

# INTERWAR REGULATIONS REGARDING ROMANIAN CIVIL SERVANTS

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## Abstract:

*The need to create special regulations for civil servants emerged in the interwar period because they lacked any guarantee of stability, being replaced, transferred and dismissed by authorities without any legal reason. Among the regulations regarding civil servants in the interwar period we can mention the Civil Servant Act, published in the Official Gazette no. 60 of June 19, 1923, the Decree no. 5506 of November 19, 1923, published in the Official Gazette no. 189, of November 23, 1923, and the Civil Servant Act of 1938.*

**Key words:** interwar regulations, Civil Servant Act, public administration

**JEL classification:** K23, K29

## 1. THE CIVIL SERVANT ACT

After the Great Union, the need was felt for uniform regulations with regard to the rights and duties of public officials. This was urgently required because of their increase in number after the incorporation of the new Romanian provinces, but also because the Old Kingdom lacked a code of conduct for civil servants. Consequently, Paul Negulescu stated that “the regulation of a special status for civil servants was necessary given the fact that they were deprived of any guarantee of stability, while the arbitrariness of authority manifested itself free from any control by removals, substitutions, transfers, and dismissals without any legal reason whatsoever”.

The liberal legislator regulated the field (shortly after the 1923 Constitution appeared), issuing by Decree no. 3112, of June 15, 1923, the *Civil Servant Act*, published in the Official Gazette no. 60 of June 19, 1923. This act had the outstanding merit of establishing a single legal status for all civil servants for the first time. It included 71 articles structured into two parts (Dimiu, 1928).

The drafting of the Act took into account four principles concerning the recruitment, the rights and duties of civil servants, and the disciplinary action.

Article 1 defines the *notion of civil servant* as follows: “the civil servants are Romanian citizens, irrespective of sex, who perform a permanent civil or ecclesiastical public service for the State, county, commune or in institutions whose budget is subject to the approval of Parliament, government or county and municipal councils”.

Chapter II lists the *general conditions* that a civil servant was supposed to observe:

- Romanian citizenship;
- to be at least 21 years of age;
- to be apt in terms of health;
- men “must have been drafted into the military and enjoy all civil and political rights”;
- upon entering office, he/she had to swear an oath of allegiance to King and country laws.

According to article 7 in Chapter III, entitled *Stability*, “the permanent civil servants are declared irremovable officials and will enjoy stability. They shall not be transferred, punished or replaced except under certain conditions stipulated by the organizational laws of the bodies they belong to”.

Chapter IV lists the *duties and responsibilities of civil servants*, as follows:

- the working programme was set to 7 hours per day;

- they were forced to live in the locality where they worked;
- they were obliged that “the acts of their public or private life should not compromise the function or the official body they are part of” (Article 11);
- “should the civil servant act in any way by overstepping his mandate or by falling outside his legal remit, or by abuse of power in violation of private interests, then the legally responsible state, county, or municipality can summon the culprit as guarantee, to be held liable and pay a sum of money for his offence”(Article 13).

Chapter V lists the *incompatibilities of occupying a public office*:

- civil servants may not hold two public offices simultaneously;
- they may not trade commercial goods;
- they may not be tenants;
- they may not be in the service of other administrations or private institutions without the authorization of their supervisor;
- they may not take part in the management or control of financial, industrial or commercial companies, without the approval of their supervising authority;
- no civil servant may be elected a deputy or senator in Parliament.

Chapter VI is devoted to the *civil servants' rights* resulting from wages, salaries, pensions and paid leaves:

- the right to a salary appropriate to the degree or position held;
- the right to a rent allowance;
- the civil servants with dependent children received family support;
- the right to daily allowance;
- the right to a one-month leave each year;
- “longer leaves are granted only in cases of well-established illness” (Article 20);
- the retirement age was set at 60 years, with the possibility of activity extension for another year.

According to Article. 24 of Chapter VI, “civil servants in any category may be associated amongst themselves for cultural, economic or professional interests”. These associations could obtain legal personality by law, with the advice given by a higher administrative council.

Part II of the Act contains seven chapters. Article 34 stated: “Public administrations are divided into central administrations, with their external services, and local, county and communal administrations”.

By degree, the functions in central administrations were as follows:

- Managing Director;
- General Subdirectory;
- Director;
- Subdirectory;
- Head of Service;
- Head of Office;
- Deputy Head of Office;
- Clerk;
- Clerk trainee.

Functions were divided into classes, according to special laws of organization.

Article 36 of Chapter II - *Conditions of eligibility* - stated that, beside the general conditions for employment in a position superior to that of Head of Office, the office holders had to hold a university degree, while the other civil servants had to be at least high school graduates or an equivalent.

G. Alexianu considered that “the objectionable system of recruitment for civil servants, with its referral system based solely on grade sheets, must be corrected through examination at each

level, including at least the Head of Service position, a function when the official usually starts to become stable and devote himself to public service”.

Article 37 from Chapter III – *On appointments and duties*, specifies: "No one shall be appointed to public office without an examination of capacity. The civil servants thus appointed shall be considered as trainees for one year. After that, those who will be found worthy by the committee for proposals and appointments will be declared permanent”.

All appointments and advancements had to be made only with the advice of special committees. These committees would have the following structure:

For urban municipalities that were not county capitals and for rural communities *nereședință* the committee had to be made up of three members:

- the prefecture director;
- the secretary of the county council;
- a delegate appointed by the permanent delegation.

For urban municipalities that were county capitals the committee consisted of:

- the town hall secretary;
- a senior Head of Service;
- a delegate of the communal council appointed by the council.

According to Article 43, “in central administrations the director is responsible for submitting promotion proposals, while in the external services the head of service is responsible for such proposals. For county and municipal administrations, the proposals are made by the Heads of Services”.

The lists with the names of promoted officials were published in public administration bulletins and in the Official Gazette.

Chapter IV addresses *transfers* as a right of the civil servants. They could be transferred upon request from a service to another or within other authorities, with the approval of the Head of Service higher than the authority they left and with the approval of their new supervisor.

According to Article 51 of Chapter V, the disciplinary penalties were:

- verbal or written reprimand;
- reprimand with suspension of salary for a period of 15 days;
- removal from the promotion panel;
- disciplinary move
- exclusion from work for six months, with suspended salary;
- remand;
- dismissal.

Article 53 provided that civil servants could be prosecuted by a disciplinary board with the decision from the minister or head of the authority. The trial was held in secret session and decisions of the committee were final and enforceable.

According to Professor G. Alexianu, “The Civil Servant Act introduces a significant principle in the administrative life of the country, a principle that exists in sporadic form in different laws of organization: an official can not be punished and replaced arbitrarily by his supervisor. The disciplinary power is the power of the hierarchical chief to punish the civil servant”.

Chapter VI instituted the structure of the discipline committees. Within central administrations, the disciplinary committees had the following structure:

- A member of the Court of Appeal;
- A senior level official with the highest degree in the central administration;
- One of the heads of service elected by drawing lots.

The disciplinary committees for county and local officials consisted of:

- The first president or the court president of the city of residence;
- A Head of Service appointed by the county council;
- A Head of Service delegated by the communal council.

According to Article 61, the members of the disciplinary committees were appointed for a three-year term, by royal decree.

## 2. ENFORCEMENT REGULATIONS FOR THE CIVIL SERVANT ACT

The document in question was adopted by Decree no. 5506 of November 19, 1923, published in the Official Gazette no. 189, of November 23, 1923. This document supplements the legal status of civil servants in Romania with a number of provisions and items of novelty provided legal officials from Romania (Boilă, 1929).

According to Article 2, the following are exempt from the provisions of the Act: metropolitans and bishops, officials of the Legislative Bodies whose organization is established by internal regulations of each legislative body; foreign experts, workers and staff hired for a specific period or for a specific job.

According to Article 3 of the Regulations, “no function can be created or abated by budget, but only by an act of organization or by special law”.

Article 8 listed the cases of incompatibility with public office. Thus, civil servants could not be appointed from among persons placed under accusation or definitively convicted criminally or correctionally for the following criminal offenses: forgery, theft, fraud, breach of trust, perjury, bribery, embezzlement of public funds, levying illegal taxes, breaking of seals; stealing, hiding or destruction of public documents in public archives or stores.

An act had to be drawn for each appointment or promotion: either a royal decree or a decision of the competent authority.

Article 12 states: “Each civil servant will have a separate file, called the *record*, which will gather all the documents that concern him, starting with the petition in which he applied for the position, and an office record in which will be noted that all his personal and service data. The office record will be kept in the record. Staff offices are required to keep track of the criminal records of functioning civil servants and of those who are no longer in service, but are still alive, noting whether they are in possession of a pension and a home”.

Chapter III of the Regulations presents the *obligations of civil servants* in no less than 18 articles. The civil servant was thus obliged to serve the state with faith and obedience; he was obliged to devote himself to service, functioning diligently, objectively, and disinterestedly; he was obliged to obey orders from hierarchical superiors and to keep confidential information secret. This last requirement was also valid for those who left office or retired.

According to Article 22, civil servants were obliged to notify:

- their marriage within 14 days of the celebration;
- the birth of a child or a spouse's death within seven days.

The civil servant was forbidden to receive gifts or money as a bribe.

Article 28 provides that an official may be obliged by judicial authority to refund an amount of money as sentence for the civil damages caused by him in the following cases:

- the official who countersigned a report or minister's decision that violates the Constitution or a law text, without warning in writing the Minister about any illegality;
- the official whose abuse of power violated the rights of a person by an act of administrative or managerial authority.

According to Article 31, civil servants were demanded to speak Romanian; thus, during 1924, all officials were supposed to take a language proficiency examination. Those who failed to pass this examination were dismissed.

Chapter IV is devoted to the *civil servants' rights*. According to Article 32, “officials are entitled to properly exercise their functional degree and can not be employed in positions below their level; they also have the right to resign”.

The monthly wages of civil servants consisted of salary, rent allowance and family support.

According to Article 36, the settlement of wages had to be done in such a way that those officials with equal education, experience and qualifications receive the same salary, regardless of which ministry or authority they depended on.

Starting from this article and referring to the situation prior to the law's entry into force, G. Alexianu considered that "this great principle has no application whatsoever in our administrative life. The settlement of wages for civil servants is not according to either their education or their years of service, but is entirely arbitrary and capricious. The harmonization of wages is a work of utmost importance for the state".

Article 43 establishes that civil servants were entitled to overtime compensation for service work, if there were at least 6 additional hours during the week. Overtime compensations were to be settled annually by the journal of the Council of Ministers, in proportion to wages. Their pay was based on detailed reports made by the hierarchical head, which stated the work done and the hours of service provided.

The officials who had to wear a uniform by virtue of their service were to receive compensations in kind or in cash.

Article 49 regulates the civil servants' leaves: for leisure, illness or studies.

According to Article 60, civil servants' associations had the right to unite to form a "federal" or a general union of civil servants' associations. The civil servant associations were forbidden to conduct political activities.

The provisions of Article 64 state: "Relinquishment of work by the civil servant, or the passive strike, either partial or general, after a preliminary agreement, is a desertion of duty, which imperils the general public interests and shall be punished with dismissal"; "the persons proven to have handled the strike action will be sentenced to imprisonment from 3 months to 2 years and a fine from 1,000 to 10,000 lei. If the incitement to strike comes from an association of civil servants, the association will be dissolved".

Part II of the Regulations is dedicated to the Dispositions applicable to officials in the administration. Article 67 lists the categories of civil servants covered by the Civil Servant Act and its Regulations, actually resuming the definition from Article 1 of the Act: "they are considered administrative officials who are all state, county and communal officials, or work in institutions whose budgets are subject to approval of Parliament, government or county councils". The following were exempted from these provisions:

- the members of the diplomatic and consular corps, the educational and ecclesiastical personnel;
- the members of all technical and special professional bodies;
- the magistrates;
- the officials of the Legislative bodies.

Article 72 (in Chapter II) regulates two committees for the appointment and promotion of civil servants:

- the Commission for appointment and promotion proposals for state officials, which will be formed within the ministries and special directions. These committees were composed of all the general directors and the directors of independent services;
- the Commission for appointment and promotion proposals within the local administration, constituted as follows:
  - A committee in each county for county officials, for the officials of the municipalities that were not county capitals, and for the officials of rural communities. The Commission was composed of three members, namely: the Director of the County Prefecture, the secretary of the county council, and a permanent member of the permanent delegation appointed by the permanent delegation;
  - A commission for urban municipalities that were county capitals, made up of: the secretary of the town hall, a senior-level head of service, and a municipal council member.

A prerequisite for the appointment of a public servant was to take and pass the capacity examination, which took place in the ministries. Capacity examinations received candidates with 4 grades of secondary education or equivalent, and with 4 grades of elementary school or equivalent.

The examining boards were appointed by minister's decision and the certificates of capacity were valid for the year when they were issued and for the following year.

Article 76 also mentions other conditions concerning education required to enter public office:

- the head of office was required a university degree or an equivalent diploma;
- the position of clerk trainee required a university degree or an equivalent school.

According to Article 79, "any civil servant shall be considered as a trainee for one year after appointment. Meanwhile he enjoys all the rights, except stability. A year after appointment, the committee for proposals of appointments and promotions examines the grades given to civil servants by their hierarchical senior officials and decide whether they can be declared permanent".

After a year of internship, promotion was obtained from one grade to another, and after two years civil servants could apply for advancement degrees. The grades given were: 1 - very good, 2 - good, 3 - low, taking into account their professional skills, personal qualities, diligence in work, and attitude to work, bosses and colleagues, but also to the public.

Appointment in functions up to that of general subdirectory included, had to be made only by permanent members of staff, based on the entry order in the promotion panels made by the committees for proposals of appointments and installations.

According to Article 87, the promotion panels had to be made public and were valid only for the following year. They were to be published in public administration gazettes or in the Official Gazette, containing a number of mentions as to the name and surname of the officials admitted to advancement, seniority and degree for which the panel was drafted.

Chapter III – *Discipline. Penalties and Disciplinary Procedure* complements the provisions of the Act, so that in Article 93 it states: "The civil servant punished by remand can be restored in office only after two years of remand and with demotion to the lowest class of degree. The civil servant punished with dismissal shall not occupy any public office ever again. In this respect, the staff services shall notify the general management of the Official Gazette, each year in December, as to the array of officials dismissed during the year.

Any disciplinary penalty suffered by a civil servant is noted in his rating sheet. The observations made by hierarchical officers as to how to implement the law and the provisions of service are not considered disciplinary punishments, and are not noted in the rating sheets".

Article 103 provided that the civil servant's trial proceedings before the disciplinary committee were held in secret session. Beside the members of the committee, the following took part in the trial: the defendant, the prosecution official, and the official performing the task of the Registrar of the Board.

The accused civil servant defended himself, verbally, by written explanatory report or by a colleague of his choice from the same administration. The task was mandatory for the defendant's designated defender.

If an official committed a serious offence deserving criminal penalty, the Minister or the chief of authority notified the Public Attorney. In this case the disciplinary prosecution was suspended until the rule of the examining magistrate.

Chapter IV is dedicated to the *establishment and functioning of the Disciplinary Boards*. According to Article 114, two committees were appointed:

- Disciplinary committees in ministries for state officials;
- Disciplinary committees at county level for local administration officials.

The members of the Board were appointed by royal decree for a period of three years. At the same time an alternate was appointed for each member of the commission.

### 3. THE CIVIL SERVANT ACT OF 1938

**The Civil Servant Act of 1938** remained in force, with changes over time, until June 8, 1940, when was promulgated a Code for Civil Servants, meant, in the legislator's opinion, to bring order in the hierarchy of public officials from various administrative services and to harmonize the salaries of civil servants (Guțan, 2005).

This code was divided into two parts: the former regulated the general conditions for recruitment of civil servants, their duties and responsibilities, their incompatibilities, the family care, holidays, pensions, and their associations and mutual funds. Part 2 applied, similarly to the 1923 Act, only to the administrative officials and experts, while the same categories of civil servants were exempt from its provisions.

The same general conditions of recruitment were kept, except that now women had the right to employment too. With regard to the special conditions, there was an emphasis on the age of the candidates: candidates over the age of 30 were not accepted for positions in the administrative hierarchy, while for specialized functions, candidates had to be below 35 years of age.

Furthermore, candidates for public office had to pass an examination in a contest that involved a review of titles and conditions of admissibility. The commissions for proposals of appointments, advancements and transfers made all the appointment proposals.

The code regulated promotions in detail as the appointment of candidates could be made only in the degree of clerk. According to Article 78, this could be made only from one degree to the next. Unlike the 1923 Act, which had established class-to-class and degree-to-degree advancement, the current code replaced, as far as administrative officials were concerned, classes with degrees, establishing within each degree three distinct gradations. The new scale set by the code comprised the clerk, the deputy head of office, the head of office, the head of department, the head of service, the subdirectory, the general subdirectory and the managing director.

Article 200 of the code also regulated a new local administrative hierarchy including the notary, the chief-notary, the prosecutor, the chief-prosecutor, the senior prosecutor, the deputy prefect, the prefect and the managing administrative inspector. It established a new equivalence of classes and degrees in the local administrative hierarchy under the Code. The equivalence of degrees was to be established according to salary. The degree-to-degree advancement in the local administrative hierarchy was to be made the choice and based on seniority and examination (Guțan, 2005).

In the state administration of 1928, the number of civil servants was about 345,066, and their salaries amounted to the sum of 20,700,028,866 lei from a budget of 38 billion lei. The number of 110,000 county and communal officials must be added as well (Guțan, 2006).

### 4. CONCLUSIONS

The Civil Servant Act included rights and duties applicable to all public officials in its former part and specifically to administrative officials in its latter part. The regulations for the application of the Civil Servant Act added several provisions and items of novelty to the legal status of the civil servants from Romania.

In addition to the Civil Servant Act, published in the Official Gazette no. 60 of June 19, 1923, the Decree no. 5506 of November 19, 1923, published in the Official Gazette no. 189, of November 23, 1923, and the Civil Servant Act of 1938, elements concerning the work of civil servants can be also found in several administrative law from the interwar period: 1925, 1929, 1936, and 1938.

**REFERENCES:**

1. Boilă, R., *Organizația de Stat, Considerațiuni teoretice; Organizația statului român în comparație cu organizația altor state*, Tipografia „Cartea Românească” SA, Cluj, 1927;
  2. Boilă, R., *Organizația administrației locale*, Fundația Culturală „Regele Mihai I”, Imprimeria, 1929;
  3. *Istoria românilor*, vol. VIII, Academia Română, Ed. Enciclopedică, București, 2003;
  4. Ionescu-Darzeu, V., *Codul Administrativ*, Chișinău, 1925;
  5. Guțan, M., *Istoria administrației publice locale în statutul român modern*, Ed. All Beck, București, 2005;
  6. Guțan, M., *Istoria dreptului românesc*, Ed. Hamangiu, București, 2008;
  7. Hamangiu, C., *Unificarea legislativă a României*, Monitorul Oficial și Imprimeriile Statului București, 1931;
  8. Panaitescu, A., *Codul Administrativ*, Chișinău, 1925;
- \*\*\* *Lege pentru statutul funcționarilor publici*, adnotată de Radu Dimiu, Ed. „Curierul Judiciar”, S.A., București, 1928