

LAW
on the Statute of civil servants

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EXPEDITIOUS ORDINANCE
on establishing measures referring
to the organization and functioning
of certain ministries

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DECISION
for the approval of the Reorganization
and Functioning Regulations of the
National Agency of Civil Servants

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DECISION
on the organization and unfolding
of the test intended to confirm in a post
the civil servants holding management
public positions within the public
authorities and institutions

LAW

on the Statute of civil servants*

CHAPTER I General provisions

Art. 1. – The present law regulates the organization of the civil service and the statute of civil servants.

Art. 2. – (1) A *civil servant* is the person appointed to a public position.

(2) In the sense of the present law, the totality of the civil servants within the public authorities and institutions represents the body of civil servants.

(3) Civil servants are appointed by the head of the public authority or institution, by observing the provisions of the present law.

Art. 3. – (1) The civil service represents the aggregate of duties and responsibilities established by the public authority or institution, on the grounds of the law, for the purpose of carrying out its competencies.

(2) The public positions are stipulated in the annex to the present law. The annex may be completed by Government decision.

Art. 4. – The principles that are at the basis of exercising the public position are:

a) the prompt and efficient ensuring, free of prejudices, corruption, abuse of power and political pressures, of all the activities carried out by civil servants;

b) the selection of civil servants exclusively on the criterion of competency;

c) the equality of chances upon joining and promotion to the body of civil servants;

d) the stability of civil servants.

* The Law No. 188 was adopted under the conditions of Art. 113 in the Constitution of Romania, as a result of the assumption of responsibility by the Government before the Chamber of Deputies and the Senate, and was published in the Official Gazette of Romania, Part I, No. 600 of December 8, 1999. On the constitutionality of this law the Constitutional Court gave its verdict by the Decision No. 253/1999, published in the Official Gazette of Romania, Part I, No. 638 of December 28, 1999, finding that the intimation of unconstitutionality is inadmissible.

Art. 5. – (1) The provisions of the present law apply to all civil servants, including those that have their own status approved by special laws, to the extent to which these do not stipulate otherwise. The persons appointed or elected to positions of public dignity do not fall under the provisions of the present law.

(2) The personnel in the working machinery of public authorities and institutions, that carry out activities of secretariat-administrative, protocol, administration, maintenance-repairs and service, are employed with individual labour contract. The persons filling such jobs do not have the position of civil servant and are applied the labour legislation.

Art. 6. – A public position may be filled by the person meeting the following conditions:

- a) has only Romanian citizenship and the domicile in Romania;
- b) knows the Romanian language, written and spoken;
- c) reached the age of 18;
- d) has full capacity of exercise;
- e) has a state of health fit for the position he runs for, certified by a specialized medical examination;
- f) fulfils the education conditions provided by the law for the public position;
- g) has not been sentenced for committing an infraction which would make him/her incompatible with exercising the public position;
- h) won the competition or passed the examination organized for taking the public position.

CHAPTER II

Statutory categories of civil servants and the classification of public positions

Section 1

Categories of civil servants

Art. 7. – Civil servants are beginners or permanently appointed.

Art. 8. – The beginning civil servants are persons who fill a public position until being permanently appointed, following a competition or an examination.

(2) The period of time for a beginning civil servant is of at least six months but not longer than two years.

Art. 9. – (1) The civil servants to whom are applied the provisions of the present law are divided into categories, defined in relation with the level of the necessary studies, as follows:

- a) category A – higher education of long duration, graduated with a university degree or its equivalent;
- b) category B – higher education of short duration, graduated with a diploma;
- c) category C – secondary school or post-secondary school studies, graduated with a diploma.

(2) Depending on the category they belong to, civil servants carry out the following activities:

- a) the enforcement and implementation of the laws, studies, control, counselling, coordination, management, drawing up regulations, decision-making or other activities that require high specialized knowledge – category A civil servants;
- b) the enforcement and implementation of the laws, studies, guidance, drawing up draft regulations, preparatory work for decision-making, certain managing activities, as well as other activities that require higher education of short duration – category B civil servants;
- c) the enforcement and implementation of the laws and of other regulations, office or control activities that require a medium general education and medium level technical or professional knowledge – category C civil servants.

(3)* The management public positions of head of department and head clerk, respectively the management public positions specific to certain public authorities or institutions, assimilated to them from the point of view of the salary, may be filled, for a determined period of time, by civil servants who have secondary or post-secondary education, graduated with a diploma, under the conditions in which no candidates with higher education entered their name in the examination organized for filling such positions. In this case, such public authorities or institutions are obliged to organize every year, but not before 6 months, according

* According to the Expeditious Government Ordinance No. 284/2000, published in the Official Gazette of Romania, Part I, No. 696 of December 27, 2000, Art. 9 was completed with para (3).

to law an examination for the filling of the management public positions in which these persons are employed.

Section 2

The structure of the civil servants' career: categories, classes and degrees*

Art. 10.* – Each of the three categories of the public position is divided into three classes. The class is a stage in the civil servant's career. The hierarchical structure of the classes is the following: class III, class II and class I, as maximum level.

Art. 11.* – Each class is divided into three degrees of permanent civil servants. The hierarchical structure of the degrees is the following: 3rd degree, 2nd degree and 1st degree, as maximum level.

Art. 12.* – Each degree corresponds to a level of the basic salary in the scale of wages.

Art. 13. – (1)* The civil servants continues to maintain the class and degree even when he no longer holds the public position for reasons non-imputable to him. In such case, The National Agency of Civil Servants shall ensure the civil servant the employment in another public position, within the limits of the available posts and according to his professional training.

(2) Civil servants who cannot be employed in another public position under the conditions of para (1) benefit from measures of social security, according to law.

Art. 14.* – The categories, classes and degrees of the civil servant's career are the following:

Categories	Classes								
	Class III			Class II			Class I		
	Degrees								
A	3	2	1	3	2	1	3	2	1
B	3	2	1	3	2	1	3	2	1
C	3	2	1	3	2	1	3	2	1

* The title of Section 2 in Chapter II, Art. 10–12, Art. 13 para (1), and Art. 14 were modified by the Expeditious Government Ordinance No. 82/2000, published in the Official Gazette of Romania, Part I, No. 293 of June 28, 2000.

Section 3

Classification of public positions

Art. 15. – Public positions are classified as follows:

a) by the nature of competencies: executive and of management;

b) by the requirements regarding the level of education: category A public positions, category B public positions and category C public positions.

Art. 15¹.* – (1) An executive public position corresponds to each management public position.

(2) The executive public position corresponding to the management public position of secretary-general of the Government, secretary-general of the Senate, secretary-general of the Chamber of Deputies, deputy secretary-general of the Government, deputy secretary-general of the Senate, and deputy secretary-general of the Chamber of Deputies is the public position of councillor class I, 1st degree, or of legal adviser class I, 1st degree, as the case may be, within the respective public authorities or institutions.

(3) The executive public position corresponding to the management public position of secretary-general and deputy secretary-general in the ministries and the other bodies of the specialized central public administration, secretary-general of the prefecture, secretary of the county and the Bucharest Municipality, and secretary of the municipality, of the sector of Bucharest Municipality, town and commune, is the public position of councillor class I 1st degree or of legal adviser class I 1st degree, as the case may be, within the respective public authorities or institutions.

(4) In the case of the secretary of a town or commune having under 30,000 inhabitants, who, exceptionally, according to law, has higher education of short duration, graduated with a diploma, or secondary or post-secondary education, graduated with a diploma, the executive public position corresponding to the management public position is that of specialized referent class I 1st degree, respectively of inspector or referent class I 1st degree.“

* According to the Expeditious Government Ordinance No. 284/2000, Art. 15¹ was introduced after Art. 15.

Art. 16.* – The public positions are identified by the corresponding category, class and degree.

Art. 17. – The maximum number of positions relating to public positions shall be established in the setting up document of a public authority or institution.

CHAPTER III Joint committees

Art. 18. – (1) Within the public authorities and institutions, joint committees are set up in the composition of which is included an equal number of representatives designated by the head of the public authority or institution and by the trade union of the civil servants concerned.

(2) In the case in which civil servants are not organized in a trade union, the representatives shall be designated by the vote of the majority of them.

Art. 19. – (1) The joint committees participate in establishing the measures regarding: the working conditions, health and labour security of civil servants while exercising their duties, the proper functioning of the public authority or institution.

(2) The joint committees put forward their opinion in all the matters of the nature of those stipulated in para (1), as well as in any other matters, on the request of the head of the public authority or institution.

(3) The opinion of the joint committees has an advisory character and is always given in writing and motivated.

CHAPTER IV The management of public positions and civil servants

Section 1 The National Agency of Civil Servants

Art. 20. – (1) For the setting up and the development of a professional body of civil servants, there is established the National Agency of Civil Servants, subordinated to the

* Art. 16 was modified by the Expeditious Government Ordinance No. 82/2000.

Government, a specialized body of the central public administration, having legal personality.

(2) The National Agency of Civil Servants shall be led by a president, having the rank of a secretary of state, appointed by the prime minister.

(3) The National Agency of Civil Servants shall be financed from the state budget.

Art. 21. – (1) The National Agency of Civil Servants has the following duties:

a) draws up the policies and strategies regarding the management of the public position and of civil servants;

b) draws up and approves the proposals for statutory instruments regarding the public position and the civil servants;

c) verifies the way of applying the legislation regarding the public position and the civil servants within the public authorities and institutions;

d) draws up regulations which are common to all the public authorities and institutions regarding the public positions, the grading and classification of the positions;

e) draws up proposals for the setting up of a unitary wage system applicable to all civil servants;

f) establishes the criteria for the evaluation of the activity of civil servants;

g) organizes the system of vocational training of civil servants;

h) draws up and follows up the putting into practice of certain training and improvement programmes for civil servants;

i) sets up and manages its database comprising the record of public positions and civil servants;

j) draws up annual reports regarding the management of public positions and of civil servants, which the Government submits to Parliament for debate;

k) draws up and follows up the putting into practice of the rules of organizing the competitions for joining the body of civil servants;

l) coordinates and monitors the implementation of the provisions of the present law;

m) grants specialized assistance and coordinates methodically the compartments of human resources within

the authorities and institutions of the central and local public administration;

n) collaborates with international bodies and organizations in the fields of human resources management.

(2) The National Agency of Civil Servants carries out any other duties established by the Government, regarding the human resources policies and the human resources management.

Art. 22. – (1) The National Agency of Civil Servants keeps the record of public positions and of all civil servants.

(2) Within 30 days from the approval of the Organization and Functioning Regulations of the National Agency of Civil Servants, the public authorities and institutions shall transmit the personal data of civil servants, as well as the vacancies. The public positions are established for each public authority and institution by its head or by decision of the county council or, as the case may be, of the local council, on the basis of the activities provided for in Art. 9 para (2) and with the advisory opinion of the National Agency of Civil Servants.

(3) The personal data of civil servants refer to: full name, domicile, date of birth, public position held, seniority in the public position, as well as other public positions previously held, the studies, the didactic or scientific titles and the foreign languages mastered.

(4) During the first month of each year the modifications occurred in the situation of civil servants shall be transmitted, as per para (3).

Art. 23. – The Organization and Functioning Regulations of the National Agency of Civil Servants is approved by Government decision within 30 days from the publishing of the present law in the Official Gazette of Romania, Part I.

Art. 24. – The administration of human resources and of public positions is organized and carried out, within each public authority or institution, by a compartment specialized in the field, which collaborates with the National Agency of Civil Servants.

Section 2

The professional record of the civil servant

Art. 25. – (1) Each civil servant has a professional record which includes:

a) the document of appointment to the position, the document of certifying the studies and that regarding the taking of the oath;

b)* the documents regarding the annual assessment of his activity, the promotions to positions, degrees, classes or categories, as well as the disciplinary sanctions applied, chronologically arranged and without discontinuities.

(2) In the professional record of the civil servant there shall not be included documents that refer to his political, trade union, religious or of any other nature activities or opinions.

(3) The civil servant shall be issued, on request, copies of the existing documents in his professional record.

CHAPTER V

Rights and obligations

Section 1

The rights of civil servants

Art. 26. – (1) The right to opinion of civil servants is guaranteed.

(2) Any discrimination among civil servants on political, trade union, religious, ethnic, sex, material status, social origin or of any other nature criteria is prohibited.

Art. 27. – (1) The right to trade union association is guaranteed to civil servants, under the conditions of the law.

(2) Those interested may freely set up trade union organizations, join them and exercise any mandate within them.

(3) Civil servants may associate in professional organizations or in other organizations having as purpose the representation of their own interests, the promotion of professional training and the protection of their status.

Art. 28. – Civil servants may exercise their right to strike, under the conditions of the law.

* Art. 25 para (1) let. b) was modified by the Expeditious Government Ordinance No. 82/2000.

Art. 29. – For their activity, civil servants have the right to a wage, made up of the basic wages rises and indemnities.

Art. 30. – (1) The wages system for civil servants is established by law.

(2) On establishing the wages system, the following shall be taken into account:

a) the need to limit the costs of public administration, under the conditions in which the competent civil servants have to be motivated and compensated adequately;

b)* the establishing of a hierarchy in the wages system per categories, classes and degrees, based on the assessment of the position;

c) the establishing of a just proportion between the fixed part and the variable part of the wages that should take into account the activity carried out and its importance.

Art. 31. – The civil servants that, according to the law, are obliged to wear a uniform during office hours, shall get it free of charge.

Art. 32. – (1) The normal working time for civil servants is of 8 hours per day and of 40 hours per week.

(2)** For the hours worked on the order of the head of the public authority of institution in excess of the normal working time or in statutory holidays, or declared as nonworking days, the executive civil servants have the right to recovery or to increased pay by a 100% rise of the basic wages. The number of hours paid with a 100% rise cannot exceed 360 hours per year.

Art. 33. – (1) The civil servants have the right, under the conditions of the law, to a paid leave, sick leaves and other leaves.

(2)** Besides the vacation allowance, the civil servant has the right to a bonus equal to the basic wages of the month prior to going on leave, which is taxed separately.

Art. 34. – During sick leaves, the maternity leaves and those for bringing up and looking after children, the labour relations cannot cease and cannot be modified except on the initiative of the civil servant concerned.

* Art. 30 para (2) let. b) was modified by the Expeditious Government Ordinance No. 82/2000.

** The provisions of Art. 32 para. (2) and of Art. 33 para (2) were suspended until January 1, 2002, according to the Expeditious Government Ordinance No. 53/2001, published in the Official Gazette of Romania, Part I, No. 108 of March 2, 2001.

Art. 35. – (1) The public institutions are obliged to ensure normal conditions of work and hygiene to civil servants of a nature to protect their health and physical integrity.

(2)* For health reasons the civil servants may be approved, exceptionally, the change of the department or authority, or of the public institution in which he carries out his activity, by maintaining the class and degree held. The change can be made only if the civil servant involved is professionally capable to carry out the new duties incumbent upon him.

Art. 36. – The civil servants benefit from medical care, prostheses and medicines, under the conditions of the law.

Art. 37. – The civil servants benefit from pensions, as well as from the other rights of state social insurance, according to law.

Art. 38. – (1) In case of death of the civil servant, the family members who have, according to law, the right to a survivor's pension, receive for a period of three months the equivalent of the basic wages of the last month of activity of the deceased civil servant.

(2) In case the decision for the survivor's pension has not been issued because of the public authority or institution within 3 months from the date of the death, this one shall continue to pay the rights stipulated in para (1) until the issuance of the decision for the survivor's pension.

Art. 39. – (1) In exercising their duties, civil servants benefit from the protection of the law.

(2) The public authority or institution in which the civil servant is carrying on his activity is obliged to ensure him protection against threats, violence, insults they might be a victim of, while exercising their duty or in connection with it.

Art. 40. – The public authority or institution is obliged to compensate the civil servant in case he suffered, because of the public authority or institution, a material prejudice while discharging his service duties.

* Art. 35 para (2) was modified by the Expeditious Government Ordinance No. 82/2000.

Section 2

The obligations of civil servants

Art. 41. – Civil servants are obliged to carry out with professionalism, loyalty, correctness, and conscientiously their service obligations and to abstain from any deed that might produce prejudices to the public authority or institution in which they carry on their activity.

Art. 42. – Civil servants are obliged, while exercising the duties that are incumbent upon them, to abstain from expressing or manifesting their political convictions.

Art. 43. – (1) Civil servants are responsible, according to law, for the carrying out of the duties which are incumbent upon them in the public position they hold, as well as for the duties assigned to them.

(2) The civil servant is obliged to comply with the orders given by the civil servants holding management public positions to whom they are directly subordinated, except the cases in which they appreciate that such orders are illegal. In such cases the civil servant is obliged to motivate, in writing, the refusal to carry out the order received. If the civil servant that gave the order insists on its carrying out, he would have to formulate it in writing. In such case the order shall be carried out by the one that received it.

Art. 44. – Civil servants are obliged to keep the state secret and the professional secret, under the conditions of the law.

Art. 45. – Civil servants have to keep the confidentiality in connection with the facts, information or documents they take knowledge of while exercising their job,

Art. 46. – (1) Civil servants are prohibited to claim or accept, directly or indirectly, for themselves or for others, in consideration of their public position, gifts or other advantages.

(2) On appointment as well as on dismissal, civil servants are obliged, under the conditions of the law, to present to the head of the public authority or institution the statement of wealth.

Art. 47. – (1) Civil servants have the obligation to solve the works allotted by the head of the compartment in which they function.

(2) Executive civil servants are prohibited to directly receive petitions the solution of which is within their competency or to intervene for the settlement of such petitions.

Art. 48. – (1) Civil servants are obliged to improve their professional training either within the public authority or institution, or by attending refresher courses organized for that purpose.

(2) In case the refresher courses are organized in another locality than that of domicile, the civil servants benefit also from the delegation rights, according to the present law.

(3) Civil servants who attend a form of specialization or of refreshment with a duration longer than 3 months and receive for that period the wages rights are obliged to commit themselves in writing that they shall work 1 – 5 years within the relevant public authority or institution. In case of non-observance of this commitment, they shall bear the expenses of the public authority or institution, proportional to the time left until the completion of the term. The provisions of this paragraph do not apply in the case in which the civil servant no longer holds the public position for reasons not imputable to him or in case of transfer in the interest of the job.

(4) The results obtained in the refresher courses by the civil servants shall be taken into account in the annual assessment of their activity.

CHAPTER VI

Civil servants' selection and appointment to a position

Section 1

Civil servants' selection

Art. 49. – (1) The entry to the body of civil servants is made only by an examination organized by the interested public authority or institution.

(2) The examination is organized only within the limits of the positions remained vacant following the application of the provisions of Art. 13 para (1), as well as of the legal provisions regarding the transfers. The persons discontented with the result of the examination may address the administrative court.

(3) The vacant public positions for which the examination is organized for joining the body of civil servants are published 30 days prior to the date of organizing the examination.

(4) The entry to the body of career civil servants directly after graduation is made only on a beginner's public position.

(5) The conditions of organizing and development of the examination, as well as the conditions of validation of its results are established by Government decision.

Art. 50. – To participate in the competition for filling a public position as beginner, the candidates have to fulfil the conditions stipulated in Art. 6.

Art. 51.* – (1) The persons who held positions of public dignity, elected or appointed, or positions assimilated to those, according to law, as well as those that held speciality positions outside the public authorities or institutions may be appointed, following the examination, to permanent public positions. These persons shall be appointed to the category corresponding to their studies, to the class and degree corresponding to the seniority in the position of public dignity or of speciality, to which shall be added, if the case may be, the seniority in public positions previously held.

(2) The persons who return to the body of civil servants after having left it for reasons that are not imputable to them shall be employed in the class and degree previously obtained, to which may be added, by examination organized by the National Agency of Civil Servants, the classes and degrees corresponding to the period of time worked in other sectors.

Section 2

Probation period

Art. 52. – (1) The candidates that succeeded in the examination are appointed beginning civil servants by order or, as the case may be, on the instructions of the head of the public authority or institution to the organization chart of which belongs the vacancy.

*Art. 51 was modified by the Expeditious Government Ordinance No. 82/2000.

(2) The duration of the probation period is of 12 months for the civil servants in category A, 8 months for those in category B and 6 months for those in category C.

(3) The probation period is taken into account upon calculating the seniority in the public position.

Art. 53. – (1) The beginning civil servants may be permanently appointed only after completing the probation period.

(2) The probation period has as object the confirmation of the professional qualification in carrying out the duties and responsibilities of a public position, their practical training, the knowledge by them of the specifics of public administration and its job requirements.

(3) On completing the probation period the beginning civil servant draws up a probation report. The organizing of the probation period, the assessment conditions, as well as the specific rules applicable to beginning civil servants are established by Government decision, on the proposal of the National Agency of Civil Servants.

Section 3

Civil servants' appointment to positions

Art. 54. – (1)* On completing the probation period, on the basis of the result of the assessment made according to art. 53 para (3), the beginning civil servant is appointed permanent civil servant class III, 3rd degree, in the category corresponding to the level of studies, or is compelled to repeat, only once, the probation period. Depending on the result of the assessment made after repeating the probation period, the beginning civil servant is appointed permanent civil servant or is released from the public position for professional incompetence.

(2) The appointment as permanent civil servant, as well as to management public positions is made by the head of the relevant public authority or institution.

Art. 55. – (1) The permanent civil servant takes an oath of loyalty in front of the head of the public authority or institution and in the presence of two witnesses, out of

* Art. 54 para (1) was modified by the Expeditious Government Ordinance No. 82/2000.

whom one shall be the head of the department where he is appointed, while the other is a civil servant from the same public authority or institution.

(2) The oath has the following contents:

“I swear to observe the Constitution, the fundamental human rights and liberties, to apply correctly and without bias the laws of the country, to carry out conscientiously the duties incumbent upon me in the public position I was appointed to, and to keep the professional secret. So help me God!”

(3) The oath may also be taken without the concluding religious formula.

(4) The refusal to take the oath stipulated in para (2) brings about the revocation of the decision of appointment to the position.

Section 4 **Incompatibilities**

Art. 56. – (1) The position of civil servant is incompatible with any other public position, except the position of teacher.

(2) Civil servants may hold positions in the autonomous régies, trading companies or in other units with a lucrative purpose.

Art. 57. – Civil servants may exercise activities with a lucrative purpose in trading companies with private capital that are related with the duties incumbent upon them in the public positions they hold, and may not be authorized agents of certain persons with regard to drawing up of certain documents related to the position they hold.

Art. 58. – (1)* Civil servants, except for civil servants in the ministries and central institutions regarding national defence, public order and national security, may be elected or appointed for exercising positions of public dignity.

**For the duration of exercising the position of public dignity, with the exception of that of local councillor or of county councillor, the respective civil servants are suspended from the public position they hold and keep the class and level they had.

* Art. 58 para (1) was modified by the Expeditious Government Ordinance No. 82/2000.

** Art. 58 para (1), the 2nd thesis, was modified by the Expeditious Government Ordinance No. 284/2000.

(2) After the expiration of the mandate for which they were elected or appointed, the public authorities or institutions where they functioned are obliged to ensure the civil servants their former position or an equivalent one. The period of exercising the mandate is considered seniority in the public position.

CHAPTER VII **Assessment of the activity and career of civil servants**

Section 1 **Assessment of the activity of civil servants**

Art. 59. – (1) The assessment of the activity of civil servants is made for the purpose of granting the wages rights corresponding to the individual professional performance, on the basis of the criteria drawn up by the National Agency of Civil Servants.

(2)* The assessment of the activity of civil servants is made by taking into account the performance criteria on the basis of which the classes and degrees existing within the same category are defined.

Art. 60. – (1)* At the beginning of the year the heads of departments shall communicate in writing to each civil servant the performance criteria established by the National Agency of Civil Servants, corresponding to the category, class and degree of the public position held by him.

(2) Annually, the heads of departments within a public authority or institution fills in and writes down in the record the individual professional performance, achieved during the last 12 months by the subordinated civil servants.

(3) Following the assessment of the individual professional performance, the civil servant is given one of the following marks: “exceptional”, “very good”, “good”, “satisfactory”, “unsatisfactory”.

Art. 61. – The methodology of assessing the individual professional performance, as well as of contesting the marks

* Art. 59 para (2) and Art. 60 para (1) were modified by the Expeditious Government Ordinance No. 82/2000.

given is established by Government decision on the proposal of the National Agency of Civil Servants.

Art. 62. – (1) The civil servant marked “unsatisfactory” or “satisfactory” for last year cannot be promoted next year.

(2) In the case in which, for the last 2 years, the civil servant has received the mark “unsatisfactory”, the head of the public institution shall propose to him the passing to an inferior position. If the proposal is not accepted, dismissal shall be applied.

(3) In case a reduction in the number of posts occurs in a public authority or institution, the head of the public authority or institution shall take into account the results achieved by civil servants in the annual assessment of the activity.

Section 2

*Promotion to degrees, classes and categories**

Art. 63.* – In the professional career the civil servant benefits, following the results obtained in the individual professional performances, from the right to be promoted to another degree, class or category as a result of obtaining a diploma of a superior level than the previous one.

Art. 64.* – (1) The promotion to the next degree is made within the same class.

(2) Civil servants are promoted to a degree if they have a seniority of minimum 2 years in the degree from which they are promoted and if in the annual assessment of the individual professional performance, for two running years, they obtained at least the mark “good”.

(3) Exceptionally, civil servants who obtained in the annual assessment of the individual professional performance the mark “exceptional” are promoted to a degree if they have a seniority of minimum one year in the degree from which they are promoted.

Art. 65. – (1)* The promotion by one degree to the next class is made from degree 1 of one class to degree 3 of the immediately superior class.

* The title of Section 2 in Chapter VII, Art. 63, Art. 64 and Art. 65 para (1) were modified by the Expeditious Government Ordinance No. 82/2000.

(2) Civil servants are promoted to a class, if they have a seniority of minimum 3 years in the class from which they are promoted and if they obtained in the annual assessment of the individual professional performance of the last two years at least the mark “very good”.

Art. 66.* – (1) Only civil servants included in the promotion table, that is drawn up and completed annually in each public authority or institution, can benefit from promotion to a class.

(2) In order to be included in the promotion table civil servants must have obtained the mark “exceptional” in the annual assessment of the individual professional performance during the last two running years prior to registration.

(3) In particular instances, civil servants who obtained the mark “exceptional” on promoting the degrees of class III and the first degree of class II may be included in the promotion table, with a view to direct promotion to the 3rd degree of class I.

(4) The promotions to a class are made in the order of registration in the promotion table, within the number of vacancies, without exceeding the maximum number of established civil servants for each class set up under the conditions of the present law.

(5) The maximum number of established civil servants for each class, in relation to the total staff of civil servants within each public authority or institution, is set up annually by decision of the Government or, as the case may be, of the county or local council.

(6) The promotions approved by the public authorities or institutions shall be notified within 30 days to the National Agency of Civil Servants.

Art. 66¹.** – Following the obtaining of a diploma of higher education, civil servants are promoted to a category and shall be appointed to the new public position, in accordance with the professional training, to the class and degree that ensure them at least the basic salary they had in the lower category.

*Art. 66 was modified by the Expeditious Government Ordinance No. 82/2000.

** According to the Expeditious Government Ordinance No. 284/2000 after Art. 66 was introduced Art. 66¹.

Section 3

Appointment to management public positions

Art. 67. – The management public positions within the public authorities and institutions are stipulated in the annex to the present law. The conditions for filling these positions are established by decision of the Government or, as the case may be, of the county or local council.

Art. 68. – (1) The appointment to management public positions is made on the basis of an examination, organized by the public authority or institution, within the limits of vacancies.

(2) The development procedure for the examination is established by Government decision on the proposal of the National Agency of Civil Servants, within 30 days from the date of coming into force of the present law.

CHAPTER VIII

Disciplinary punishments and responsibility of civil servants

Art. 69. – The infringement by civil servants, by guilt, of their duties brings about the disciplinary, contraventional, civil or penal responsibility, as the case may be.

Art. 70. – (1) The infringement, by guilt, by civil servants of their duties is a disciplinary deviation and brings about a disciplinary punishment.

(2) The disciplinary deviations are:

- a) the systematic delay in carrying out the work;
- b) the unjustified absence from work;
- c) the interventions for or insistence on solving certain applications outside the legal framework;
- d) the irreverent attitudes during the exercising of duties;
- e) the non-observance of the professional secret or of the confidentiality having such a character;
- f) the unjustified refusal to carry out the tasks and duties;
- g) the repeated negligence in solving the work;
- h) the manifestations to the detriment of the prestige of the public authority or institution he belongs to;
- i) the expressing or developing, in the capacity of civil servant or during the working programme, of public opinions or activities with a political character;

j) the infringement of the legal provisions referring to the incompatibilities and interdictions regarding civil servants.

(3) The disciplinary punishments are:

- a) warning;
- b) reprimand;
- c) reduction of wages rights by 5–10% for a period of 1–3 months;
- d) suspending the right to promotion for a period of 1–3 years;
- e) passing to an inferior position, for a period of 6–12 months with the corresponding reduction of the wages;
- f) dismissal from position.

(4) Upon the individualization of the disciplinary punishment, there shall also be taken into account the seriousness of the disciplinary deviation, the circumstances in which this was committed, the degree of guilt and the consequences of the deviation, the general behaviour at work of the civil servant, as well as the existence in his antecedents of other punishments that had not been erased under the conditions of Art. 75.

(5) The disciplinary punishment can be applied only after a previous investigation of the imputed deed and the hearing of the civil servant. The hearing of the civil servant must be recorded in writing, under pain of being declared void. The refusal of the civil servant to be present at the hearing or to sign a statement regarding the imputed deviations are recorded in an official report. In such cases the punishment can be applied.

Art. 71. – (1) The disciplinary punishments stipulated in Art. 70 para (3) let. a) and b) may be applied directly by the head of the department in which the one involved is working.

(2) Against the disciplinary punishment applied under the conditions of the provisions of para (1), the civil servant may appeal to the head of the public authority or institution, within 15 days from the notification of the applied punishment, who shall issue, on the proposal of the disciplinary committee, the final order or provision.

Art. 72. – The disciplinary punishments stipulated in Art. 70 para (3) let. c) – f) are applied by the head of the

public authority or institution, on the proposal of the disciplinary committee.

Art. 73. – (1) Within the public authorities or institutions disciplinary committees are set up, that are competent to investigate and to propose the punishment applicable to the civil servants in the respective public authorities or institutions.

(2) The manner of setting up the disciplinary committees, the composition, duties, the mode of intimation and the working procedure thereof shall be established by Government decision, on the proposal of the National Agency of Civil Servants.

Art. 74. – The civil servant discontented with the applied punishment may apply to an administrative court, requesting the cancellation or modification, as the case may be, of the punishment order or provision.

Art. 75. – The disciplinary punishments are erased, as by right, as follows:

a) within one year from applying the disciplinary punishments stipulated in Art. 70 para (3) let. a) and b), if the punished civil servant has not committed another disciplinary deviation during this period;

b) within 2 years from the expiry of the term for which have been applied the punishments stipulated in Art. 70 para (3) let. c) – e), if the punished public servant has not committed a disciplinary deviation during this period.

Art. 76. – (1) The assumption of responsibility for the contraventions of public servants is applied in case they committed a contravention during and in connection with their duties.

(2) Against the official report of finding out of the contravention and of applying the punishment, the public servant may lodge a complaint at the court in the district of which is the head office of the public authority or institution to is appointed the punished civil servant.

Art. 77. – The civil responsibility of the civil servant is assumed:

a) for damage caused by guilt to the public authority or institution in which he works;

b) for not returning within the legal term the undeserved amounts he received;

c) for damage paid by the public authority or institution, in the capacity of principal, to third persons, on the basis of a final and absolute judgment.

Art. 78. – (1) The reparation of the damage caused to the public authority or institution in the cases stipulated in Art. 77 let. a) and b) is done by issuing by the head of the public authority or institution of a charging order or instruction, within 30 days from the finding out of the damage or, as the case may be, by undertaking a payment commitment, and in the case stipulated in let. c) of the same article, on the basis of a final and absolute judgment.

(2) Against the charging order or instruction, the civil servant may apply to an administrative court.

(3) The right of the head of the public authority or institution to issue the charging order or instruction is barred within 3 years from the date the damage is produced.

Art. 79. – (1) The responsibility of the civil servant for the offences committed during duty hours or in connection with the tasks of the public position held is undertaken according to penal law.

(2) In the case in which, following the notification of the public prosecutor's office or of the criminal investigation, the instituting of proceedings was ordered, the head of the public authority or institution shall take the measure of suspending the civil servant from the public position he is holding.

(3) The suspension from position is also operational in case the instituting of proceedings was ordered against the civil servant who committed an offence of a kind to make him incompatible with the public position he is holding.

(4) If the public prosecutor's office orders the nonsuit or the abandonment of action in the cases stipulated in para (2) and (3), as well as in case the court orders the acquittal or the cessation of the trial, the suspension from position ceases.

Art. 80. – In the cases stipulated in art. 70 para (4) the public authority or institution owes the salary rights for the period of suspension.

CHAPTER IX

The modification and cessation of office relations*Section 1****Delegation and secondment***

Art. 81. – Civil servants may be delegated or seconded by the head of the public authority or institution in which he works, to carry on certain activities outside the public authority or institution, in the same locality or in another locality.

Art. 82.* – (1) The delegation is ordered in the interest of the public authority or institution in which the civil servant is employed, for a period of maximum 30 running days, but not more than 120 days in one year.

(2) During the delegation the civil servant maintains his position and salary, and the public authority or institution that delegates him is obliged to bear the legal cost of the transport, accommodation and the delegation allowance. The delegation allowance is equal to the salary due for 8 hours' work.

Art. 83. – (1) The secondment is ordered in the interest of the public authority or institution in which he is to carry on his activity, for a period of maximum 3 months. During a calendar year a civil servant may be seconded for more than 6 months only by his written consent.

(2) For the duration of the secondment the civil servant maintains his position and salary rights. If the salary corresponding to the public position on which he is seconded is higher, he is entitled to that salary. During the secondment to another locality the public authority or institution is obliged to bear the legal cost of the transport, a return ticket at least once a month, of the accommodation and of the secondment allowance.

Art. 84. – The civil servant may refuse the secondment in the following cases:

* Art. 82 para (1) was modified by the Exeditious Government Ordinance No. 284/2000, and the provisions of para (2) the 2nd thesis were suspended until January 1, 2002, according to the Exeditious Government Ordinance No. 33/2001.

a) if the secondment is to take place to a locality in which he is not provided with proper accommodation conditions;

b) in case his state of health, proved with medical certificate, makes the secondment contraindicated;

c) whenever serious family reasons justify the refusal to accept the secondment.

*Section 2****Interruption of activity on request***

Art. 85. – The interruption of activity on request represents the temporary suspension from position of the civil servant for a legitimate personal interest and is granted by the head of the respective public authority or institution. The interruption is notified to the National Agency of Civil Servants.

Art. 86. – The duration of the interruption of activity on request has to be between 6 months and 4 years, with the right of extension for a period of maximum 4 years. By special laws, other periods of interruption of activity may be stipulated for certain categories of civil servants.

Art. 87. – The civil servant appointed or elected to a position of public dignity is on interruption of activity on request for the duration of the mandate.

Art. 88. – On the expiry of the period of interruption of activity on request the civil servant must request the reinstatement into the public authority or institution where he had been employed. This is granted by right. The resumption of activity before the expiry of the period of time for which the interruption had been approved is made on request.

*Section 3****Cessation of office relations***

Art. 89. – The cessation of office relations of civil servants takes place in the following cases:

- a) resignation;
- b) transfer;
- c) release from position;
- d) dismissal from position;

e)* retirement according to law or when the maintenance in activity of the retired civil servant re-employed is no longer necessary;

f) death.

Art. 90. – (1) The civil servant may request the cessation of office relations by resignation.

(2) The resignation produces effects 15 days after the registration, if the applicant and the head of the public authority or institution have not agreed on the resignation to occur earlier. In case of management positions, the term is of 30 days.

Art. 91. – (1) The cessation of the office relations may also occur by the transfer in the interest of the job or by the approval by the head of the public authority or institution of the transfer application of the civil servant to another public authority or institution.

(2)* The transfer in the interest of the job can be done only with the written consent of the transferred civil servant. In this case the civil servant maintains the class and degree previously obtained.

(3) In case of transfer in the interest of the job to another locality, the transferred civil servant has the right to an allowance equal to the net basic salary of the last month, to the covering of transport charges and to a paid leave of 5 days.

(4) The payment of the rights stipulated in para (3) is borne by the public authority or institution to which the transfer is made.

Art. 92. – The head of the public authority or institution shall order the release from position of the civil servant in the following cases:

a) a legal reason of incompatibility has come up;

b) the public authority or institution ceased its activity or was moved to another locality, and the civil servant does not want to follow it;

c)* for professional incompetence, under the conditions stipulated by the provisions of Art. 54 para (1) or, as the case may be, of Art. 62 para (2);

* Art. 89 let. e), Art. 91 para (2), and Art. 92 let. c) were modified by the Expeditious Government Ordinance No. 82/2000.

d) the public authority or institution reduces its personnel following a reorganization, by reducing some posts of the kind filled by the civil servant, and this one refuses the offer of the National Agency of Civil Servants;

e)* he no longer fulfils one of the conditions stipulated in Art. 6 let. a), d) – g).

Art. 93. – In the cases established in Art. 92 the public authority or institution is obliged to give the civil servant a notice of 15 calendar days. During this time, the head of the public authority or institution may grant a reduction of the working schedule, up to 4 hours per day, without affecting the salary rights. If a notice is not possible, when released from position, the civil servant has the right to get a compensation equal to the basic salary due for this period.

Art. 94. – The dismissal from position is ordered as disciplinary punishment, in case of repeated commitment of disciplinary deviations or when the civil servant has been sentenced by a final judgment.

Art. 94.^{1}** – The managing civil servant released from position under the conditions of Art. 92 lit. c) and d) or dismissed from position under the conditions of Art. 94, except for the case when the civil servant was sentenced by a final judgment, passes on to the corresponding executive public position, under the conditions of the law.

Art. 95. – In case of release or dismissal from position, the civil servant may request the administrative court the cancellation of the order or instruction of release or dismissal from position, within 30 days from notification.

Art. 96.^{*}** – Upon cessation of the office relations under the conditions of Art. 89 let. a) – e), the civil servant has the obligation to hand over the works and goods that had been entrusted to him in order to carry out his office duties.

* According to the Expeditious Government Ordinance No. 82/2000, Art. 92 is completed with let. e).

** According to the Expeditious Government Ordinance No. 284/2000, after Art. 94 was introduced Art. 94¹.

*** Art. 96 was modified by the Expeditious Government Ordinance No. 82/2000.

CHAPTER X

Final and transitory provisions

Art. 97. – (1)* The civil servants employed for an indefinite period within the public authorities or institutions shall be appointed to the public positions corresponding to the positions they are holding, until July 31, 2000, by observing the provisions of the present law.

(2)* The civil servants holding a management public position in a public authority or institution shall pass a test intended to confirm them in post. The conditions for the unfolding of this test are established by Government decision.

(3) The appointment is made by order or instruction of the head of the public authority or institution to the public position corresponding to the job previously held.

Art. 98. – (1) The personnel within the offices of the dignitaries are employed with individual labour contract for a definite period and during this period do not have the capacity of civil servant.

(2) The provisions of arts 56 and 57 are accordingly applicable to the persons stipulated in para (1).

(3) The civil servants who for a definite period discharge a job in the office of a dignitary may request the interruption of activity, benefiting from the right of being reinstated into the body of civil servants. This period is considered seniority in the public position.

Art. 99. – In the territorial-administrative units in which persons belonging to a national minority hold a share of over 20%, some of the civil servants in the offices that get into direct touch with the citizens shall also speak the language of the respective national minority.

Art. 100. – Within 90 days from the coming into force of the present law the Government shall initiate a procedure in order to adapt to the provisions of the law the statutes approved by special laws, by observing the specific character of the public positions in question. The adapting process shall be coordinated by the National Agency of Civil Servants.

Art. 101. – (1) Until the approval of the specific statutes of the civil servants within the Presidency, the Chamber of Deputies, the Senate, the Constitutional Court, the Court of Audit, the Legislative Council, the Ombudsman and the Competition Council, the

provisions of the present law also apply to them, except for those referring to the National Agency of Civil Servants.

(2) The appointment, promotion, perfecting and the payment of salaries of these civil servants are made according to special laws.

Art. 102. – The cases having as object labour litigations in which one of the parties has the capacity of civil servant, found on the roll of the courts on the date of coming into force of the present statute, shall continue to be tried according to the law applicable at the moment of the intimation of the court.

Art. 103. – The provisions of the present law are completed with the provisions of the labour law.

Art. 104. – (1) The present law comes into force within 30 days from the date of its publication in the Official Gazette of Romania, Part, I, except for Art. 23 which comes into force on the publication date.

(2) On the date of coming into force of the present law any provisions to the contrary are abrogated.

ANNEX*

LIST
comprising the public positions

I. The machinery of the Government, Parliament, Presidency, Supreme Court of Justice, of the Prosecutor's Office attached to the Supreme Court of Justice, of the Constitutional Court, Legislative Council, Competition Council, Ombudsman and Court of Audit**

A. Management public positions

1. Secretary-general of the Government
2. Secretary-general of the Senate
3. Secretary-general of the Chamber of Deputies
4. Deputy secretary-general of the Government
5. Deputy secretary-general of the Senate
6. Deputy secretary-general of the Chamber of Deputies
7. Head of department
8. Director general
9. Director
10. Deputy director
11. Chief accountant
12. Head of sector
13. Head of service
14. Head clerk

* The annex was replaced by the annex to the Expeditious Government Ordinance Nr. 82/2000.

** The title of Chapter I of the annex was modified by the Expeditious Government Ordinance No. 284/2000.

B. Executive public positions			
1. Counsellor	Category A	Class I	Degree 1 Degree 2 Degree 3
2. Expert	Category A	Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
3. Legal adviser	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
4. Auditor	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
5. Specialized referent	Category B	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
6. Referent	Category C	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3

Class III	Degree 1 Degree 2 Degree 3 Beginner
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II. The machinery of the ministries, of the other bodies of the specialized central public administration, the National House of Pensions and Other Social Insurance Rights, the Labour Inspectorate and the National House of Health Insurance*

A. Management public positions

1. Secretary-general
2. Deputy secretary-general
3. General commissioner
4. Head of department
5. Director general
6. Chief state inspector
7. General state inspector
8. Deputy director general
9. Deputy chief state inspector
10. Deputy general state inspector
11. Deputy general commissioner
12. Director
13. Chief inspector
14. Deputy director
15. Deputy chief inspector
16. Chief accountant
17. Head of sector
18. Division chief commissioner
19. Head of service
20. Head clerk

B. Executive public positions

1. Counsellor	Category A	Class I	Degree 1 Degree 2 Degree 3
2. Expert	Category A	Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner

* The title of Chapter II of the annex was modified by the Expeditious Government Ordinance No. 284/2000.

3. Specialized inspector	Category A	Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
4. Legal adviser	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
5. Auditor	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
6. Specialized referent	Category B	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
7. Referent	Category C	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
8. Commissioner	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Beginner

Category B	Class I	Degree 1 Degree 2 Degree 3
	Class II	Degree 1 Beginner
Category C	Class I	Degree 1 Degree 2 Degree 3
	Class II	Degree 1 Beginner

III. The machinery of prefectures, the institutions subordinated to the central public authorities or institutions, the decentralized services of ministries and of other bodies of the specialized central public administration in the territorial-administrative units, as well as the territorial labour inspectorates*

A. Management public positions

1. Secretary-general of the prefecture
2. Director general
3. Chief inspector
4. Deputy director general
5. Deputy chief inspector
6. Director
7. Deputy director
8. Chief accountant
9. Section chief commissioner
10. Deputy section chief commissioner
11. Division section chief commissioner
12. Head of service
13. Head clerk

B. Executive public positions

1. Counsellor	Category A	Class I	Degree 1 Degree 2 Degree 3
2. Expert	Category A	Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner

* The title of Chapter III of the annex was modified by the Expeditious Government Ordinance No. 284/2000.

3. Specialized inspector	Category A	Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
4. Legal adviser	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
5. Auditor	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
6. Labour inspector	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
7. Specialized referent	Category B	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
8. Inspector	Category C	Class I	Degree 1 Degree 2 Degree 3

9. Referent	Category C	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
10. Commissioner	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Beginner
	Category B	Class I	Degree 1 Degree 2 Degree 3
	Category C	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Beginner

IV. The machinery of the local public administration authorities and the institutions subordinated to the local public administration authorities*

A. Management public positions

1. County and Bucharest municipality secretary
2. Secretary of the municipality, sector of Bucharest municipality, of town and commune
3. Head of department
4. Chief architect
5. Director general
6. Deputy director general
7. Director

* The title of Chapter IV of the annex was modified by the Expeditious Government Ordinance No. 284/2000.

- 8. Deputy director
- 9. Chief accountant
- 10. Head of service
- 11. Head clerk

B. Executive public positions

1. Counsellor	Category A	Class I	Degree 1 Degree 2 Degree 3
2. Expert	Category A	Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3
3. Specialized inspector	Category A	Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
4. Legal adviser	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
5. Auditor	Category A	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3
6. Specialized referent	Category B	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3

		Class III	Degree 1 Degree 2 Degree 3 Beginner
7. Inspector	Category C	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner
8. Referent	Category C	Class I	Degree 1 Degree 2 Degree 3
		Class II	Degree 1 Degree 2 Degree 3
		Class III	Degree 1 Degree 2 Degree 3 Beginner

NOTE:

1. The public positions specific to certain authorities or central public institutions, or to certain institutions subordinated to these are established by the heads of the respective authorities or institutions, with the agreement of the hierarchically superior authorities and with the advice of the National Agency of Civil Servants.

2. The specific public positions in the machinery of prefectures are established by order of the prefect, with the advice of the National Agency of Civil Servants.

3. The specific public positions in the machinery of the local public administration authorities are established, on the proposal of the county council's president or, as the case may be, of the mayor, by decision of the county council or, as the case may be, of the local council and with the advice of the National Agency of Civil Servants.

4. The stipulations of the present law regarding the legal advisers are applicable to these until the adoption of the statute of this professional category.

EXPEDITIOUS ORDINANCE

on establishing measures referring to the organization and functioning of certain ministries*

Art. 1. – The Ministry of Public Administration, a specialized organ of the central public administration subordinated to the Government, ensures the carrying out of the Strategy and Programme of government in the field of local public administration, and monitors the drawing up and implementation programmes by the ministries and the other central public authorities.

Art. 2. – (1) The National Agency of Civil Servants and the National Office for Cadastre, Geodesy and Cartography shall be reorganized and shall function as specialized organs of the central public administration subordinated to the Ministry of Public Administration.

(2) The draft statutory instruments drawn up by the National Agency of Civil Servants and by the National Office for Cadastre, Geodesy and Cartography shall be submitted for adoption to the Government by the Ministry of Public Administration; the approval of the technical norms and of the other regulations drawn up by the two specialized organs of the central public administration shall be done by order of the minister of public administration.

Art. 3. – The payment of the personnel in the machinery of the Ministry of Public Administration, the Ministry for the Relation with Parliament and the Ministry of Public Information shall be made in accordance with Annex No. 1 (ch. I let. A and ch. II) and Annex No. VI/2 to the Expeditious Government Ordinance No. 24/2000 on the system of establishing the basic salaries for the personnel under contract from the budgetary sector.

Art. 4. – The executive public positions specific to the Ministry of European Integration, a synthesis ministry, and

the level of the basic salaries are stipulated in the annex which is part and parcel of the present expeditious ordinance.

Art. 5. – (1) The Directorate for Population Record within the Directorate General for the Computerized Record of the Person within the structure of the Ministry of the Interior shall be reorganized as the National Inspectorate for the Record of Persons, a specialized organ of the central public administration subordinated to the Ministry of Public Administration.

(2) Community public services for the record of persons shall be organized in the joint subordination to the National Inspectorate for the Record of Persons, the county councils, respectively the municipal, town and commune councils, as well as those of the sectors of Bucharest Municipality.

Art. 6. – (1) The Directorate for Passports passes from the structure of the Ministry of the Interior to the Ministry of Public Administration and shall be reorganized as the Directorate General for Passports.

(2) Public community services for the issuing and record of passports shall be organized subordinated to the prefectures.

Art. 7. – (1) The Civil Protection Command and the Inspectorate-General of the Military Firemen Corps within the Ministry of the Interior shall be reorganized as the Inspectorate-General for Emergency Situations, a specialized organ of the central public administration subordinated to the Ministry of Public Administration, having as purpose the prevention and removal of the effects of disasters.

(2) Public community services for emergency situations, as demilitarized units, shall be organized in the joint subordination of the local public administration authorities and of the Inspectorate-General for Emergency Situations.

Art. 8. – The provisions of arts. 5, 6 and 7 shall apply gradually, based on some protocols concluded between the Ministry of Public Administration and the Ministry of the Interior, as the specific legislation is being updated.

Art. 9. – The Ministry of Public Administration shall submit within 30 days the draft Government decisions regarding the organization and functioning of the National Agency of Civil Servants to the National Office for Cadastre, Geodesy and Cartography, the National Inspectorate for the

* The Expeditious Government Ordinance No. 291/2000 was published in the Official Gazette of Romania, Part I, No. 706 of December 29, 2000.

Record of Persons, the Directorate-General for Passports and to the Inspectorate-General for Emergency Situations.

Art. 10. – In keeping with the provisions of the present expeditious ordinance, the provisions of the following statutory instruments shall be modified:

1. Law No. 188/1999 on the Statute of civil servants, published in the Official Gazette of Romania, Part I, No. 600 of December 8, 1999, with the subsequent modifications.

2. Law on cadastre and real estate publicity No. 7/1996, published in the Official Gazette of Romania, Part I, No. 61 of March 26, 1996.

3. Expeditious Government Ordinance No. 179/2000 on the transfer of the military units for civil protection from the Ministry of National Defence to the Ministry of the Interior, as well as the modification and completion of the Law on civil protection No. 106/1996, of the Government Ordinance No. 47/1994 on the defence against disasters and of the Expeditious Government Ordinance No. 14/2000 on the setting up of the formations of civil protection for emergency intervention in case of disasters, published in the Official Gazette of Romania, Part I, No. 535 of October 31, 2000;

4. Law No. 40/1990 on the organization and functioning of the Ministry of the Interior, published in the Official Gazette of Romania, Part I, No. 146 of December 18, 1990, with the subsequent modifications.

Art. 11. – The Expeditious Government Ordinance No. 207/1999 on the setting up and organization of the Ministry of Civil Service, published in the Official Gazette of Romania, Part I, No. 649 of December 30, 1999, approved by the Law No. 218 of November 28, 2000, and the Government Expeditious Ordinance No. 48/2000 on the merging of the Romanian Development Agency and the National Agency for Small and Medium Enterprises with the National Agency for Regional Development, published in the Official Gazette of Romania, Part I, No. 203 of May 11, 2000, shall be abrogated.

Art. 12. – The organization and functioning of the ministries shall be approved by Government decision.

DECISION

for the approval of the Reorganization and Functioning Regulations of the National Agency of Civil Servants*

Art. 1. – (1) The National Agency of Civil Servants, as specialized organ of the central public administration, with legal personality, is organized and functions in the subordination of the Ministry of Public Administration.

(2) The National Agency of Civil Servants ensures the carrying out of the Strategy and Programme of government in the field of management of the public position and of civil servants.

(3) The headquarters of the National Agency of Civil Servants is in Bucharest Municipality, Magheru Blvd No. 6–8, sector 1.

Art. 2. – (1) The Reorganization and Functioning Regulations of the National Agency of Civil Servants is hereby approved, as stipulated in Annex No. 1.

(2) The organizational structure of the National Agency of Civil Servants is stipulated in Annex No. 2.

Art. 3. – (1) The National Agency of Civil Servants is managed by a president, holding the rank of secretary of state, assisted by a vice-president holding the rank of under-secretary of state.

(2) The president and the vice-president are appointed by decision of the Prime Minister, on the proposal of the minister of public administration.

(3) The president represents the National Agency of Civil Servants in the relations with the ministries, with the other authorities of the central public administration, with the authorities of the local public administration, with other central and local public authorities and institutions, with Romanian or foreign legal and natural persons, as well as in justice.

(4) In carrying out his duties, the president issues orders of individual character.

* The Government Decision No. 299/2001 was published in the Official Gazette of Romania, Part I, No. 141 of March 21, 2001.

(5) The vice-president carries out the duties and tasks delegated to him by the president, by order.

Art. 4. – (1) The secretary-general of the National Agency of Civil Servants is a career civil servant and is appointed to the position under the terms of the law, on professional criteria exclusively.

(2) The secretary-general must have long-lasting law, economic or administrative higher education, graduated with a diploma or the equivalent.

Art. 5. – (1) Along with the president of the National Agency of Civil Servants, is organized and functions the College of the National Agency of Civil Servants, as an advisory organ.

(2) The composition and the Organization and Functioning Regulations of the College of the National Agency of Civil Servants are approved by order of the minister of public administration, on the proposal of the agency president.

(3) The College of the National Agency of Civil Servants meets once a month or whenever necessary. The meetings are chaired by the agency president.

Art. 6. – (1) The number of positions in the machinery of the National Agency of Civil Servants is of 85, except for dignitaries.

(2) The employment of the personnel of the machinery of the National Agency of Civil Servants in the maximum number of positions stipulated in para (1) shall be made within 60* days from the date of coming into force of the present decision, following some tests based on strictly professional criteria.

Art. 7. – (1) The organizational structure of the directorates-general and of the directorates within the National Agency of Civil Servants is detailed in departments and offices, by order of the minister of public administration, on the agency president's proposal.

(2) The duties of the compartments, the concrete tasks of the personnel, as well as the internal circulation of documents are established by the internal organization and functioning regulations, which is approved by order of the agency president, as well as by the position description.

* The term was modified by the Government Decision No. 391/2001, published in the Official Gazette of Romania, Part I, No. 202 of April 20, 2001.

Art. 8. – The roll of positions of the National Agency of Civil Servants is approved by order of the minister of public administration, on the proposal of the agency president, within the maximum number of approved positions.

Art. 9. – The establishing of the number of cars and of the monthly fuel consumption is done in accordance with the legal provisions in force.

Art. 10. – Annexes 1 and 2 are an integral part of the present decision.

Art. 11. – The Government Decision No. 109/2000 for the approval of the Organization and Functioning Regulations of the National Agency of Civil Servants, published in the Official Gazette of Romania, Part I, No. 68 of February 16, 2000, as well as any other provisions to the contrary shall be abrogated on the date of coming into force of the present decision.

ANNEX No. 1

REGULATIONS for the reorganization and functioning of the National Agency of Civil Servants

Art. 1. – (1) The National Agency of Civil Servants called hereinafter *agency*, as specialized organ of the central public administration, carries out the following main duties:

1. In the field of the strategy and management of the public position and of civil servants:

a) draws up the strategy and principles of the management of the public position and of civil servants and present them to the minister of public administration in order to be appropriated and to be submitted to the Government for approval;

b) substantiates, draws up and submits for approval to the minister of public administration concrete programmes regarding the management of the public position and of civil servants;

c) draws up studies, analyses and prognoses regarding the dynamics and structure of the body of civil servants;

d) draws up strategies and concrete programmes regarding the recruitment, training and professional improvement of civil servants, which are submitted for approval to the minister of public administration and the minister of education and research;

e) co-operates with educational institutions and improvement centres for the development of the approved programmes; assists the improvement centres with teaching personnel;

f) establishes, with the agreement of the Ministry of Public Administration, the criteria for defining the categories of public positions, of their class and

degree as well as the professional performance criteria, on the basis of which the assessment of the individual performance of civil servants shall be made.

2. In the field of bringing under regulation the public position and the civil servants:

a) draws up drafts of statutory instruments regarding the public position and the civil servants, which are presented to the minister of public administration in order to be appropriated and submitted for approval to the Government;

b) analyses and advises the drafts of statutory instruments that contain provisions referring to the public position and to civil servants, and which are drawn up by other ministries and the other authorities of the central public administration;

c) draws up and submits for approval to the minister of public administration joint regulations of the public authorities and institutions regarding the public position, the grading and classification of positions, with the consultation of the Ministry of Labour and Social Solidarity;

d) draws up, with the advice of the Ministry of Labour and Social Solidarity, the drafts of statutory instruments for the creation of a unitary wage-system for civil servants;

e) coordinates and supports the process of adapting to the provisions of the Law No. 188/1999 on the Statute of civil servants and to those of the statutes approved by special laws;

f) draws up or, as the case may be, advises the draft decisions of the Government in which proposals are made for the completion of the list of public positions;

g) draws up norms for the organization and unfolding of the competitive examinations for joining the body of civil servants, as well as for the validation of the results thereof;

h) draws up drafts of statutory instruments regarding the organization of the probation period, the assessment conditions, as well as other specific rules, applicable to the beginning civil servants;

i) draws up the methodology of assessment of the individual professional performance of civil servants, as well as of contesting the marks given;

j) draws up draft statutory instruments regarding the organization, composition and functioning of the joint committees;

k) draws up proposals of statutory instruments regarding the modality of setting up, the composition, the organization and the functioning of disciplinary committees, as well as the procedure of intimating them;

l) draws up proposals regarding the organization and unfolding of the examination for the persons returning to the body of civil servants;

m) draws up proposals regarding the joining of the body of civil servants by persons who had held positions of public dignity, as well as by those who had held specialized positions outside the public authorities and institutions;

n) draws up norms for the recording of the professional files of civil servants.

3. In the field of the management of programmes:

a) manages the programmes regarding the public position and the civil servants, follows up the implementation thereof, and periodically presents reports to the minister of public administration regarding the manner of their development;

b) draws up and manages the informational system and the database containing the record of public positions and of civil servants, as well as of the vacancies;

c) takes measures for the placing of the civil servants dismissed according to law to other public positions similar to those held by these prior to dismissal;

d) follows up the manner of development of the programmes for forming and improving the professional training of civil servants.

4. In the field of representation:

a) represents the authorities of the central and local public administration, at the request of the minister of public administration or of the local and county councils, in the relations with Romanian and foreign legal and natural persons, in the field of management of the public position and civil servants;

b) co-operates with the ministries and with other public authorities in carrying out the duties incumbent upon it;

c) collaborates with institutions and similar international organisms or from other states in its field of activity;

d) co-operates with the associative organizations of civil servants from the country or from abroad, as well as with non-governmental organizations with duties in its field of activity;

e) negotiates, with the agreement or at the request of the minister of public administration, the conclusion of agreements and projects of international co-operation in the field of the public position, of civil servants and of the management of human resources; submits the agreements for approval to the minister of public administration or, as the case may be, for appropriation and submission to the Government for approval.

5. In the field of monitoring the activity referring to the public position and civil servants:

a) follows up and verifies the enforcement of the legislation regarding the public position and the civil servants, as well as the observance of the legal principles governing the public position;

b) monitors the enforcement of the Law No. 188/1999, of the Government decisions approved on the basis of this law, as well as of the norms approved by the minister of public administration; supports the central and local public administration authorities and grants them specialized technical assistance for the drawing up and approval of their own norms in the field;

c) follows up the situation of the vacant public positions and grants support for filling them, according to the provisions of the law;

d) methodologically coordinates and grants specialized support to the departments of human resources within the local and central public authorities and institutions;

e) advises the sectorial strategies and programmes on the formation and improvement of the professional training of civil servants;

f) draws up annual reports regarding the management of public positions and civil servants, the degree of occupation of the posts, as well as regarding the observance of the specific legislation, which are presented to the Government, by the minister of public administration, in order to be forwarded for debate and approval to the Parliament.

6. In the field of the social welfare of civil servants:

a) monitors the way in which normal working conditions are ensured for the civil servants within the public authorities and institutions; to this end, it co-operates with the civil servants' union organizations;

b) controls the way of observance of the legal rights due to civil servants by the heads of the public authorities and institutions.

7. In the field of harmonizing the legislation with the norms of the European Community:

a) draws up the proposals of statutory instruments for the harmonization of legislation in the field of the public position with the regulations of the European Community;

b) sees to it that the drafts of statutory instruments drawn up by ministries and other central and local public authorities, that contain provisions regarding the public positions and the civil servants, are in keeping with the existing regulations in this field in the European Community.

(2) The Agency carries out any other duties and tasks established by the Government, by the Prime Minister or by the minister of public administration.

Art. 2. — (1) In carrying out the duties stipulated in Art. 1, the Agency co-operates with the ministries, with the other authorities of the central public administration, with the authorities of the local public administration, with the public institutions and with other legal persons of public or private law, Romanian or foreign.

(2) The public authorities and institutions are obliged to communicate to the Agency, at the terms appointed by it, the requested information referring to the public positions and civil servants, under the terms of the law.

(3) The Agency shall communicate to the requiring public authorities and institutions data and information regarding the public positions and the civil servants, to the extent that these have no secret character or confidentiality is not infringed.

(4) The Agency may publish informative bulletins and other specialized publications, within the budgetary allocations.

Art. 3. — (1) The Agency organizes and keeps up to date the informational system and the database regarding the public positions and the entire body of civil servants.

(2) The registers of civil servants shall include only data referring to their name and surname, domicile, date of birth, public position held, seniority in other public positions, as well as seniority in other positions previously held, studies, didactic, scientific or any other kind of titles held, foreign languages known and the level of the knowledge thereof.

(3) The situation drawn up by the agency shall distinctly include, for each public authority and institution, data referring to:

a) the total number of positions relating to public positions, established in the setting up document, and their breakdown by categories, classes and degrees, as well as according to the nature of competencies: of execution and of management;

b) the number of occupied and vacant positions, their breakdown according to the nature of competencies.

(4) Any modification arising in the situation of public positions in a public authority or institution shall be communicated to the agency within maximum 15 days of the date of its occurrence.

(5) In the month of January of each year, the central and local public authorities and institutions shall pass on to the agency, cumulated for the entire year, the modifications occurred in the previous year in the situation of public positions.

(6) The information regarding the positions and the civil servants shall be transmitted by magnetic medium in the standard format established by the Agency.

Art. 4. — (1) In carrying out its duties, the Agency collaborates directly with the compartments specialized in the management of the human resources within the structure of the ministries, of the other central public authorities, of the prefectures and in the machinery of the local and county councils.

(2) The collaboration between the Agency and the compartments specialized in the management of the human resources within the structure of the decentralized public services of the ministries and of the other organs is achieved through the similar compartments within the structure of the hierarchically superior public authorities.

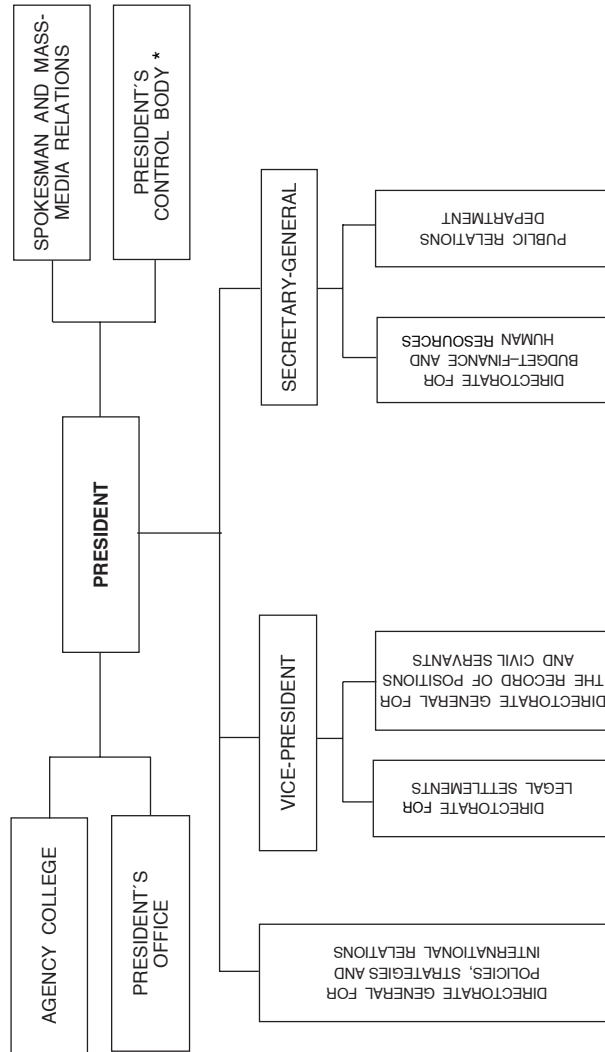
(3) In the case of local councils that do not have in the organizational structure of their own machinery compartments specialized in the management of the human resources, as well as in the case of institutions subordinated to the local or county councils, the collaboration is achieved through the compartments organized within the structure of the machinery of the county council.

Art. 5. — (1) The amounts necessary for the functioning of the Agency are ensured from the state budget.

(2) In order to carry out the role and duties incumbent upon it, the Agency may benefit from consultation and assistance from abroad, as well as from programmes for the formation and improvement of the training of civil servants, within the limits of the budgetary funds allocated or of other resources obtained from the interior or from abroad, according to the law.

ANNEX No. 2
Maximum number of positions = 85
(excluding the dignitaries)

ORGANIZATION CHART
of the National Agency of Civil Servants



* Organized at directorate level.

DECISION

on the organization and unfolding of the test intended to confirm in a post the civil servants holding management public positions within the public authorities and institutions*

Art. 1. – The post confirmation test for the appointment to management public positions shall be organized and shall take place under the terms of the Law No. 188/1999 on the Statute of civil servants, hereinafter called *law*, and with the observance of the provisions of the present decision.

Art. 2. – The post confirmation test for the appointment to management public positions shall be taken only by the civil servants within the public authorities or institutions who meet the conditions stipulated in Art. 6 let. a)–g) in the law and are not in one of the situations of incompatibility stipulated in art. 56–58 in the law.

Art. 3. – (1) Committees for the confirmation of the civil servants holding management public positions, hereinafter called *confirmation committees*, shall be constituted within each public authority or institution.

(2) The confirmation committee shall be made of a president and 2–4 members appointed by order or decision of the head of the respective authority or institution.

(3) The confirmation committee shall have a secretary who is not a member thereof, appointed by order or decision of the head of the respective public authority or institution, as a rule from among the civil servants within the human resources department of the respective public authority or institution, and who carries out the tasks established in writing by the president of the confirmation committee.

Art. 4. – In the committee for the confirmation of the civil servants holding management public positions within the machinery of the ministries and of the other central organs shall also participate a representative of the National Agency of Civil Servants, appointed by order of the president thereof.

Art. 5. – The committee for the confirmation of the civil servants holding the management public position of secretary-general of the Government and of deputy secretary-general of the Government, shall be chaired by the Prime Minister or by a representative designated by him and shall be made

* The Government Decision No. 452/2000 was published in the Official Gazette of Romania, Part I, No. 272 of June 15, 2000.

of the minister of justice, the minister of the civil service, the finance minister and the president of the National Agency of Civil Servants.

Art. 6. – In the committee for the confirmation of the heads of the decentralized public services of the ministries or of other central organs in the territorial-administrative units are bound to participate a representative of the National Agency of Civil Servants, appointed by order of its president, and a representative of the prefect of the county or of the Bucharest Municipality, designated by his order.

Art. 7. – (1) In the committee for the confirmation of the secretary-general of the prefecture shall participate a representative of the Ministry of Civil Service, a representative of the National Agency of Civil Servants and 3 representatives of the prefect.

(2) In the committee for the confirmation of the civil servants holding the management public position of secretary of the county or of the Bucharest Municipality shall participate a representative of the Ministry of Civil Service, a representative of the National Agency of Civil Servants, a representative of the president of the county council or of the mayor general of Bucharest Municipality, and 2 representatives of the county council, respectively of the General Council of Bucharest Municipality, as the case may be.

(3) In the committee for the confirmation of the secretary of municipality, of the Bucharest Municipality sector, of the town or commune, as the case may be, shall participate a representative of the prefect, a representative of the president of the county council or of the mayor general of the Bucharest Municipality, a representative of the mayor of the municipality, of the Bucharest Municipality sector, of the town or commune, as the case may be, and 2 representatives of the respective local council.

Art. 8. – (1) The president of the committee for the confirmation in post of the secretary-general of the prefecture shall be designated by the minister of civil service, by order.

(2) The president of each confirmation committee stipulated in Art. 6 and in Art. 7 paras (2) and (3) shall be designated with the majority vote of its members.

Art. 9. – (1) The confirmation committee shall verify, within 5 days from its setting up, for each civil servant, the fulfilment of the conditions stipulated in Art. 2.

(2) The results of the verifications stipulated in para (1) shall be recorded by the secretary of the confirmation committee in an official report, which shall be signed by all the committee members.

(3) In case non-fulfilment by a civil servant of the conditions stipulated in para (1) is found, the confirmation committee shall communicate to him, on the spot and in writing, the result of the test, which can be contested within 5 days from communication.

(4) The contestation of the result of the test stipulated in para (1) shall be filed with the head of the respective public authority or institution and shall be solved by him within 5 days from registration.

(5) The post confirmation test shall be scheduled to take place only after the solving of the contestation of the result of the test stipulated in para (1).

Art. 10. – The subjects, specific to the field of activity and to the management public position, the date and hour of the post confirmation test shall be communicated in writing, by at least 15 days before the date of its taking place, by the secretariat of the confirmation committee to each civil servant holding a management public position.

Art. 11. – (1) The post confirmation test for the appointment to management public positions consists in a written paper and in coming to an interview, related to the subjects specific to the field of activity and to the management public position, established by the confirmation committee.

(2) The subjects for the written paper and the sets of questions for the interview shall be put in closed envelopes.

(3) For the written paper, by at least 10 days prior to the taking place of the confirmation test, the candidate, in the presence of the confirmation committee, shall extract the subject of the written paper which shall be recorded in the official report of the post confirmation test.

(4) On the day of the post confirmation test, for the interview, the candidate shall extract an envelope with the set of questions he will answer in the presence of the confirmation committee.

(5) The mark for the written paper and, respectively, the mark for the interview represent the arithmetical mean of the marks given by the members of the confirmation committee. The marks for the written paper and for the interview may range from 1 to 10.

Art. 12. – (1) The result of the post confirmation test is the arithmetical mean of the marks given by the committee members for the written paper and for the interview.

(2) The civil servant shall be confirmed in the management public position in case he obtained at least a 7 in the post confirmation test. The result shall be communicated to the

respective civil servant, in writing, within 3 days from the date of the post confirmation test.

(3) The result of the post confirmation test may be contested by the respective civil servant within 5 days from communication, at the confirmation committee, which has the obligation to solve the contestation within 5 days from its registration at the secretary of the committee.

(4) In case the contestation is rejected, the respective civil servant may apply, under the terms of the law, to the administrative court.

Art. 13. – The secretary of the confirmation committee draws up the official report of the post confirmation test, which shall include the subject for the written paper, the marks given by each member of the confirmation committee, the questions and the answers at the interview, as well as the result of the post confirmation test. The official report shall be signed by the secretary and countersigned by all the members of the confirmation committee.

Art. 14. – (1) The civil servant who was confirmed in the post, under the terms of the present decision, shall be appointed by the head of the public authority or institution, by order or by decision, as the case may be, to the respective management public position.

(2) The secretary-general of the prefecture and the secretary of the county, respectively of the Bucharest Municipality, who were confirmed in the post, under the terms of the present decision, shall be appointed by order of the minister of civil service.

(3) The secretary of the municipality, of the Bucharest Municipality sector, of the town or commune, as the case may be, who was confirmed in the post, shall be appointed by order of the prefect.

(4) In case a civil servant does not pass the post confirmation test for the respective management public position, the provisions of Art. 97 para (1) in the law shall apply accordingly.

Art. 15. – (1) The posts vacated as a result of non-confirmation by the post confirmation test for the management public position shall be occupied by competitive examination under the terms of the law.

(2) In case the procedure stipulated in Art. 12 para (3) was initiated, the position shall be opened to competitive examination only after the judgment of the administrative court remains final and absolute.

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Editor: Regia Autonomă „Monitorul Oficial“, București

Bun de tipar: 16 iulie 2001. Apărut: 2001

Tipografia „Monitorul Oficial“, București, str. Izvor nr. 2-4, Palatul Parlamentului, sectorul 5

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