

NEW CIVIL SERVICE LEGAL FRAMEWORK IN ALBANIA – THE ROADMAP FOR THE WHOLE REGION?²

Abstract

The objective of the paper is to analyse the Albanian civil service legislation changes with respect to recruitment, selection and termination of employment. The central sections of the paper examine new civil service legislation (Civil Service Law of 2013 and subsequent amendments of 2014) and its early implementation challenges. The author concludes that some aspects of the new civil service legislation, such as pool recruitment and permanent civil service recruitment commissions, may serve as a roadmap for other Western Balkan countries in the region, although their full effectiveness is yet to be proven in practice. The provisions which guarantee civil service professionalization and tenure, especially with respect to senior positions, are still not fully implemented and hence do not set a good example of how to move forward in this sensitive politico-administrative field.

Keywords: *civil service legal framework, recruitment and selection, termination of employment, Albania.*

1. Introduction

Civil service legislation provides an important basis for creating a civil service system based on merit. The objective of civil service legislation is to ensure the observance of the merit principle in all stages of human resource management.³ The merit principle means that all human resource management processes, starting from the process of recruitment, appraisal, promotion, career development, rewarding, training and development are based on the professional competencies.

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³ P. W. Ingraham, „Building Bridges over Troubled Waters: Merit as a Guide“, *Public Administration Review*, 2006, 486–495.

The economic crisis and deterioration in service delivery that confronted all Western Balkans countries in the end of 2000s triggered thinking about the ways on how the civil service systems can be made more efficient, without compromising the merit principle. This especially refers to the process of recruitment and selection, which can incur significant costs both in terms of financial and human resources and be subject to political and partisan pressures, especially in the times when the private sector employment opportunities are limited.

Albania is one of the countries in the region which has changed its civil service legislative framework in order to attempt to both improve efficiency and merit-based recruitment and selection process in the civil service. Albanian Parliament adopted the new Law on Civil Servants in May 2013,⁴ which was subsequently changed in December 2014.⁵ The new legal framework has introduced several new recruitment instruments: permanent recruitment commissions, pool recruitment process and a new procedure for recruitment of senior civil servants.

The objective of this paper is to analyse the civil service legal changes with respect to recruitment, selection and termination of employment and their initial effects. Before starting the analysis, we shall outline the public administration principles established by SIGMA/OECD, in order to be able to assess the quality of the new legal framework. The central section of the paper shall analyse the new regulatory framework and early implementation challenges and lessons learned. The concluding part of the paper shall attempt to answer the question of whether the new legislative framework in Albania can serve as a roadmap for other countries in the region.

2. SIGMA Public Administration Principles on HRM – recruitment, selection and termination of employment

Due to national specificities, the area of human resources management is usually not a subject of international conventions or a part of *acquis communautaire*. This area is, instead, mainly “governed” by the so-called “*soft acquis*“, which constitute common standards of the EU Member States.⁶ Although they are not legally binding, these standards can have significant practical impacts on the countries seeking EU membership,

⁴ Law on Civil Servants, *Official Gazette of Albania*, No. 152/2013 – CSL 2013.

⁵ Law on Amendments of the Law on Civil Servants, No. 178/2014, of 18.12.2014, *Official Journal*, No. 211, of 14 January 2015, p. 12727.

⁶ M. Keune, „EU Enlargement and Social Standards – Exporting the European Social Model?“, *The European Union and the Social Dimension of Globalisation, How the EU Influences the World* (J. Orbie, L. Tortell), Routledge, 2009, 52.

as the European Commission uses them as benchmarks for assessing progress towards membership.

In order to develop human resource management requirements further, the European Commission SIGMA programme⁷ has developed a document named “The Principles of Public Administration”,⁸ where the prominent place has been given to the fields of state/public administration and human resources management. The basic standards are defined in a quite detailed manner in line with the legislation of the EU member states, and they also involve good European practices in the field of human resources management and other public administration fields. We shall pay special attention to standards which relate to key human resource management elements: recruitment and selection and termination of employment.

SIGMA requires that the recruitment and selection process, either external or internal and regardless of the category/class of public servant, is clearly based on merit, equal opportunity and open competition. It also requires that the law which governs the position of civil servants clearly establishes that any form of recruitment and selection not based on merit is considered legally invalid.⁹

In order to ensure impartiality, competition procedure needs to be implemented by recruitment and selection committees, operating independently from political influence. Members of these committees should possess a solid understanding of the tasks performed in the advertised position, along with the skills and knowledge required for their performance.¹⁰ They also need to be trained on selection procedures in order to be able to implement them in a consistent and fair fashion.

In order to ensure the protection of rights of all competing applicants, the competition results should be appealable before a second-instance administration body (normally, appeals commission), as well as the competent court (most often, administrative court). Furthermore, the criteria for demotion and termination of employment should be explicitly stated in the law. Like in the case of competition, civil servants should have the right of appeal against decisions on their demotion and employment termination.

⁷ Having recognised the importance of a well regulated and organised public administration for the fulfilment of the membership requirements in all sectoral areas, in 1992 EU cooperated with the Organisation for Economic Cooperation and Development (OECD) to establish the SIGMA programme (SIGMA - *Support for Improvement in Governance and Management*). The Programme aims at providing support to public administration reform activities in (potential) candidate states. SIGMA programme is mainly funded by the EU and represents one of the main instruments of the European Commission in promoting capacity development in public administration to the EU (potential) candidate states.

⁸ SIGMA/OECD, *Principles of Public Administration*, 2014, OECD publishing.

⁹ *Ibid.*, 48.

¹⁰ *Ibid.*

Special attention is paid to senior, i.e. managerial civil servants. SIGMA requires that direct or indirect political influence on senior managerial positions is prevented. There are further four major requirements with respect to managerial civil servants:

- 1) The category/class/level of senior managerial positions in the public service should be included into the scope of public service (usually the positions of the secretary-general of the ministry and director-general of the administrative body determine the upper dividing line between public servants and political appointees).
- 2) The criteria for recruiting persons to the senior managerial positions should be clearly established and disclosed;
- 3) The recruitment and selection process to the senior managerial positions, either external or internal, should be based on merit, equal opportunities and open competition;
- 4) The termination of employment of public servants holding senior managerial positions should only be admissible in cases explicitly provided for and under the procedural provision established in the law.¹¹

Finally, SIGMA Principles of Public Administration require that the objective criteria for the demotion of public servants and termination of the public service relationship be explicitly established in the law. These provisions should also be effectively applied in practice.¹²

3. Development of civil service legal framework in Albania 1996 - 2013

Albania adopted its first civil service legislation – Civil Service Law (CSL) in 1996.¹³ The CSL provided a special legal status of employees of central administration and for the first time introduced a tenure of civil servants.¹⁴ It also prescribed several guarantees regarding promotion, training and disciplinary measures of civil servants.

Although it represented an important step forward in securing the stability of employment of civil servants, the 1996 CSL also suffered from important deficiencies. It did not make a clear distinction between civil servants and political positions on the one hand and civil servants and technical staff, on the other hand.¹⁵ It also did not require mandatory

¹¹ *Ibid*, 50.

¹² *Ibid*.

¹³ Civil Service Law of Albania, No. 8095, of 1996, amended by Law No. 8300, of 1998.

¹⁴ Article 33, point 1, of the Civil Service Law of Albania, No. 8/95 of 1996.

¹⁵ G. Husi, "Public Administration in Albania and the Process of European Integration", *Academic Journal of Interdisciplinary Studies*, MCSER Publishing, Rome Italy, Vol 4, No 2 S2, 2015, 305.

open competition in the recruitment and selection process but allowed direct appointment by the institution which wanted to recruit a new employee.¹⁶ The level of implementation of the Law was also rather low. This is due to the fact that the adoption of the Law was not accompanied by the elaboration and approval of the secondary legislation necessary for effective CSL implementation.¹⁷ After the change of the Government in 1997, the level of observance of civil service rules came to the lowest point, as a large number of civil servants (especially at managerial levels), in spite of a proclaimed tenure, was dismissed.¹⁸

In 1999 the Albanian Parliament adopted a new civil service legal framework – the Law on the Status of Civil Servants,¹⁹ which introduced important improvements in the regulation of legal status of civil servants. It clarified the concept of a civil servant (employees of central or local administration which exercise public authorities) and introduced mandatory recruitment by an open competition. It further governed in more detail other HRM functions, such as promotion, career advancement, performance appraisal, disciplinary measures and legal remedies in case of violation of civil servants rights.²⁰ The 1999 Law also established the Department of Public Administration (DoPA) as the main body in charge of the management of the civil service, as well as the Civil Service Commission, as an independent institution responsible for supervising the implementation of the Civil Service Law.²¹

In spite of generally well-established legal basis, which was to a high degree in line with European standards and SIGMA principles, the objective of the Law - the creation of a professional, merit-based civil service was not achieved.²² One of the major impediments in this respect was, again, relatively low level of implementation, especially during the times of political transitions. Namely, the change of the Government in office in 2005, triggered the distrust between new politicians in power and civil servants and resulted in a high turnover of staff, especially at the senior level.²³

¹⁶ *Ibid.*

¹⁷ A. Shundi, “Civil Service Professionalisation in the Western Balkans”, Expert report prepared for the SIGMA-OECD project on the state of civil service professionalization in the Western Balkan states, 2010, 5.

¹⁸ *Ibid.*, 71.

¹⁹ Law No. 8549, of 11.11.1999 “On the Status of the Civil Servant” and its consecutive amendments.

²⁰ G. Husi, 305.

²¹ *Ibid.*

²² J. Meyer-Sahling, “Civil Service Professionalisation in the Western Balkans”, *SIGMA Papers*, No. 48, 2012, OECD Publishing. <http://dx.doi.org/10.1787/5k4c42jmp35-en>, 71.

²³ A. Shundi, 71.

4. New Civil Service Legal Framework 2013 - 2014

The third civil service legal framework in Albania (currently in force), established by the adoption of the Law on Civil Servants (CSL) in May 2013,²⁴ has entered into effect with a turbulent start. Shortly after its adoption, the entry into force of the new CSL was postponed to February 2014. Only a couple of months later, in December 2014, the substance of the CSL was amended.²⁵

From the institutional point of view, the new CSL strengthens the role of DoPA²⁶ and establishes the Albanian School of Public Administration, which is responsible for vocational training of civil servants.²⁷ It also provides a basis for the creation of a Commissioner for Civil Service Monitoring, an administrative body responsible for monitoring the legality in civil service management.²⁸

Intensive efforts have been invested to implement the new legal framework, through adoption of a comprehensive set of secondary and tertiary legislation. Thus, from January 2015 to April 2016, the Council of Ministers adopted a number of bylaws to support the implementation of the Civil Service Law.²⁹ The Department of Public Administration also issued a number of guidelines and organised training courses for HRM units in line ministries, subordinated institutions and independent institutions. In SIGMA's view, the degree of regulation in the primary and secondary

²⁴ CSL 2013.

²⁵ Law No. 178/2014 on amendments and supplements to Law No. 152/2013 on Civil Servants – CSL amendments 2014.

²⁶ Article 7 of the CSL 2013.

²⁷ The School of Public Administration enjoys administrative and academic autonomy, and is subordinated to the Ministry of the Interior. The School is tasked with developing two professional training programs: 1) professional training for top-level management 2) professional training and development programs for civil servants belonging to other staff categories. Cf. Article 8 of the CSL

²⁸ Article 11 of the CSL 2013.

²⁹ Decision of the Council of Ministers (DoCM) No. 262, 25 March 2015 on amendments to DoCM No. 142 on the Description and Classification of Job Positions of State Administration Institutions and Independent Institutions, etc., 12 March 2014; DoCM No. 243 on the expert category acceptance, parallel transfer, probation and appointment, 18 March 2015; DoCM No. 242 on appointment to the low-level and mid-level management categories, 18 March 2015; DoCM No. 338 on amendments and additions, 6May2015 to DoCM No. 118 on the procedures for appointment, recruitment, management and termination of the civil service relation for top-level management positions and members of the Top Management Corps (TMC), 5 March 2014; DoCM No. 124 on the suspension and dismissal from the civil service, 17 February 2016; DoCM No. 125 on the temporary and permanent transfer of civil servants, 17 February 2016; DoCM No. 1037 on procedures for the assessment of civil servants on obtaining and updating additional knowledge, 16 December 2015.

legislation is balanced enough to allow flexibility and ensure the stability of the civil service.³⁰

The new legal framework has introduced important shift from a mainly position based to a career based system (with some elements of position based system). The career elements are emphasised by ensuring sufficient horizontal and vertical mobility for lower-ranking positions. Namely, before a public competition is announced, state authorities are obliged to try to fill in the vacancy by a transfer of the existing civil servants. The transfer is done by selecting candidates who are at the same category as the vacant position. This task is entrusted to permanent internal committees, obliged to adhere to the principles of equal opportunities and merit.³¹ Once this procedure is completed, the committees appoint the most successful candidate. The procedure may end without an appointment only if none of the candidates meets specific requirements for that position.³²

If a vacancy is not filled on the basis of a transfer within the institutions, state authorities are obliged to internally announce such position with the purpose of promoting civil servants to a higher position.³³ The Government, however, at the beginning of a year may decide to use public competition procedure for up to 20 percent of all vacancies,³⁴ in order to ensure inflow of new human resources from the labor market with appropriate skills and knowledge for those positions. Given that state authorities are obliged to carry competitive procedure while filling in the vacant posts (with the exception of transfer for positions of the same category), it may be concluded that these procedures are in line with SIGMA Principles of Public Administration.

In order to improve the capacities of the members of selection panels, the new Civil Service Law introduced permanent recruitment commissions with a term of office of one year, which is a novelty for the whole Western Balkan region. Namely, recruitment and selection process is, as a rule, conducted by an *ad hoc* commissions in most of the Western Balkan countries. Due to an *ad hoc* nature of those committees, one of the often found weaknesses in the recruitment and selection system is a lack of capacity of the members to carry out this process effectively and professionally.³⁵ The establishment of permanent recruitment and

³⁰ OECD/SIGMA, *Monitoring Report: The Principles of Public Administration, Albania*, May 2016, OECD/SIGMA publishing, 13.

³¹ Article 25, paragraph 3 of the CSL 2013.

³² Article 25, paragraph 4 of the CSL 2013.

³³ Article 26, paragraph 2 of the CSL 2013.

³⁴ Article 26, paragraph 4 of the CSL 2013.

³⁵ J. M. Sahling *et al.*, "Improving the implementation of merit recruitment procedures in the Western Balkans: Analysis and Recommendations", a paper presented at the RESPA Conference in Danilovgrad in November, 2015.

selection commissions, which reduce the level of fluctuation of the commission members, should have a positive effect on acquiring a higher level of expertise, which is fully in line with SIGMA Principles.

Permanent recruitment commissions comprise of one employee of the Public Administration Unit, one civil servant from the authority that fills a vacancy and one external expert, normally a member of university staff.³⁶ The composition of recruitment commissions, where the majority of members is not from the authority that fills a vacancy, should improve impartiality and merit-based selection, which is also in line with SIGMA Principles. The Department of Public Administration has set up permanent selection commissions for recruitment to general or special administration groups in the state administration and separate ones for independent institutions. Selection of external experts had been organised through an open call.³⁷

Unlike the previous practice of carrying out a separate public competition procedure for each vacancy, the new legal framework has introduced so-called “pool recruitment” in order to increase the efficiency of the recruitment process. Pool recruitment means that public competitions are announced periodically for several positions (usually entry-level positions) at once. This is expected to significantly reduce the recruitment and selection costs. Selection of all candidates is based on the written test, oral test and other selection methods, along with the assessment of work experience.³⁸ Successful candidates must exceed the 70% threshold of the total number of points, in which case they are included in the list of successful candidates.³⁹ The results of interviews account for 25% of the total number of points scored.

At the end of pool recruitment procedure, the best-ranked candidate(s) can choose one of the vacant positions. If there are more successful candidates than vacant posts, these candidates can be recruited once a new position becomes vacant within the next two years, which is how long the list of successful candidates will be valid.⁴⁰ In this way, the recruitment process should become cheaper and more efficient, as there is no need to carry out additional recruitment procedures for new vacancies. If in the meantime, another recruitment procedure is organized for the same group of jobs, all successful and not appointed candidates will be re-ranked in accordance with the new competition requirements.⁴¹

³⁶ Article 22, paragraph 4 of the CSL 2013.

³⁷ OECD/SIGMA (2016), 25.

³⁸ Article 20, paragraph 2 of the CSL 2013.

³⁹ Article 22, paragraph 5 of the CSL 2013.

⁴⁰ Article 23, paragraph 3 of the CSL 2013.

⁴¹ Article 23, paragraph 3 of the CSL 2013.

Unsuccessful candidates have the right to appeal against unfair recruitment decisions. First, candidates are entitled to file a written complaint with the permanent selection commission. If not satisfied with their decision, they have the right to appeal to the Administrative Court. In 2015, only three candidates appealed to the Administrative Court of First Instance about recruitment.⁴² Although it is good that civil service candidates have the possibility to appeal to the Administration Court, they do not have the chance to file a complaint to an independent administrative authority (but to the permanent recruitment commission), which is not in line with the SIGMA principles.

The CSL makes a clear distinction between senior managerial positions, so-called top management position and civil service positions, which is in line with the SIGMA Principles of Public Administration. Top management positions in the civil service include the following posts: general secretary, director of the department, and director of general directorates and equivalent positions (e.g. heads of subordinated institutions). The methods of recruitment and selection for top management positions are separately regulated by the CLS and secondary legislation.⁴³

According to the original wording of the CSL (2013), appointment to a top management position is linked to completion of a comprehensive managers training, in order to ensure professionalism at the top of the civil service. The training course is provided by the Albanian School of Public Administration.⁴⁴ The Civil Service Law in principle allows only middle-level civil servants who meet specific requirements to apply for this training when the School announces a national competition, in order to ensure that civil servants have a priority in filling in senior positions and are able to develop their careers to the top levels of administration.

The selection of candidates for top-level management positions is carried out by the National Selection Committee. The National Selection Committee comprises of one representative of the Department of Public Administration, two representatives of the Albanian School of Public Administration, one representative of the top-level management staff and five independent experts.⁴⁵ The National Selection Committee was established in 2014, through the open competition.⁴⁶

⁴² OECD/SIGMA (2016), 25.

⁴³ Decision of the Council of Ministers No. 118 on the Procedures of the Appointment, Recruitment, Management and Termination of the Civil Service Relations of the Top-level Management Civil Servants and Members of the TMC, 5 March 2014; amended by DoCM No. 388, 6 February 2015.

⁴⁴ Article 27, paragraph 4 of the CSL 2013.

⁴⁵ Article 31 of the CSL 2013.

⁴⁶ OECD/SIGMA, (2016), 28.

The candidates who scored highest and exceeded the 70 percent threshold are appointed to top-level management positions and become members of this staff category. Persons who complete training for top-level management positions, subject to their consent, may also be appointed to positions of special coordinators and middle-level management.

The amendments of the CSL of 2014 have allowed, however, “direct” exceptional access to top management positions. The first one is of a transitory nature, through a competition until the first group finishes the training of the Public Administration Academy or in case the number of candidates who finish the program is insufficient. The second exceptional procedure assumes direct appointment from independent institutions, following an assessment conducted by the Department of Public Administration.⁴⁷ This procedure can be carried out if the number of civil servants coming from the previous two procedures is insufficient, which provides quite a large room for manoeuvre.⁴⁸ Once appointed, these staff is also obliged to attend the ASPA in-depth training and to take the exam.⁴⁹

The criteria for termination of service have been fairly restricted by the adoption of the original CSL in 2013, but then quickly loosened by the CSL amendments of 2014.⁵⁰ Some authors argue that the most significant improvement of the 2013 CSL was its restrictive approach with regard to termination of employment.⁵¹ The job of a civil servant was secure even in a case of a restructuring of an institution, when the position of a civil servant ceases to exist, in which case he/she needed to be transferred to another position of the same category within the civil service. This was changed by the 2014 CSL amendments, which broadened the grounds for dismissal to include closing or restructuring of public institutions⁵²

⁴⁷ Article 30, paragraph 5 of the CSL. DoCM No. 118, Chapter VII, points 18-21, amended by DoCM No. 388.

⁴⁸ OECD/SIGMA, (2016), 28.

⁴⁹ Article 30, paragraph 5/1 of the CSL. DoCM No. 118, Chapter VII, 21, amended by DoCM No. 388; CSL, Article 66.1, point e/1 amended, establishes that the member of the TMC appointed through this procedure shall be released if he/she does not successfully complete the ASPA in-depth training.

⁵⁰ CSL, Articles 63-66; DoCM No. 124 of 17 February 2016 on Suspension and Dismissal from the Civil Service, which repeals the provisions on suspension and dismissal of civil servants established by the DoCM No. 171 on the Permanent and Temporary Transfer of Civil Servants and the Suspension and Dismissal from the Civil Service, 26 March 2014.

⁵¹ According to the initial wording of the CLS, employment in the civil service could be terminated only if a civil servant resigns, dies, loses the Albanian citizenship, retires, is convicted of a crime, or is released from duty because of unjustified refusal to accept a mandatory transfer, because of complete health incapacity, two consecutive “non-satisfactory” performance appraisals, and/or is dismissed from the civil service, as a disciplinary sanction foreseen in Articles 57-61 of the law (Articles 63 to 66). G. Husi, 307.

⁵² Article 50.6 of the CSL 2013.

and negative appraisal of the acquisition and updating of supplementary knowledge necessary for civil servants to accomplish their duties.⁵³ These amendments also speed up procedures that lead to termination of employment. Termination conditions, listed in the CSL, are the same for top-level management and other civil servants.

5. Early implementation challenges

Although the CLS has started to be implemented only in 2014 and hence it is still early to assess its effectiveness, some early problems in its implementation may already be detected. This relates primarily to the insufficient efficiency of recruitment and selection process and struggles to appoint top management positions on merit.

In spite of well-regulated pool recruitment procedures, a large number of vacancies in the civil service remains unfilled. Thus, for example, during 2015, only 60 percent of existing vacancies envisaged by Annual staffing plan for 2015 were filled.⁵⁴ This may be attributed to insufficient quantity and quality of candidates, as many of them do not fulfil the selection criteria.⁵⁵ This further opens the question of whether the selection criteria were set too high for the circumstance of the Albanian civil service and/or whether there is sufficient trust of citizens in the merit-based recruitment in the civil service.

Another problem observed in the implementation process is a lack of clarity of criteria to be used during the selection process, especially what needs to be tested during the written exam and the interview. Moreover, it seems that the type of questions asked during the selection process are mainly of a technical nature⁵⁶ and not based on testing the behavioural competencies of candidates, which are equally important for assessing the future work performance of civil service candidates.

Furthermore, and not surprisingly, one of the key problems in the implementation of the CSL is a merit-based selection to top management positions. The prescribed procedure of appointment of top-level officials through a competition followed by the training program organized by the Academy of Public Administration has still not been implemented, one of the reasons being a delay in the preparation of the training program.⁵⁷

⁵³ New appraisal procedure was introduced by the amendments to the CSL Article 62 and regulated by DoCM No. 1037 on the Procedures of Evaluation of Civil Servants on Acquiring and Updating Additional Knowledge, 16 December 2015. Cf. OECD/SIGMA (2016), 25.

⁵⁴ OECD/SIGMA, (2016), 26.

⁵⁵ *Ibid.*, 22.

⁵⁶ *Ibid.*, 24.

⁵⁷ *Ibid.*, 29.

Appointments to the top management positions are instead done by using exceptional procedures foreseen in the CSL. In spite of this increase of flexibility in recruiting top management staff, a high number of vacancies still remains unfilled,⁵⁸ which may indicate a distrust of potential candidates in the merit-based recruitment for senior positions.

Finally, the biggest challenge faced by the implementation of the 2013 civil service legal framework was its inability to secure tenure of civil servants, due to political change of power which occurred right after the adoption of the CSL. Namely, the CSL was adopted in May 2013, which was followed by parliamentary elections held in June 2013, and the new Rama Government was formed in September 2013. One of the first decisions of the Rama Government was to postpone the effects of the CSL by 6 months, which was approved by the Parliament in October 2013.⁵⁹ This has resulted in a significant turnover of staff in the central administration of around 13 percent.⁶⁰ In its 2014 report, the EU Commission, using the data provided by the Department of Public Administration estimated that “since September 2013, around 380 civil servants in central institutions were dismissed, resigned or put on waiting lists and around 100 were downgraded out of a total of 1392 current civil servants. The department also estimated around 5.200 dismissals and resignations in subordinate institutions and agencies.”⁶¹

In the meantime, the Government prepared several amendments to the Law No. 152/2013 that were adopted by the Parliament on 18 December 2014.⁶² As mentioned earlier, the amendments of the CSL reduced the range of public positions that were considered by Law No. 152/2013 as the part of the civil service (Article 2), and allowed the Council of Ministers to open civil service positions of higher levels to individuals from outside the system (Article 29, paragraph 1 of the CSL). These amendments prove that the Albanian socio-political environment does not allow for high level of depoliticisation, as wished for by legal drafters of the 2013 CSL.

6. Conclusion

Similar to many other countries in the region, Albania has introduced new civil service legislation attempting to improve the effectiveness of the human resource management system. The 2013 CSL has introduced

⁵⁸ *Ibid.*

⁵⁹ G. Husi, 307.

⁶⁰ European Commission Staff Working Document: “Albania Stabilisation and Association Progress Report 2014”, {COM(2014) 700 final}, Brussels, 8.10.2014, SWD(2014) 304 final, 9.

⁶¹ *Ibid.*

⁶² Law No. 178/2014, of 18.12.2014, *Official Journal* No. 211, of 14 January 2015, 12727.

important novelties in the HRM system, such as pool recruitment and permanent recruitment commissions and has also established a Public Administration Academy, as an institution responsible for civil service training, with special emphasis on senior civil servants.

The answer to the question as for whether the Albanian civil service legislation could serve as a roadmap to other countries in the region should at this point be “it may, but just to a certain extent”. Pool recruitment and permanent civil service commissions could make an important step forward in improving the efficiency of the recruitment and selection process. Albanian example shows, however, that these good ideas do not guarantee effectiveness in practice, as around 40 percent of vacancies in the Albanian civil service are still not filled based on the new procedures.

As for securing the professionalism and stability of senior civil service positions, the Albanian example confirms the finding that passing of civil service legislation is not a panacea for depoliticisation.⁶³ Although the 2013 CSL has provided strong guarantees of civil service tenure and depoliticisation, they proved to be non-implementable in practice, due to a shift of power which occurred right after the adoption of the new legal framework. Furthermore, the top positions are still filled mainly on the basis of CSL exceptions, rather than through the regular procedure within the Academy for Public Administration. The Albanian case, therefore, cannot serve in this respect as a good example to other countries in the region. It instead shows that no “miracles” should be expected from the establishment of a good legal framework, which can quickly be changed or derogated following the wishes of “political masters”.

The Albanian case also proves the experience of other Central and Eastern European countries (including other Western Balkans countries) that depoliticisation is a slow and reversible process.⁶⁴ It seems that in order to achieve professionalization of the top level officials, there is a need to build awareness of all key societal stakeholders, primarily politicians, that professional administration would enable them to implement their programs better and win citizens’ trust in the next elections. This process, however, may take time and patience. In the meantime, setting more realistic goals and expectations of the legal framework, which governs these sensitive politico-administrative relations, and aligning it more closely with the reality, might be the best way to go forward.

⁶³ T. Verheijen, A. Rabrenović, “The Evolution of Politico-Administrative Relations in Post-Communist States: Main Directions” in *Politico-Administrative Relations – Who Rules?* (ed. T. Verheijen), NISPAcee, 2001, 390–410.

⁶⁴ J.M. Sahling, “Sustainability of Civil Service Reforms in Central and Eastern Europe Five Years after EU Accession”, *SIGMA paper 44*, 2009, GOV/SIGMA (2009)1, OECD/SIGMA publishing.

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NOVI PRAVNI OKVIR SLUŽBENIČKOG SISTEMA U ALBANIJU – PUTOKAZ ZA CEO REGION?

Rezime

Cilj rada je da analizira novo albansko službeničko zakonodavstvo u oblasti zapošljavanja i selekcije i prestanka radnog odnosa. Pre započinjanja analize, autor izlaže Principe javne uprave u oblasti zapošljavanja koje je razvila SIGMA/OECD, kao osnov za ocenu novog službeničkog zakonodavstva. Centralni deo rada posvećen je analizi novog pravnog okvira službeničkog sistema (Zakona o državnim službenicima iz 2013. godine sa izmenama i dopunama od 2014). Autor zaključuje da neki aspekti novog službeničkog zakonodavstva, kao što su raspisivanje konkursa i selekcija koja se sprovodi za više radnih mesta odjednom, kao i uspostavljanje stalnih komisija za zapošljavanje, mogu poslužiti kao dobar primer drugim zemljama u regionu, iako njihova efektivnost još uvek nije sasvim potvrđena u praksi. Odredbe koje garantuju profesionalizaciju i stalnost radnog odnosa, posebno za službenike na položajima, nisu dale odgovarajuće efekte, i zbog toga ne predstavljaju dobar primer kako napraviti korak napred u ovoj osetljivoj službeničkoj oblasti.

Ključne reči: službenički pravni okvir, zapošljavanje, prestanak radnog odnosa, Albanija.