

**“A COMPARATIVE ANALYSIS OF THE NEW CIVIL SERVICE LAW IN ALBANIA  
IN VIEW OF THE COMMITMENTS UNDER OF THE STABILISATION-  
ASSOCIATION AGREEMENT WITH THE EUROPEAN UNION”**

**Prof. Assoc. Evis Alimehmeti, PhD Iris Petrela**

**ABSTRACT:** *Albania signed the Stabilisation Association Agreement with the EU in 2006. In June 2014 it has been officially accepted as a EU candidate state. The SAA agreement fosters democratic principles and protection of human rights, rule of law, and the principles of the market economy as enshrined and proclaimed in some key international documents such as the Universal Declaration of Human Rights, European Convention of Human Rights and in the Helsinki Final Act. Title VIII of the SAA “Policies of cooperation”, includes important provisions with regard to the public administration. It regulates in technical terms the obligation of Albania to establish an effective and responsible public administration seeking to implement the rule of law principles. The transparent and impartial recruitment procedures, management of human resources, career development in the public services sector both at the central and local administration levels are crucial in this process. The signing of the SAA is only the first step for the comprehensive reform of the Albanian public administration, aiming at attaining the standards set forth by the principles of the European administrative space. The establishment of a system of professional civil servants that would guarantee the independence, integrity, transparency and the implementation of the principles of an open and efficient administration toward the public, remains a challenge. A new civil service law was adopted in 2013, aiming at the establishment of a stable and professional civil service system, based on merits, moral integrity, political neutrality and accountability of its members. The new law also regulates the juridical relationship between the State and civil servants and determines the management rules of the civil service. The paper explores the new civil service regulation in force in Albania, from the perspective of the obligations provided in the SAA regarding the strengthening of public administration and the establishment of a civil service system responding effectively to the integration challenges ahead, as well as in a comparative overview to the abolished system of civil service.*

**KEYWORDS:** *Civil service, civil servant, Stabilization-Association Agreement, public administration*

## **INTRODUCTION**

Albania is part of the Balkan countries that are determined to progress toward the integration into the big European family. Its efforts for the institutionalisation of the co-operation with the EU were successfully accomplished in June 2006 when a Stabilisation Association Agreement was signed in Luxembourg. The SAA agreement fosters democratic principles and protection of human rights, rule of law, and the principles of the market economy as enshrined and proclaimed in some key international documents such as the Universal Declaration of Human Rights, European

Convention of Human Rights and in the Helsinki Final Act.<sup>1</sup> Title VIII of the SAA “Policies of co-operation”, includes important provisions with regard to the public administration.<sup>2</sup> It regulates in technical terms the obligation of Albania to establish an effective and responsible public administration seeking to implement the rule of law principles. The transparent and impartial recruitment procedures, management of human resources, career development in the public services sector both at the central and local administration levels are crucial in this process.<sup>3</sup>

The signing of the SAA is only the first step for the comprehensive reform of the Albanian public administration, aiming at attaining the standards set forth by the principles of the European administrative space. The establishment of a system of professional civil servants that would guarantee the independence, integrity, transparency and the implementation of the principles of an open and responsible administration toward the public, remains a challenge. Proactively responding to the Article 111 of the SAA, in 2008 the Albanian Government approved the Cross Cutting Strategy for the Reform of Public Administration 2009-2013, as part of the National Strategy for Development and Integration.<sup>4</sup> Currently, among the priorities of Albania remains the strengthening of public administration and the establishment of a civil service system responding effectively to the integration challenges ahead.<sup>5</sup>

### **Transition from previous regulations**

The civil service system is relatively new in Albania. Its normative origin dates back to 1996 when the civil service system was established for the first time by law.<sup>6</sup> The law of 1996 aimed to regulate the status of the employees of the public administration, central and local, and those of the institutions operating on a state budget. The status and the labor relationship of employees other than civil servants were regulated based on the provisions of the Code of Labour of the Republic of Albania. The law of 1996 included also political office holders into the categories of the civil service.

The Constitution of the Republic of Albania adopted in 1998 includes a specific provision on civil servants.<sup>7</sup> The terminology used in the Constitution differs from that of the law adopted in 1996. It must be noted that before the adoption of the Constitution in 1998, no consolidated text of constitutional provisions in the form of a Constitution existed. Instead, several laws adopted during 1991-1993 formed the Albanian constitutional laws which contain no specific provisions regarding the civil service.<sup>8</sup> The provisions of the Albanian Constitution adopted in 1998 contain the term '*legislation on public officials*' and according to article 81 of the Constitution the law that addresses

---

<sup>1</sup>Article 2 of the SAA, accessible at <http://www.mie.gov.al/>.

<sup>2</sup> Article 111 of the SAA.

<sup>3</sup> Id.

<sup>4</sup> National Strategy for Development and Integration, accessible at <http://www.mie.gov.al/>.

<sup>5</sup> Cross-cutting Strategy for Development and Integration), page 16, accessible at <http://km.gov.al/?fq=brenda&m=shfaqart&aid=77>.

<sup>6</sup>Law no. 8095, dated 21.03.1996, “On the Civil Service in the Republic of Albania.”

<sup>7</sup>Article 107, Law no. 8417, dated 21.10.1998 “The Constitution of the Republic of Albania.”

<sup>8</sup>Law no.7941, dated 29.04.1991, “On the Main Constitutional Provisions”, abrogated by Law no. 8417, dated 21.10.1998 “Constitution of the Republic of Albania.”

the status of public officials must be approved by three fifth of all members of the Parliament.<sup>9</sup> The constitutional provisions contain thus a very broad term referring to all public officials with no definition or indication as to its categories. Upon the adoption of the Constitution, a law was adopted in 1999 regulating only the status of civil servants. This law was adopted by a qualified majority of three fifth as mentioned above, and remained in force unamended till 2013.<sup>10</sup>

The civil servants' law of 1999 established specific protection mechanisms for the protection of civil servants rights. A new independent institution entitled *Civil Service Commission* (CSC) was established and became operational in May 2000.<sup>11</sup> The Commission exercised its legal duties based on the Constitution, Code of Administrative Procedures, and the specific law on the civil servant. It was an independent institution; the nomination or dismissal of its members was voted in the Parliament. It enjoyed two main competencies: the monitoring of implementation of the civil service legislation in all institutions that are subjects of the above-mentioned law, as well as the review of the civil servants' complaints against decisions of the State administration regarding a series of issues, such as recruitment to the civil service system, the probation period, promotion, parallel transfer, annual performance evaluation, disciplinary measures and the rights of the civil servants.<sup>12</sup> The establishment of the Commission as an independent administrative body with the above-mentioned competencies aimed to frame it as an important role for the protection of the rights of civil servants to support the stability of the public administration.

### **The commitments of Albania in the framework of the Stabilization Association Agreement with the European Union**

In June 2006, Albania signed in Luxemburg a Stabilization and Association Agreement (SAA) with the EU members.<sup>13</sup> This Agreement consists of four pillars: political dialogue and regional co-operation, trade provisions concerning the progressive liberalization of exchanges until a free trade zone is established between the parties, community freedoms, and finally, co-operation in fields of priority, especially in justice and internal affairs.

Article 111 of Chapter VIII of the SAA "Cooperation Policies" focuses on public administration. The objective of this article is to ensure the development of an effective and responsible public administration in the country, which would support the effective functioning of the rule of law. Thus, *the cooperation between the EU and Albania in the framework of the SAA shall focus on the implementation of transparent and impartial procedures of recruitment, human resource management, and career development in the public service both in the central and local public administration.*

<sup>9</sup>Article 81, point 2, letter e) of Law no. 8417, dated 21.10.1998 "Constitution of the Republic of Albania" For more information, see "Constitutional Debate", Volume 1, pages 171, 255, and 259 and Volume 2 pages 503-505, *Shtëpia Botuese dhe Shtypshkronja P.S.H. 2015, sh.p.k.*, Tirana, 2006.

<sup>10</sup> The civil service law was passed by the Albanian Parliament on 11 November 1999 entered into force in January 2000.

<sup>11</sup>Decisions no. 437 and no. 437/1, dated 03.05.2000 of the Parliament of Albania regarding the appointment of three members of the Civil Service Commission.

<sup>12</sup> Article 8, Law no. 8549, dated 11.11.1999, "On Civil Servant's Status."

<sup>13</sup> The text of the SAA and more information on it can be accessed at [www.mie.gov.al](http://www.mie.gov.al).

The EU Progress Reports on Albania frequently addressed the need to review the legal framework related to the civil service system in Albania. The EU Progress Report in 2008 noted the following: *the civil Service Law regulating public administration is in place, but it is not applied systematically. ... The absence of sound accountability mechanisms in public administration increases the opportunities for bypassing established procedures. ... Frequent replacements of civil servants are undermining the independence of the civil service and increase the opportunities for bribery of public officials. Overall, the public administration continues to stabilise, but the lack of transparency and accountability in appointments is endangering its independence.*<sup>14</sup>

### **A new Law on Civil Service approved in 2013**

The review of the civil servants law of 1999 was one of the main priorities of Albania under its short term priorities for 2005-2006.<sup>15</sup> Up to May 2013 there had been two unsuccessful attempts to amend the regulation of 1999. The law required a qualified majority to be approved and therefore the proposed amendments could not pass this threshold and remained only proposals. The third attempt for legal changes in the civil service sector initiated in late 2010 and continued during the year 2011. With the assistance of SIGMA,<sup>16</sup> a new draft law on civil service in Albania was drafted and submitted to the Parliament in September 2012. It was voted only on 30 May 2013, one month before the general election in Albania, when a wide consensus was reached among political parties in Parliament.<sup>17</sup> The law provided that the law would enter into force on 1 October 2013, and the rest of the provisions were passed quickly without any significant debates by the members of the Parliament. The approval of this law was considered a success by all political parties represented in the Parliament, as it represented an accomplishment of one of the main priorities that European Union had imposed on Albania and thus a step forward in the process of integration of Albania into the European Union.

### **Novelties of the new Civil Service regulation**

The new law aims at establishing a stable and professional civil service system, based on the merits, moral integrity, political neutrality and accountability of its members. It also regulates the juridical relationship between the State and civil servants and determines the management rules of the civil service.<sup>18</sup> The underlying principles of the new law on civil servants are equal chances, non-discrimination, merit-based recruitment, transparency, professionalism and political impartiality.<sup>19</sup>

---

<sup>14</sup> For illustration purposes an excerpt of the 2008 Progress Report on Albania – chapter on “Public Administration”; Rapporteur for Albania Mr Libor Rouček.

<sup>15</sup> “Plan of the Government of Albania for the Approximation of Legislation and Implementation of the Stabilisation and Association Agreement” approved by the Council of Ministers through Decision no. 314, dated 13.05.2005.

<sup>16</sup>SIGMA (Support for Improvement in Governance and Management) is a joint initiative of the European Union and the OECD.

<sup>17</sup> The new Law on Civil Service approved on 30 May 2013 was published in the Official Journal on 7 June 2013.

<sup>18</sup> Law no.152/2013, dated 30.05.2013, article 1.

<sup>19</sup> Id. article 5.

The new Civil Service Law contains more elaborated articles in comparison to the civil service law of 1999. Nevertheless, it is also a framework law providing that secondary legislation should be approved by the Council of Ministers in order to further regulate technicalities based on its provisions. The new civil service law provided that it should enter into force on 1 October 2013. In fact, the new government that came into power in mid September 2013, following the general elections of June 2013, issued a Normative Act postponing the entry into force of the law to 1 April 2014, arguing the need for the postponement as necessary due to the absence of the secondary legislation. In fact, no secondary legislation had been adopted by the Council of Ministers after the entry into force of the law. The amendments to the new civil service law provide the obligation of the government to adopt that within three months from the entry into force of the new law, the secondary legislation needed for its proper and full implementation. The law also provides that all the secondary legislation should enter into force no later than 6 months from the entry into force of the law, i.e before 1 April 2014.<sup>20</sup>

The new Civil Service Law provides that a *civil servant* is an employee who performs functions for the exercise of administrative authority, public, based on merit and professionalism criteria of selections, and participates in the drafting and implementation of policies, monitoring the implementation of administrative rules and procedures, ensuring their execution and providing general administrative support for their implementation. The categories of civil servants are set in a hierarchical order. An “immediate superior” according to the law is as follows:

- a) The head of the institution for the civil servant of top-level management, including the civil servants assigned to a special coordinator position and for the head of subordinated institution;
- b) The general secretary or the equivalent positions, for the directors of directorates and directors of territorial branches of the institution;
- c) The head of a subordinated institution for the directors of the institution;
- d) The director for any other civil servants of a lower-level position.<sup>21</sup>

Another novelty of the law relates to the category of “special coordinator” that is an *ad hoc* temporary civil servant, who performs duties with regard to coordination, representation or chairing of institutional or intra-institutional working groups, etc. However, such duties are to be carried out under the authority of the Prime Minister or a Minister.

The new civil service law has a broader scope compared to the civil service law of 1999. It applies to any civil servant who exercises public authority in a state administration institution, an independent institution, or in a local government unit, with the exception of the following categories:

- a) elected officials,
- b) ministers and deputy ministers;

---

<sup>20</sup> Id. articles 69 and 71, point 2.

<sup>21</sup> Id. article 4, letter “e.”

- c) officials appointed by the Parliament, the President or Council of Ministers;
- ç) judges and prosecutors;
- d) civil judicial administration;
- e) militaries of the armed forces;
- f) personnel of the State intelligence service;
- g) personnel of the direct service delivery units;
- h) members and chairmen of the steering committee of the collegial bodies or institutions under the Prime Minister or Minister;
- i) administrative employees;
- j) cabinet officials.<sup>22</sup>

The law does not exhaust the list of the employees that are considered as civil servants; however it explicitly excludes those categories that *are not* civil servants. In other words, all other State employees that are not included in the list are to be considered as civil servants. According to the wording of this article, employees of all local government units are part of the civil service system.<sup>23</sup>

Although there is no accurate official estimation on the increase of civil servants' number, it could still be argued that the number of civil servants working in State institutions of various categories (central, local and independent ones) will be significantly high.<sup>24</sup> The new law on civil servants provides that the police officials and the Foreign Service officials shall have the civil servants status and the provisions of the law apply to them to the extent that it is not otherwise provided by a special law. Special laws may regulate some of the elements of the civil service relationship, on:

- a) the diplomatic service
- b) and the structures, which according to the law are allowed to carry arms.

The respective special laws can also regulate additional conditions regarding the recruitment, specific rights or obligations, special position titles and special rules on the career development in accordance with a grading system.<sup>25</sup>

Another striking novelty of the new civil service law relates to the right of the civil servants to address their complaints against State institutions to the newly established administrative courts. The new law provides also for the appointment and dismissal of the Commissioner for Supervision

---

<sup>22</sup> Id. article 2.

<sup>23</sup> Xhezair Zaganjori, *Albania and the European Integration Challenge Basic Principles and Reforms* in Comparative View of Administrative Law Issues, Albdesign Printing House, 2010, ISBN 978-99927-685-3-2, page 98. The Civil Service Law approved on 31 May 2013 provided that it would become effective on 1 October 2014, while the new Government constituted after the general elections of June 2012 adopted a Normative Act in September 2014 postponing by 6 months the date of the law becoming effective. Thus, 1 April 2014 was the expected date for the starting of the effects of the new Civil Service Law.

<sup>24</sup> The Department of Public Administration has not provided data, but according to the Civil Service Commission currently there are approximately 7,000 civil servants and this number could increase up to at least 25,000 civil servants, while the total number of State employees, as foreseen under the State Budget Law of 2014 is approximately 88,000 persons.

<sup>25</sup> Law no. 152/2013, dated 30.05.2013, article 3.

of the Civil Service, as well as criteria to be observed in order to appoint a Commissioner.<sup>26</sup> The Civil Service Commission is reformed into the Commissioner for Supervision of Civil Service. The Commissioner has only one out of the two competences provided for the former bodies – disputes resolution and supervision of State institutions implementing the civil service law, as foreseen under the civil service law of 1999. The new law provides for a transition of the dispute resolution competence from the current Civil Service Commission to the newly established administrative courts.<sup>27</sup> The complaints submitted to the Civil Service Commission until the date of entry into force of the law are reviewed and decided on by the Civil Service Commission, while complaints filed, but not reviewed by the Civil Service Commission by 1 October 2013, are to be lodged with the court for administrative disputes within 60 days from the date of entry into force of the law.<sup>28</sup> At the same time, according to the law on functioning of the administrative courts, disputes related to labour relations are to be adjudicated by the administrative courts based on the relevant legislation regulating the labour relations.<sup>29</sup> Thus, administrative courts are also competent to rule over disputes on labour relations where the employer is a public administration institution.<sup>30</sup>

The Department of Public Administration (DoPA) is regulated as a subordinate structure of the Ministry of Innovation and Public Administration, removing it from the structure of the Ministry of Interior, as it was initially provided.<sup>31</sup> The law expands the role of the DoPA affording more powers to supervise the public administration institutions with regard to the implementation of the relevant legislation. Thus, if compared to the previous regulation, the expanded role of the DoPA is evident, as it previously supervised only the central administration institutions, i.e. the ministries.<sup>32</sup> The new law however contains overlapping provisions. Thus, in addition to the powers of Commissioner for Supervision of Civil Service with regard to the supervision of the civil service, it also includes provisions on the competencies of the Department of Public Administration on the supervision of civil service competence. It is expected that the overlapping of the competences between two key institutions of the civil service system would create conflicts of competences in practice, once the new law becomes fully operative.

The new law includes an important transitory provision with regard to the status of current civil servants. Thus, according to the new civil service law the existing categories of civil servants will be regulated in accordance with the new categories provided in the law. It provides for the creation of the top level managers of civil servants, referred to as the 'TND' – top management civil servants. If compared to the previous regulation of 1999 top level managers rank at the category

---

<sup>26</sup> Id. articles 12 to 15.

<sup>27</sup> Law no. 49/2012, "On the Organization and Functioning of the Administrative Courts and resolution of administrative disputes."

<sup>28</sup> Law no. 152/2013, dated 30.05.2013, article 71, point 3.

<sup>29</sup> Ermir Dobjani, Erlir Puto, Elsa Toska, Erajd Dobjani, "E Drejta Administrative Kontrolli mbi administratën publike" – [Administrative Law and Control over the Public Administration], EMAL, 2013, page 93

<sup>30</sup> Law no. 49/2012, dated 3.5.2012, "On the Organization and Functioning of the Administrative Courts and resolution of administrative disputes," article 7.

<sup>31</sup> Law no. 178/2014, approved on 18 December 2014 and entered into force on 29 January 2015.

<sup>32</sup> Law no. 152/2013, article 7, letter "c" as compared to letter "x" Article 4 in Law no. 8549, dated 11.11.1999, "On Civil Servant's Status."

of Secretary General. According to the new civil service law, the following rules shall apply to the current civil servants and State employees:

1. Civil servants in top level management positions in the Prime Minister's Office or in a ministry, recruited in accordance with the civil service law of 1999 will be considered as 'TND' members.
2. Current employees in top level management positions that are part of the civil service under the new law provisions, in the subordinate institutions of the Prime Minister's Office or ministries, shall be obliged to go through 'TND' admission procedures within 1 year from the time this law becomes effective.
3. Employees holding positions classified as civil service positions in accordance with the new law and who were recruited by a recruitment procedure equivalent to the one under the civil service law of 1999 or have been holding their position for 1 year or more will be considered as civil servants.
4. Employees holding positions deemed to be civil service positions, but who do not fulfil the conditions provided for by the previous paragraph will go through the probation period as provided for under the new law on civil servants.<sup>33</sup>

An important novelty of the new civil service law relates to the role of the Albanian School of Public Administration (ASPA).<sup>34</sup> The School was established before the entry into force of the law, in April 2013 by a Council of Ministers' Decision.<sup>35</sup> The establishment of the ASPA was included in the objectives of the Cross-Cutting Strategy for the Public Administration Reform 2009-2013.<sup>36</sup> The School 'inherited' the personnel of its predecessor the Training Institute of Public Administration (TIPA), but the adoption of a new training program in line with the new vision and mission of the School remains a challenge.

The new civil service law provides for a different recruitment process with regard to the entrance level, namely the specialists' level. Previously, the legislation provided for one competition procedure for each position, while the new law on civil servants provides for recruitment pool for specialists. The new civil service law includes a specific chapter on the recruitment pool.<sup>37</sup> Thus, the recruitment pool will take place annually, based on an estimation of the number of civil servants of the same job category needed for the following year. The hiring in executive level will be based on open competition procedures whose results will be valid for a maximum two-year period. In case new vacancies happen during the two-year validity period, these vacancies will be

<sup>33</sup> Id. article 67.

<sup>34</sup> The new Law on Civil Service no. 152/2013, article 8 provides for the establishment of the Albanian School of Public Administration.

<sup>35</sup> Council of Ministers' Decision no. 220, dated 13.02.2013, "On the establishment and functioning of the Albanian School of Public Administration and training of public administration employees."

<sup>36</sup> Council of Ministers' Decision no. 1017, dated 18.9.2009, "On the approval of the Cross-cutting Strategy for the Public Administration Reform 2009-1013", in the framework of the National Strategy on Development and Integration."

<sup>37</sup> Law no.152, dated 30.05.2013, Chapter IV, articles 20 to 24.



filled with candidate from the list.<sup>38</sup> If the list is exhausted and new vacancies are opened, a second recruitment pool may be organized even within the same calendar year.<sup>39</sup>

The new law on civil servants provides that civil servants of top management level should attend and successfully complete the long-term training at the ASPA. Until this is successfully accomplished, national competitions will be organized when vacancies for civil servants of this category arise. The entire competition process will be entrusted with a National Selection Commission – another new body introduced by the Civil Service Law of 2013.<sup>40</sup> This Commission will also be in charge for disciplinary measures, except the disciplinary measure of ‘reprimand’.<sup>41</sup>

With regard to the rights of civil servants the new law on civil servants introduces the right to strike that was explicitly banned under the civil service law of 1999. However, it is a restricted right for certain categories of civil servants, as according to the new law, state employees working in sectors such as the justice sector, or energy and water supply sectors, cannot strike.<sup>42</sup> The new law on civil servants includes more detailed provisions regarding the transfer of civil servants, providing also the distinction between the temporary and permanent transfer and their respective criteria of application.<sup>43</sup> On the other hand, the new civil service law has restrictions compared to the civil service law of 1999 with regard to certain rights of the civil servants. Thus, it provides that a civil servant that is part of the top management level cannot be member of a political party.<sup>44</sup>

With regard to the disciplinary measures the civil service law on 2013 provides for slightly different disciplinary measures compared to the previous regulation. Thus, the new law on civil servants provides the following disciplinary measures:

- 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 the salary step, for a period up to 2 (two) years;
- d) *dismissal from the civil service*.<sup>45</sup>

If compared to the civil service law of 1999, the above regulation is openly different. Thus the provisions of the law of 1999 included the following as disciplinary measures:

---

<sup>38</sup> Id. article 23.

<sup>39</sup> Two parallel recruitment types have been frequently applied under the former regulation. The one stipulated in the civil service law of 1999 and another one regulated by secondary legislation, namely Order of Prime Minister which allowed for recruitment for civil service positions through contracts based on the Labour Code. Although the order of the Prime Minister lacked the normative status, it has been widely applied by several State institutions based on the justification that the competition procedure envisaged in the civil service law of 1999 is a costly and lengthy one.

<sup>40</sup> Id. articles 27 and 28.

<sup>41</sup> Id. article 59, point 2.

<sup>42</sup> Id. article 35.

<sup>43</sup> Id. articles 48 to 52, Chapter VIII.

<sup>44</sup> Id. article 37.

<sup>45</sup> Id. article 58.

- a) written reprimand;
- b) reprimand with warning;
- c) suspension from the right of promotion for a period up to 2 (two) years;
- d) transfer to a position of a lower level for a period from 30 days up to 1 (one) year;
- e) *dismissal from the civil service*.<sup>46</sup>

In both regulations, the most severe disciplinary measure remains the dismissal from civil service systems, however according to the civil service law of 2013 dismissed civil servants can attempt to enter the system through competition pool after 7 (seven) years from their dismissal. Under the civil service law of 1999, once a civil servant was dismissed based on a final decision, he could not be readmitted in the system.

The Civil Service Law was amended few months after its entry into force.<sup>47</sup> In March 2014, the Government prepared and submitted to the Parliament two sets of amendments to the Civil Service Law of 2013. The first set of amendments was prepared upon consultation with the International Monetary Fund (IMF). It suggested that the Authority of Financial Supervision be excluded from the range of State institutions falling under the scope of the new Civil Service Law. According to the IMF this institutions plays an important role in the financial market in Albania; it has an important role similar to the role of the Bank of Albania, and consequently must retain a similar status.

The second set of amendments included several changes:

1. *The restructuring of State institutions and declaration of redundancy of civil servants*- Civil servants declared redundant after a restructuring process in a civil service institution would automatically lose their position and civil servant status. Dismissed members will not be offered another civil servant position within the State administration, but will receive from one to three months' salaries based on the individual's seniority in the civil service, and will be considered out of the civil service system. These rules are similar to the ones provided in the Labour Code (in force from 1995), applying to all public and private employees that are not civil servants.
2. *Competition for senior civil service positions*- In exceptional cases, the head of a state institution part of the civil service system may decide that applicants from outside the civil service system can participate in a specific competition for a high level position.
3. *The number and composition of the Steering Council for the Albanian School of Public Administration (ASPA)*- The ASPA's Steering Council will be composed of 9 members, instead of 12 foreseen initially in the law of 2013.
4. *Application of the law for the local government units*- amendments provide that the new law be effective for the local government units once constituted after the local elections of 2015.

<sup>46</sup> Law no. 8549, dated 11.11.1999, "On civil servant's status," article 25.

<sup>47</sup> See note 23. The opposition challenged the constitutionality of the Normative Act to the Constitutional Court. The Constitutional Court delivered the decision on 5 February 2014 declaring unconstitutional the Normative Act of the Government. The decision of the Constitutional Court was published in the Official Journal on 26 February 2014.

The Law Committee of Parliament inserted a new amendment to those already submitted by the Government, addressing the cases of final court decisions in favour of a civil servant. Thus, if there are no openings for the readmission of the civil servant (due to restructuring of the respective State institution) he/she would not be reappointed, but will receive instead salaries, starting from the date the court decision became final, up to the moment the decision is executed.

## FINAL REMARKS

The new civil service law aimed the clarification of blurred regulations of the previous civil service regulation of 1999. The dispute resolution mechanisms transferred by the new law to the administrative courts is expected to affect positively the non implementation of Civil Service Commission's decisions by State institutions. The decision making processes at the administrative courts will be faster, based on clear time frames for adjudicating of administrative disputes at the administrative courts of all instances. The transformation of the Civil Service Commission into a Commissioner for Supervision of Civil Service reinforces its sole competence of supervision over State institutions that are part of the civil service law. The Commissioner will be entitled to impose fines for cases of violations of civil service law, enhancing thus its profile in the civil service sector.

The establishment of the Albanian School of Public Administration is without any doubt a very positive development. The School will offer short and long term training for civil servants of all categories and especially top level managers whom will be appointed in high level civil service positions only upon the successful accomplishment of the training modules. The new civil service law provides the open competition pool as the sole way to enter the civil service system for civil servants of executive (lowest) level. Only those of the executive level are eligible to enter a competition procedure for mid or high level positions in the system.

Finally, it is important to note that although the new civil service law was drafted with international support, its implementation depend to a considerable extend on the effectiveness of the technical secondary legislation. It remains to be seen whether the new civil service law and the related secondary legislation will prove to be more effective than the regulation of 1999.

## REFERENCES

- Law no. 7941, dated 29.04.1991, "On the Main Constitutional Provisions", abrogated by Law no. 8417, dated 21.10.1998 "Constitution of the Republic of Albania."
- Law no. 8095, dated 21.03.1996, "On Civil Service in the Republic of Albania."
- Law no. 8417, dated 21.10.1998 "Constitution of the Republic of Albania."
- Law no. 49/2012, "On the Organization and Functioning of the Administrative Courts and resolution of administrative disputes."
- Law 152/2013, dated 30.05.2013, "On the Civil Servant."
- Decisions no. 437 and no. 437/1, dated 03.05.2000, of the Parliament of Albania on appointment of three members of the Civil Service Commission.

- Council of Ministers' Decision no. 1017, dated 18.9.2009, "On the approval of the Cross-cutting Strategy for the Public Administration Reform 2009-1013", in the framework of the National Strategy on Development and Integration."
- Council of Ministers' Decision no.220, dated 13.02.2013, "On the establishment and functioning of the Albanian School of Public Administration and training of public administration employees."
- "Plan of the Government of Albania for the Approximation of Legislation and Implementation of the Stabilisation and Association Agreement" approved by the Council of Ministers through Decision no. 314, dated 13.05.2005.

### Books

- "Constitutional Debate", Volume 1 and Volume 2, *Shtëpia Botuese dhe Shtypshkronja P.S.H. 2015, sh.p.k.*, Tirana, 2006.
- Xhezair Zaganjori, Albania and the European Integration Challenge Basic Principles and Reforms in *Comparative View of Administrative Law Issues*, Albdesign Printing House, 2010, ISBN 978-99927-685-3-2.
- Ermir Dobjani, Erlir Puto, Elsa Toska, Erajd Dobjani, "E Drejta Administrative Kontrollimi mbi administratën publike" – Administrative Law and Control over the Public Administration, EMAL, 2013

### Court decisions

- Unifying Decision of the High Court no.3, dated 24.01.2007.
- Decision no.1, dated 19.01.2009 of the Constitutional Court on "Finding of a violation of the right to fair legal trial as a consequence of the failure to execute a final court decision."

### Reports

- Annual Reports of the Civil Service Commission."
- 2008 -2012 Progress Report on Albania, Chapters on "Public Administration."

### Websites

- [www.president.al](http://www.president.al)
- [www.qbz.gov.al](http://www.qbz.gov.al)
- [www.parlament.al](http://www.parlament.al)
- [www.ligjet.org](http://www.ligjet.org)
- [www.gjk.gov.al](http://www.gjk.gov.al)
- [www.kshc.gov.al](http://www.kshc.gov.al)
- [www.mie.gov.al](http://www.mie.gov.al)
- [www.pad.gov.al](http://www.pad.gov.al)