regarding the public function and the public servants;
- monitors and controls the application method of the legislation regarding public function and public servants within the public institutions and authorities;
- elaborates common regulations applicable to all public authorities and institutions regarding public functions as well as instructions regarding the unitary application of the legislation in the field of public function and public servants;
- elaborates law projects regarding the establishment of the unitary salary system for public servants;
- establishes criteria to evaluate the activity of the public servants;
- centralizes the instruction proposals of the public servants established as a consequence to the evaluation of the individual professional performances of the public servants;
- collaborates with the National Institute of Administration to establish the theme specific to the programs of specialized training in public administration and perfecting of public servants;
- draws up and administrates the data base containing the records of public functions and public servants;
- approves the participation conditions and the organization procedure of the selection and recruitment for the general public functions, approves and monitors the recruitment for the specific public functions;
- redistributes the public servants whose labor relations have terminated for reasons not attributable to them;

- offers specialized assistance and methodologically coordinates the human resources department within the authorities and institutions of the central and local public administration;
- participates to negotiations between the union organization representing the public servants and the Ministry of Public Administration;
- collaborates with international organisms and organizations of its activity domain;
- annually elaborates, consulting the public institutions and authorities, the Plan of occupying the public functions which is submitted for approval to the Government;
- Draws the annual report regarding the management of public functions and public servants who the Government represents.

The agency has active legal standing and can notify the competent legal department regarding:

- the acts through which the public authorities violate the legislation referring to the public function and the public servants, noticed as a consequence of the self control activity;
- The refuse of the public authorities and institutions to apply the legal provisions in the domain of the public function and the public servants.

The attacked act is suspended by law.

The President of the National Agency of Public Servants can also notify the prefect regarding the illegal acts issued by local public authorities or institutions.

The Agency elaborates the Plan for occupying the public [7, 128] functions by consulting the union organizations representative on a national level that it submits to the approval of the Government.

The National Agency of Public Servants administrates the national records of public functions and public servants based on the data transmitted by the public authorities and institutions and at the same time keeps the records of public functions and public servants within the public authorities and institutions [8, 109].

The Agency is lead by a president who is a state secretary helped by a vice president who is a state undersecretary.

The president represents the Agency in its relations with the ministries, the other authorities of the public central administration, the local public administration authorities,

other public central or local authorities and institutions, judicial persons and individuals Romanian or foreign as well as in justice.

While exercising his presidential attributions he issues orders with normative and individual character.

The Agency has a general secretary who is part of the high public servants category and is named according to law.

The general secretary has long duration superior studies, judicial or administrative, graduated with license diploma or equivalent.

### **Human resources departments**

The current administration of human resources and public functions within every public authority and institution is made by a specialized department that collaborates with the National Agency of Public Servants and that also has other attributions established by special laws and other normative acts as well as by the Regulation of organization and functioning of the certain public authority and institution [9, 92].

### **Joint committees**

The joint committees are made within every public authority or institution except those with attribution in the domain of national security by an administrative act of the leader of the public authority or institution.

The joint committee is constituted for many public authorities or institutions if within those public authorities or institutions there are less than 12 public servants, as so:

- from the members designated from within that public institution and within the public authority or institution under which it is organized according to law;
- For two or more local councils.

In the first case the joint committee is constituted by the administrative act of the leader of the public authority or institution to which it is subordinated or under the authority of which the public institution for which a joint committee cannot be constituted is organized.

In the second case the joint committee is constituted as a consequence to the decision of the local council, at the mayor's proposal, of the representatives of every local council within the common joint committee.

The joint committees are made of 4 titular members.

The members of the joint committee must be public servants within the public authority or institution where the joint committee is organized or, as appropriate, within one of the public authorities or institution for which the joint committee is organized.

The titular members of the joint committee common for more public authorities or institutions are designated by following the conditions below:

- the joint committee must be composed of an equal number of representatives of every public authority or institution for which it is constituted;
- the number of the representatives designated by the leaders of the public authorities or institutions for which the joint committee is constituted must be equal to the number of representatives designated by the union organization representing the public servants of these public authorities or institutions;
- If the union is not representing or the public servants are not organized into a union the representatives will be designated by the vote of the majority of the public servants of that public authority or institution. The election of the public servants' representatives is made through secret vote.

The representatives of the public servants within the joint committee can be designated from the public servants elected for the leading organs of the representative union or from the public servants elected to negotiate, within law, the agreements with the management of the public authority or institution.

Along with the designation of the titular members there are also designated at least 2 substitute members, following the same conditions.

The appeals regarding the designation procedure of the public servants' representatives within the joint committee can be submitted by any public servant who is interested within that public authority or institution, in writing and with reasons, within two working days from the termination of the designation procedure.

The leaders of the public authority or institution examine the appeals and if they are considered valid the result of the designation procedure is canceled, enabling its remaking.

After finalizing the designation procedure for solving the submitted appeals the members of the joint committee are named by the administrative act of the leader of the public authority or institution.

The members of the joint committee are named on a period of 2 years. Their mandate can only be renewed once.

Thirty days before the expiring of the mandate of the members of the joint committee a new committee will begin to be constituted.

The president of the joint committee is elected by the vote of the members of the joint committee from its members.

The termination and suspension of the quality of member of the joint committee take place within the conditions provided for the members of the disciplinary committees. In these situations the titular members are replaced by the substitute members by the administrative act of the leader of the public authority or institution.

Every joint committee has a titular secretary and a substitute secretary, public servant within the public authority or institution for which the joint committee is organized, who are not its members, named by the leader of the public authority or institution by the administrative act of constituting the joint committee.

The joint committee gathers at the request of:

- the leader of the public authority or institution;
- its president;
- the union representing public servants;
- The majority of the public servants.

The gathering of the members of the joint committee and the communication of the daily order are made in writing by its president, through the secretary, within two working days from the registration of the request for gathering the joint committee.

The joint committee is validly gathered in the presence of all members.

If, for objective reasons, all members of the joint committee cannot be present, the session is postponed to a date established by its president.

If all members cannot gather on the second date the joint committee is considered validly gathers in the presence of half of its members respecting the parity principle.

The public institutions and authorities have the obligation to communicate to the National Agency of the Public Servants the act of constitution the joint committee as well as the disciplinary committee and the modifications occurred in the structure of the joint or disciplinary committee.

### **The professional file and the record of public servants**

For ensuring the unitary and efficient management of human resources as well as for following the career of the public servant the leaders of the public authorities or institution have the obligation to ensure the drawing, updating, keeping and recording the professional files of the public servants and of the records of the public servants [10, 105].

### **The professional file**

The professional file contains data with personal and professional character.

A. The data with personal character included in the professional file are: last name, first name and, as appropriate, the prior name, date and place of birth, personal identification code, address and, as appropriate, residence, personal phone number and, as appropriate, work phone number, last name, first name and phone number of the contact person in case of emergencies, if necessary, last name and first name of wife/husband, as well as last name, first name and date of birth of the under aged children of the public servant, the situation of the military service, if necessary.

B. The data with professional character included in the professional file regard: professional training, work experience, the activity developed within the public institution or authority, the disciplinary status as well as the activity developed outside the public authority or institution.

The professional file must contain:

- a copy of the identity card;
- copies of acts of civil status;
- a copy of the service record;
- medical certificate stating a health status appropriate for exercising the public function;
- copies of the study acts;
- copies of the certificates of participation to the training or perfecting courses;

- copy of the work book and/or copy of the general record paper of employees and/ or of the paper or papers of the record of public servants;
- recommendations from the prior work places;
- the administrative record, if necessary;
- the judicial record;
- the administrative act of assignment and the document that attests taking the oath;
- job description;
- the administrative act that modified the work relation;
- the suspension requests, the administrative act of approval/ statement of suspension, the administrative act that disposes the restart of the activity;
- the administrative acts that state the salary modifications;
- the administrative acts for designating in joint working groups Committees;
- the administrative act that establishes the participation to activities within some projects/programs;
- the administrative act of terminating the labor relation;
- statement on own responsibility of the titular of the file that he has not developed politics police activities as they are defined by law;
- the leave applications on the last three years;
- the evaluation report on the last five years;
- wealth declaration actualized within law;
- Declaration regarding conflicts of interest, actualized within law.

The public servant must inform the person responsible for the records of the personnel provided in the job description of the modifications regarding the address or, as appropriate, the residence as well as of the changes occurred in the civil status within five days from their occurrence.

### **The records of the public servants**

The record includes identification elements of the public servants, the date of their appointment in the public function, the date and legal purpose of the modification, suspension and termination of labor relations, salary rights, for stand last name, function and signature of the person who made the record.

The public servant has the right to access the personal and professional data from his professional file and the record paper. He can request in writing the department of human resources or the person responsible for the personnel's records as provided in the job description the issue of a certificate to valid the information contained in it and the issue of copies of the personal record paper.

To the professional file have access, in the presence of the titular and the person responsible for the personnel records provided in the job description, and can request in writing and motivated a validation of the data contained in it, within law, the following persons and public authorities or institutions:

- the leader of the public authority and institution;
- the leader of the department in which the public servant develops his activity or, as appropriate, another public servant that evaluates the public servant;
- the persons empowered of some public authorities or institutions with control attributions;
- the president and/ or the members of the disciplinary committee;
- the legal advisors within the public authority or institution where the public servant who is titular of the file develops activity when the public authority or institution is part of a trial with him and the data are relevant for solving the cause;
- the public servants of the department of human resources that have attributions in this respect;
- courts and organs of criminal investigation.

In cases of transfer or termination of labor relations the public authority or institution will keep a copy of the professional file and will hand, on signature, the professional file to the public servant.

In the case of the liquidation of the public authority or institution and another public authority or institution newly founded overtakes its attributions the professional files of the public servants taken by the newly founded public authority or institution will be transmitted to it on protocol by the public authority or institution submitted to liquidation.

If the public servant is detached the professional file is kept by the public authority or institution from which the public servant is detached.

In cases of transfer or termination of the labor relations the public authority or institution will hand a copy of the personal record paper.

### Conclusions

For creating and developing a corpus of professionals within public institutions, according to common standards, the career of the public servant is organized from its beginning to the termination of the public function relation [11, 74].

The management of the public function (name under which this career organization activity is known) takes into account that the institution of public function represents an ensemble of legal competences that its titular must exercise for a general interest and not as if they were patrimonial rights that would more or less be his property, of which he can dispose as he wishes.

The management of the public function is essential for creating a complete image over an institution and can be defined in a material functional manner as a complex of judicial acts and material operations through which public servants are recruited and their professional situation is materialized – promotions, mutations, notations, advancements etc.

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