

Administration of the Council of Ministers in the Republic of Bulgaria

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Abstract

The Council of Ministers in the Republic of Bulgaria, as a state with a parliamentary form of government, is a supreme political body that governs and implements the country's internal and foreign policy (Article 105, paragraph 2 of the Constitution of the Republic of Bulgaria). In this sense, it is central to the political life of the country. That is why the work of his administration is key to good governance. This article clarifies the concept of "administration" by distinguishing it from other similar concepts. The functions and structure of the general and specialized administration of the Council of Ministers are analyzed as well as the organization of their work. Public trust in the state administration depends to a large extent on the objectivity and transparency in conducting the competitive procedures and in the appointment of civil servants to employees who have the necessary competence to perform the particular public position. In this regard, the article also examines the types of positions in the administration of the Council of Ministers, the basic requirements for their occupation, their distribution in job levels, the ranks that are awarded as an expression of the professional qualification of employees, as well as the evaluation of the performance of the position.

Keywords: Council of Ministers, public administration, civil servant, good governance.

1. Introduction

The modern democratic state was built on the principle of separation of powers, the classical concept of which was developed by Montesquieu in the 17th century. His idea that power should restrain power leads to the division of single state power into three basic material power functions in which it occurs – legislative, executive and judiciary. In order to ensure moderate governance in the state, the implementation of each of these power functions is commissioned to a separate body. Thus, in the Republic of Bulgaria the holder of the legislative power is the parliament, of the executive power – the Council of Ministers (the government), and of the judicial power – the court, the prosecutor's office and the investigation department. The executive power has an extremely wide range of content, assuming that it includes all state functions that do not fall within the scope of the legislative and the judicial power (Vladikin, 1929). Rousseau sees the executive power as "the power applied to the law" and the government as "an intermediate body charged with enforcing the law." Practically, according to Barthelemy, it provides "through spontaneous and constant intervention the very life of the state" (quoted in Spasov, 2001: 16). All this reveals the key role of the executive and its holder – the government, for the implementation

of public administration, whose efficiency and effectiveness is ensured by the administration of the Council of Ministers.

2. Methodology

The systematic and the comparative-legal method were used in the research. *The systematic method* reveals the interrelation and the interaction between the analyzed positions in the government administration in the current Bulgarian legislation. Whereas the *comparative legal method* presents best practices in foreign countries and achievements in various foreign jurisdictions in the legal framework of the Institute of State office.

3. The concept “administration”

Very often in the legal literature and legislation the terms “executive power” and “administration” are used interchangeably. Staynov and Angelov (1947) accept that these two concepts relate to each other as a subjective concept to an objective concept. Spasov (2001) supports the thesis of the French doctrine, which distinguishes between the executive, respectively the administration in the formal and material sense. In the first case, the bodies provided for in the Constitution are to carry out administrative activity, and in the second case - the activities carried out by the state, through which the various state functions are realized. Thus, for example, in the text of Art. 8 of the Constitution (1991), regulating the principle of separation of powers, the term “executive power” is used in a material sense, having in mind the activity of realization of the executive functions of the state. While the provisions of Art. 143, para. 1 and Art. 146 of the Constitution (1991), speaking of regional, respectively local administration, use the term “administration” in a formal sense, referring to the relevant executive power.

However, administration exists not only in the public sector, but also in the private sphere of social life (for example, business administration). The characteristic for distinguishing administration as a synonym of executive power from corporate administration is its authoritative character. It is expressed in the fact that the acts of the state administration are legally obligatory for all legal entities that are their addressees. When these acts affect the rights and legitimate interests of citizens and legal entities, they may be challenged, respectively, by administrative or judicial order. In addition, the acts of the executive power regulate law public relations, i.e. such in which one party is always a state body and accordingly the method of legal regulation of these relations is the authoritarian one, i.e. the method of subordination (of authority and subordination).

There should also be a terminological clarification regarding the term “public administration”. The latter has a wider scope and includes not only the state administration (the administration of the executive power), but also the municipal administration, for example (Spasov, 2001).

In the legal literature, Staynov and Angelov (1947) equate the term “administration” to “management” of the state as an activity of government officials. These two terms are not always used as synonyms in the Constitution of the Republic of Bulgaria (CRB, 1991) and the current legislation. For example, according to Art. 4, para. 1 of the Constitution (1991), the Republic of Bulgaria is governed by the Constitution and the laws. In this case, a broader content is used in the term “governance”, which covers not only the activities of the executive power, but also the legislative and the judicial power.

In the modern constitutional literature, a distinction is made between the terms “executive power” and “administration”, which has its beginning in the middle of the 19th century. Drumeva (2018: 462) accepts that “executive power – this is the government and the state

administration” (Art. 105-106 and Art. 116 of the CRB, 1991). In functional terms, “government” is the creating, the coordinating state leader, and the administration (Art. 116 of the CRB) – the state activity carried out, which ensures the technical and organizational implementation of already taken political decisions. ... The two parts – government and administration – are mutually presupposing and mutually pervasive constituents of the executive power, although each of them has different, inherent functional areas and autonomy”. While Borisov (2001: 17) views the executive power in an objective sense as “organized legal, material and technical activity aimed at the practical solution of tasks to meet the needs of the state, society and citizens.”

The current activity of the government and the preparation for its meetings is provided by the administration of the Council of Ministers. It is chaired by the Prime Minister, and the Secretary General of the Government provides its administrative management. As a legal entity, it is represented by the Prime Minister or by officials authorized by him. The main issues related to the operation and organization of the work of government and to the structure and functions of its administration have been settled in the Rules of Procedure of the Council of Ministers and its Administration (RPCMA, 2009).

4. Political cabinets of the Prime Minister and Deputy Prime Ministers (Art. 15-20 of RPCMA, 2009)

The Prime Minister’s Political Cabinet is an organizational structure that includes the Deputy Prime Ministers, the Chief of Cabinet, the Parliamentary Secretary and the Head of the Public Relations. Its function is to assist the Prime Minister in formulating and developing specific decisions for the implementation of government policy in the area of its powers, as well as in presenting government policy to the public. In this regard, the political cabinet of the Prime Minister performs advisory, analytical and informational functions. For their implementation it periodically collects, summarizes and analyzes the information needed to develop policy solutions; it coordinates the development and controls the implementation of the government management program; it coordinates and controls the compliance of the strategies prepared by the ministries with the priorities in the government's management program; it analyzes the implementation of the set strategy goals and priorities of the program of the Council of Ministers on the basis of the annual reports on the activity of the ministries, the state commissions, the state and executive agencies and the regional administrations; it monitors the running of public consultations on the draft acts within the competence of the Council of Ministers published on the websites of the petitioners and on the Portal for public consultations and it gives opinion on their results; it exchanges information with the political cabinets of the other members of the Council of Ministers and of the regional governors on the implementation of the policy adopted by the government in the specific area; it provides coordination in the implementation of the single information policy of the government; it liaises between the Prime Minister and the public.

The chief of the political cabinet of the prime minister draws up the schedule of the Prime Minister; they link him with members of the Cabinet and other government bodies and local authorities as well as with leaders of political and social organizations and citizens; they organize the meetings of the political cabinet; they ensure the coordination of the work of the political cabinet of the Prime Minister with the political cabinets of the ministers, periodically convening meetings with their superiors and informing the Prime Minister about the results from the discussions; they manage the work of counsellors, experts and technical assistants in the political cabinet. Counsellors and experts collect, summarize and analyze information necessary for strategy planning and policy development of the country; they monitor and prepare analyzes on the implementation of the government’s program for governing the country; they prepare reports, analyzes, expert opinions and other materials on issues that are considered by the political cabinet

of the Prime Minister. Whereas the technical assistants ensure the preparation and holding of the meetings of the political cabinet.

The Parliamentary Secretary of the Council of Ministers organizes the interaction of the Government and the Prime Minister with the National Assembly and the leaders of the parliamentary groups, and it also coordinates the activities of the Parliamentary Secretaries of Ministers in presenting government policy and bills, decisions, reports and reports to the National Assembly.

The head of the public relations unit is a counsellor in the Prime Minister's political cabinet, assisted by the Government Information Service Directorate. In carrying out their functions, they organize the presentation of government policy to the public; they coordinate the activity of the heads of the public relations units in the ministries and other administrations of the executive power with a view to conducting a unified information policy; and organizes the public appearances of the Prime Minister.

The political cabinets of deputy prime ministers include counsellor, experts and technical assistants. The heads of their political cabinets draw up the schedule of the deputy prime ministers; they link them with ministers, other government bodies and local authorities as well as with leaders of political and social organizations and citizens; they coordinate the work of the political cabinets of the Deputy Prime Ministers with the political cabinets of the other members of the Government; they manage the work of counsellors, experts and technical assistants in the cabinet.

Counsellors and experts in the political offices of the Deputy Prime Ministers collect, summarize and analyze information and develop draft political decisions in the department coordinated by the Deputy Prime Minister. At the same time, they prepare reports, analyzes, expert opinions and other materials on issues in the department coordinated by the Deputy Prime Minister.

Political cabinets interact with the administration of the Council of Ministers in supporting the activities of the Prime Minister and Deputy Prime Ministers. The interaction is carried out through the Secretary General, and the specific tasks are formulated by the Head of the Political Cabinet and are assigned to the administration by the Secretary General in the amount and terms agreed between the Head of the Cabinet and the Secretary General.

5. Structure and functions of the administration of the Council of Ministers (Art. 52-77c of RPCMA, 2009)

In exercising its powers, the government is assisted by an appropriate administration, which at the same time coordinates the activities of the central and territorial administrations of the executive power. The Administration of the Council of Ministers is organized in directorates of general administration and directorates of specialized administration and other administrative units and individual positions in accordance with Appendix № 3 of RPCMA (2009). The Prime Minister, upon a proposal from the Secretary General, may establish departments and divisions in the directorates. The official correspondence of the administration of the Council of Ministers is signed by the Secretary General or by a head of a directorate and is sealed with the official seal of the Council of Ministers.

5.1 *Secretary General*

The administrative management of the administration of the Council of Ministers is carried out by *the Secretary General*, who organizes, coordinates and controls the preparation of

the government meetings and the formation of the adopted acts; they distribute among the directorates the tasks related to the preparation and adoption of acts of the Council of Ministers, as well as to the creation of conditions for its work; at the request of the heads of political cabinets of the Prime Minister and the Deputy Prime Ministers assigns the directorates tasks within their functional competence; they coordinate the interaction of government administration with other administrations of the executive and local government, they also demand from them materials and information necessary for the analysis and preparation of questions from the competence of the Council of Ministers; they perform other tasks assigned to him by the government and the Prime Minister.

At the same time, *the Secretary General* determines the procedure for entering the building of the Council of Ministers of the employees and the access regime for officials and citizens; the organization of work with documents and the order for the document circulation in the government administration; the samples of the seals of the Council of Ministers, the employees who have the right to affix them, and the order for their storage; other issues related to the work organization in the government administration. In the cases of authorization, the Secretary General manages and controls the movement of funds in the budgets and their accounts in BGN and in foreign currency, and also concludes contracts on behalf of the administration of the Council of Ministers.

Independent departments to the Secretary General are the “Administrative and Regional Coordination” Department, the “Human Resources” Department and “Control over the Implementation of Acts and Contracts” Department.

The Internal Audit Unit reports directly to the Prime Minister and conducts internal audits under the Public Sector Internal Audit Act (2006). It carries out the activity of internal audit of all structures, programs, activities and processes in the administration of the Council of Ministers and of the budget managers at a lower level. This unit plans, performs and reports on the internal audit activity in the public sector; it prepares on the basis of a risk assessment a three-year strategy plan and an annual plan for its activities, which are approved by the Prime Minister; it prepares an audit plan for each audit engagement; it presents to the Prime Minister an independent and objective assessment of the state of the audited financial management and control systems; it assesses the risk identification, assessment and management processes introduced by the Prime Minister; checks and assesses: the compliance of the activities with the legislation, internal acts and contracts etc.

5.2 General Inspectorate

The General Inspectorate is directly subordinated to the Prime Minister and carries out administrative control in the government administration and in the administrative structures, whose heads are secondary budget managers under the budget of the Council of Ministers. The General Inspectorate performs the functions of Art. 46a, para. 2 of the Administration Act (AA, 1998); it inspects reported signals of corruption against employees of the government administration, conducts inspections and informs the Prime Minister about the results; it inspects signals against ministers, regional governors, chairmen of state agencies, chairmen of state commissions at the Council of Ministers, heads of administrative structures under Art. 19, para. 4 it. 4 of AA (1998), created in the government, for violations of Art. 302, 303 and 305 of the Administrative Procedure Code (APC, 2006); it coordinates and supports the organization of the activity for conducting the state anti-corruption policy; it provides expert and technical support to the work of the National Council for Anti-Corruption Policies; it carries out inspections of signals and proposals against illegal or incorrect actions or inactivity of administration employees at the Council of Ministers; it sends signals to the bodies of the prosecutor's office, when during

inspections it finds evidence for a committed crime; it carries out other activities related to the administrative control, arising from normative acts or assigned by an order of the Prime Minister.

The activities of the General Inspectorate aim at comprehensive, objective, impartial and accurate clarification of the inspected cases and at proposing measures to prevent and eliminate violations, as well as improving the functioning of the government administration and administrative structures headed by secondary managers with budget under the budget of the Council of Ministers; prevention and reduction of corruption .

The General Inspectorate carries out its activities in accordance with the strategy and annual plans approved by the Prime Minister. If necessary, it might carry out unscheduled inspections assigned by the Prime Minister, to whom a report is prepared. It analyzes the causes and circumstances related to the violations found and proposes measures to eliminate them. The General Inspectorate reports annually to the Prime Minister and submits a summary report on the inspections carried out by 30 April.

5.3 *Information Security Unit*

The Registry for classified information is managed by the Information Security Officer, who is directly subordinate to the Prime Minister and performs the functions assigned to him by the Classified Information Protection Act (2002). He is assisted by *the Information Security Unit*.

5.4 *Finance controller*

The finance controller carries out preliminary control for legality according to the Law on Financial Management and Control in the Public Sector (2006).

5.5 *General administration*

According to the distribution of functions, the administration of the Council of Ministers is *general* and *specialized*. *The General Administration* technically ensures the activity of the Council of Ministers and its specialized administration and carries out the activity of administrative service for the citizens and the legal entities. It includes:

- *“The Government Chancellery” Directorate* carries out the activities of record keeping and control of the movement of documents in the government administration, as well as the record keeping services for the Prime Minister, Deputy Prime Ministers and their political cabinets; preparation of government meetings and briefings; the technical preparation of the materials for these meetings; the technical preparation of the adopted acts of the Council of Ministers; it accepts the proposals and signals submitted under Chapter Eight of the APC (2006) and organizes the work with them, insofar as this is not a function of another administrative unit etc.
- *“The Budget and Finance” Directorate* carries out the activities for the preparation and substantiation of the draft budget of the Council of Ministers, including for the secondary budget managers; the allocation, control and analysis of the spending of the funds by the secondary spending units and the substantiation of proposals for adjustments in their budgets, control over the transfer of own revenues of the secondary spending units to the government; control and reporting on the implementation of the government budget (Aleksandrova, 2019).
- *“Administrative and legal services and property management” Directorate* organizes the preparation and implementation of procedures in connection with the implementation of the Public Procurement Act (2016); coordination of the use and control over the management of the places – public state property, and the places –

private state property, provided for use and management of the administration of the Council of Ministers; the preparation of draft contracts concluded on behalf of the government administration, the administrative and legal services of the activities of the general administration, as well as the provision of procedural representation in claim proceedings; implementation of highly efficient solutions and technologies for the application and maintenance of uniform standards and protocols of the information and telecommunication systems and the electronic management in the administration of the Council of Ministers etc.

- *“The Government Protocol” Directorate* carries out the activities of the protocol and ceremonial activity of the members of the Council of Ministers and its administration.

5.6 Specialized administration

The specialized administration includes the units that directly support and ensure the exercise of the powers of the Council of Ministers, and namely:

- *Legal Directorate* prepares opinions on the legality of draft government acts; it assists its activities and the relevant ministers in the preparation of bills and acts of the Council of Ministers; it develops draft acts of the government; it ensures compliance with the laws and the expressed will and shapes the legally and technically adopted government acts; it prepares opinions on constitutional cases to which the Council of Ministers is a party; it provides methodological assistance and coordination regarding the legal services in the other directorates of the government administration; it organizes the procedural representation and the legal protection of the Council of Ministers, of its acts and of the acts of the Prime Minister before all court instances in cases etc.

- *“The Economic and Social Policy” Directorate* prepares expert opinions on the appropriateness of the draft strategies, programs and acts submitted to the Council of Ministers, related to the economic, infrastructural and social development of the country; it supports the development of the general policy for administrative regulation of the economic activity; it assists and coordinates the implementation and monitoring of horizontal policies; it ensures the coordination and supports the activity of the administrations on the implementation of the programs and projects for investments etc. This directorate assists the Deputy Prime Minister on the economic and demographic policy and agreed with him the priority measures and policies related to economic and social development of the country, when performing its functions.

- *“Coordination of issues with European Union (EU)” Directorate* supports the activities of the Council of Ministers for conducting a coordinated policy of the Republic of Bulgaria towards the EU and prepares the Annual Program for participation of our country in the decision-making process of the European Union; it provides expert, organizational and technical work of the Council for European Affairs at the Council of Ministers; it coordinates the process of preparation and approval of draft framework positions on issues addressed by the European Council, the Council of the EU and its subsidiary bodies, as well as in the comitology process and on draft White and Green Papers of the European Commission, and on positions for meetings of the European Council and the Council of the EU, including informal meetings, with the exception of matters related to the common foreign and security policy and to the common security and defense policy; it issues opinions on draft acts of the Cabinet of Ministers and their compliance with policies and EU legislation; it analyzes policies and legislation and monitors the implementation of the commitments of the Republic of Bulgaria to the EU, including coordinating the preparation, adoption by the government and monitoring the implementation of annual action plan with measures stemming from the membership of the Republic of Bulgaria in EU; it monitors the adoption and coordinates the notification of acts

introducing measures at national level necessary for the implementation and enforcement of EU acts etc.

- *“Religions” Directorate* coordinates the relations of the executive power with the religions; it assists the government in implementing the state policy of maintaining tolerance and respect between different religions; it organizes and directs the work of an expert advisory commission on the problems of religions; it gives expertise and opinions in the cases provided for in the Law on Religions (2002); it gives opinions on requests for residence permits in the country by foreign religious officials, invited by the central authorities of the registered denominations; it inspects signals and complaints from citizens for violation of their rights and freedoms or the rights and freedoms of their relatives through abuse of the right to religion by third parties; it checks signals and complaints for illegal religious activity and, if necessary, notifies the prosecutor's office; it makes proposals to the Council of Ministers on the draft state budget for the distribution of the state subsidy intended for registered religions, and ensures the necessary accountability etc.
- *“Central Coordination Unit” Directorate* assists the Deputy Prime Minister, who is responsible for the overall organization and management of the system of coordination in the management of funds from the EU; it liaises and provides information to the European Commission and other funding bodies, and acts as the central coordinator of the European Commission's SFC 2007 and SFC 2014 fund management systems at national level and of the ARACHNE risk control system; it plans and coordinates measures supported by international financial institutions and instruments, European or other initiatives; it plans and programs the policies financed by the European Structural and Investment Funds (ESIF) and other donors and coordinates them by summarizing, consolidating and preparing strategic documents; it coordinates and participates in the development of programs, initiatives, investment instruments and others etc.
- *“The Good Governance” Directorate* performs the functions of the managing authority of the Operational Program “Good Governance” 2014-2020 (OPGG), of the Operational Program “Administrative Capacity” 2007-2013 (OPAC) and of the Operational Program “Technical Assistance” 2007-2013 (OPTP); program operator under Program BG 11 “Capacity Building and Institutional Cooperation”, funded by the Norwegian Financial Mechanism, 2009-2014; Support Unit under the BG 07 Public Health Initiatives Program, funded by the Norwegian Financial Mechanism and the Financial Mechanism of the European Economic Area, 2009-2014.

In the performance of its duties the Directorate manages the overall operational programs aimed at achieving their goals and fulfilling their financial plans; it participates in EU programs and other donors in the field of good governance; it performs all other functions of the managing authority of the operational programs resulting from the right of EU and the applicable national legislation etc. The Directorate provides procedural representation before all courts in cases related to the implementation of the programs.

- *“Modernization of the Administration” Directorate* supports the powers of the Council of Ministers for the implementation of the general management of the state administration, proposing initiatives and measures for optimization, creation, transformation and closure of administrative structures; it expresses opinions on the internal structuring, functions and number of administrative structures; it prepares an annual report on the impact assessment; it participates in the process of elaboration of the legislative and operational program of the government; it provides methodological assistance to the executive authorities and the administrations that assist them in carrying out a preliminary impact assessment etc.
- *“The Government Information Service” Directorate* develops a program for presenting the activities of the Council of Ministers and its administration; it organizes the public appearances of the members of the government in connection with the presentation of its decisions; it provides methodological guidance and

coordination of the public relations units of the ministers, of the heads of the state agencies and state commissions and of the regional governors etc.

6. Organization of the work in the administration of the Council of Ministers (Art. 78-80 of RPCMA, 2009)

In fulfillment of the functions and the set specific tasks the administrative units in the administration of the Council of Ministers provide opinions, reports, analyzes, programs, concepts, positions, information, memoranda, drafts of decisions on specific issues, internal acts, drafts of normative acts and other documents. The head of the administrative unit, who has prepared and coordinated the respective document, must sign or initial it before submitting it for signature by the Prime Minister, Deputy Prime Minister, Secretary General or Director of a Directorate. The general control over the implementation of the set tasks is carried out by the Secretary General. The heads of the administrative units exercise overall control over the activity of the unit, as well as over the implementation of the tasks arising from their functional competence.

7. Positions in the Government Administration

Administration activity is carried out by civil servants and persons, employed under employment relationships. Civil servants, as well as persons working under employment relationships, hold positions in the administration, the names of which are determined by the Classifier of Positions in the Administration (CPA, 2012). A position in the administration is a statutory defined position, which is occupied officially or in employment relationship on the basis of certain requirements and criteria, it is related to a specific type of activity of the person who holds it, and is expressed in a system of functions, obligations and requirements, approved with a job description (Ordinance for Application of the Classifier of the Positions in the Administration, OACPA, 2012). Persons, in employment relationship, perform auxiliary functions – supporting activities of senior management staff and employees of higher level job positions. The positions they hold are: specialist, senior and chief specialist, technical assistant, contractor, as well as some specific positions regulated in the CPA (2012). Depending on the type of position in accordance with CPA (2012), the positions in the general and specialized administration of the Council of Ministers shall be held so under a service or employment relationship.

In view of the functions, the positions in the administration are divided into the following three types: managerial, expert and technical (AA, 1998). Managerial and expert positions are occupied by civil servants, and technical positions – in employment relationship. A person holding a managerial position in the administration may not perform it under an employment contract. Civil servants occupy different places in the hierarchy of the state administrative apparatus. A civil servant is a person who, by virtue of an administrative act for appointment, holds a paid full-time position in the state administration and assists a body of state power in the exercise of his/her powers. The managerial staff manages, controls and coordinates the administrative unit and is responsible for its work (Kandeva, 2007). Managers have subordinated units and a number of employees to which they are more superiors in the administrative hierarchy, overseeing their work. The experts perform a service that supports the implementation of the functions of state power. They prepare opinions, participate in the development of draft strategies, concepts, programs of normative acts, prepare analyzes and forecasts, etc.

There are different criteria for classifying civil servants in different countries. In most countries, employees are divided according to whether their status is governed by general or specific law. For example, in France employees are divided into statutory and with contract, and

contract employees are recruited only when there is no statutory employees that can perform the respective functions. In Poland, in the civil service sector, employees are divided into junior and senior, and at the same time there are support staff who, although operating within the civil service, do not have the status of a civil servant (Kandeva & Spiridonova-Hekt, 2006).

In the administration civil servants take managerial positions, expert positions with analytical and/or control functions and other specific positions indicated in CPA (2012). It shall also indicate the distribution of posts at job level, the minimum requirements for a degree and the rank or professional experience required to hold each post, as well as the type of legal relationship in which it is held.

8. Requirements for holding a civil service

The basic requirements for holding a position in the administration are determined by law, and additional requirements may be determined by the structural regulations of the respective administration. Civil servants hold positions in the administration by official legal relationship. It is a type of administrative legal relationship for the performance of civil service, which arises between the state and the civil servant on the basis of an act for appointment of the civil servant, issued by the appointing authority in the respective administration.

The emergence of the employment relationship is related to the existence of statutory requirements for entering the civil service. The requirements for appointment are regulated in the Civil Servant Act (CSA, 1999). The laws of all Member States contain provisions related to the terms and conditions for entry into public service. Typically, these provisions are included in separate parts or sections of the civil service law, as well as additional specific requirements, included in bylaws. The civil service is regulated mainly by laws and by-laws, which exclude contract relations.

We can systematize the most common general requirements for candidates for civil service in European countries (Kandeva & Spiridonova-Hekt, 2006). First, they refer to the civil and legal status of the applicant – this includes requirements for citizenship and no conviction. The provision of Art. 7, para. 1 item 1 of CSA (1999) stipulates that a civil servant may be appointed a person who is a Bulgarian citizen, a citizen of another EU Member State, another state – party to the Agreement on the European Economic Area or the Swiss Confederation. The law also requires that a person must not be convicted of an intentional crime of a general nature of imprisonment, as well as not be deprived of the right to hold a certain position.

The other group requirements concern the candidate's personality. They include the requirements for a particular age, health and other specific depending on the position personal qualities, such leadership, ability to solve problems, etc. CSA (1999) explicitly states that the person should have reached the age of majority and cannot be under guardianship.

The third group of requirements concern the educational qualification and professional qualities of the candidate. These requirements are determined by the specifics of the job. The candidate for civil service is to meet the minimum requirements for the degree of education and rank or experience in administration which are expressly provided for in CPA (2012), and the specific requirements in the regulations for position to be taken.

Paragraph 2 of Art. 7 of the CSA (1999) also regulates the obstacles to holding civil service. The norm introduces restrictions on the holding of a certain service or the performance of a certain activity as a guarantee for conscientious performance of official duties and prevention of a conflict between the state and other public or personal interest. The incompatibility for the performance of a civil service may exist upon the occurrence of the legal relationship or may arise subsequently upon the implementation of the circumstances provided for in Art. 7, para. 2 of the

CSA (1999). When the civil servant, in contradiction with the requirements of Art. 7 of the CSA (1999), has been appointed to office, his official legal relationship may be terminated by the appointing authority only when the violation exists and at the time of termination (Art. 107, para. 1, item 7 of the CSA, 1999), i.e. the law requires the incompatibility to exist throughout the operation of the employment relationship between the parties.

The emergence of the employment relationship is a procedure in which the person who has won the competition for the relevant civil service is appointed to a position by the appointing authority. The appointment of any civil servant is made through competition based on professional qualities (Ordinance for Conducting Competitions and Selection for Mobility of Civil Servants, 2019).

The purpose of the competition as a method of selection is to determine whether the candidate for the position will be able to perform it, i.e. whether he/she has the necessary competencies for the position. In most countries, civil servants are recruited through a competitive procedure. The selection is carried out according to the professional qualification, achievement in the specialty, regardless of gender, origin, race, religion, religious and political views, place of birth. Civil servants are appointed by the appointing authority and the laws of most countries in Europe require taking oath, certificated with signing the oath sheet.

9. Requirements for holding the main positions in the administration of the Council of Ministers

The total number of employees in the administration of the Council of Ministers and its distribution by administrative units listed in Annex № 3 of RPCMA (2009). The work schedule of the government administration shall be approved by the Prime Minister on the proposal of the Secretary General. It sets out specific positions, which will be used in the administration, in compliance with the provisions of CPA (2012), an Ordinance for Application of the Classifier of the Positions in the Administration (OACPA, 2012) and the specific requirements set by RPCMA (2009).

In the administration of the Council of Ministers, the highest position is that of *the Secretary General*. In accordance with CSA (1999) he is a senior civil servant. The minimal requirements for appointment to the position are a Bulgarian citizenship only, a Master degree, third senior rank and nine years of professional experience. These requirements are regulated in view of the fact that the Secretary General occupies the highest management level in the official levels of government administration defined in CPA (2012).

The internal audit unit consists of internal auditors who are employees of the organization, one of whom is the head. The minimum requirements to be met by the head of the unit are: holding a Master degree, fifth senior rank and seven years of professional experience and auditors occupy positions in the expert level positions as civil servants.

The minimum requirements to be met by *the head of the General Inspectorate* are: holding a Master degree, fifth senior rank and seven years of professional experience. They hold a position included in the management levels. The state inspectors in the inspectorate hold expert positions. The position “State Inspector in the General Inspectorate” is related to the implementation of administrative control over the implementation of regulations and internal acts, preparation of proposals for elimination of violations and to improve the activities of the administration, inspections of the inspectorates at the ministries for administrative control under Art. 46 of AA (1998) to assess their activity, considering the signals in the order of APC (2006), preparation of analyzes and proposals for improvement of administrative control for efficiency, transparency in the management and prevention of corruption (Art. 7, para. 14 of the OACPA,

2012). In addition, the state inspector in the General Inspectorate has the power to make proposals for disciplinary action.

The Information Security Officer in charge of the Classified Information Registry holds an expert position in an official legal relationship, which requires a Master degree, a minimum second junior rank and five years of professional experience.

The financial controller holds a position included in the expert levels, the minimum requirements for which are a Master degree, a minimum third junior rank and four years of professional experience.

10. Conclusion

Bulgarian legislation comprehensively regulates the structure and functioning of the administration of the Council of Ministers, as well as the status of civil servants, working in it. Observance of its norms is a guarantee for publicity and transparency in the activity of the government administration. In this regard, the role of the employees in the respective administration is extremely important, as it has been proven that they must have the necessary competencies to work in the state administration and to perform the specific position. It is from the good professionals that the attitude depends, as well as the increase of the citizens' trust in the administration. This, on the other hand, it is related to the quality of the best administrative service (Aleksandrova & Yordanova, 2015), eliminating negative phenomena as bureaucracy, slowness, negligence, incompetence and others.

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References

- Aleksandrova, V. (2019). *Vyudzheten control*. Sofiya: Propeler. [Александрова, В. (2019). *Бюджетен контрол*. София: Пропелер.]
- Aleksandrova, V., & Yordanova, H. (2015). Za pravoto na dobra administratsiya. *Pravo, politika, administratsiya*, 1, 47-55. Retrieved 01 June 2020 from <http://www.lpajournal.com/wp-content/uploads/2015/02/V.Aleksandrova-%D1%80%Do%B5%Do%B7%D1%8E%Do%BC%Do%B5-%Do%91%Do%93.pdf>. [Александрова, В., & Йорданова, Х. (2015). За правото на добра администрация. *Право, политика, администрация*, 1, 47-55.]
- Drumeva, E. (2018). *Konstitutsionno pravo*. Sofiya: CIELA. [Друмев, Е. (2018). *Конституционно право*. София: CIELA.]
- Spasov, B. (2001). *Izpalnitelna vlast*. Sofiya: CIELA. [Спасов, Б. (2001). *Изпълнителна власт*. София: CIELA.]
- Stainov, P., & Angelov, A. (1947). *Rakovodstvo po administrativno pravo, obshta chast*. Sofiya: Voenno-izdatelski fond. [Стайнов, П. & Ангелов, А. (1947). *Ръководство по административно право, обща част*. София: Военно-издателски фонд.]

Kandeva, E. (2007). *Publicna administratsiya*. Sofiya: CIELA. [Къндева, Е. (2007). *Публична администрация*. София: CIELA.]

Kandeva, E., & Spiridonova-Hekt, I. (2006). *Sravnitelna publicna administratsiya*. Sofiya: CIELA. [Къндева, Е. & Спиридонова-Хект, И. (2006). *Сравнителна публична администрация*. София: CIELA.]

Vladidkin, L. (1929). *Zapiski po darjavno pravo*. Sofiya: Tipograf. [Владикин, Л. (1929). *Записки по държавно право*. София: Типограф.]

Administration Act (AA, 1998). <https://www.mi.government.bg/en/library/zakon-za-administraciyata-382-c25-m258-2.html>. Administrative Procedure Code (APC, 2006): <https://www.minfin.bg/en/998?p=2>.

Civil Servant Act (CSA, 1999). <https://www.mi.government.bg/en/library/service-activities-act-179-c25-m258-1.html>.

Classified Information Protection Act (2002). https://www.legislationline.org/download/id/5513/file/Bulgaria_Protection_Classified_Info_2002am2009.pdf.

Classifier of Positions in the Administration (CDA, 2012). <https://www.lex.bg/en/mobile/ldoc/2135799910>.

Constitution of the Republic of Bulgaria (CRB, 1991). <https://www.parliament.bg/en/const>.

Law on Financial Management and Control in the Public Sector (2006). <https://www.lex.bg/bg/laws/ldoc/2135517848>.

Law on Religions (2002). https://www.legislationline.org/download/id/5769/file/Bulgaria_Confessions_Act_2002_a_m2009_en.pdf.

Ordinance for Application of the Classifier of the Positions in the Administration (OACPA, 2012). <https://www.lex.bg/laws/ldoc/2135799915>.

Ordinance for Conducting Competitions and Selection for Mobility of Civil Servants (2019). <https://www.lex.bg/bg/laws/ldoc/2137198193>.

Public Procurement Act (2016). <https://www.minfin.bg/en/998?p=2>.

Public Sector Internal Audit Act (2006). <https://www.minfin.bg/en/998?p=2>.

Rules of Procedure of the Council of Ministers and its Administration (RPCMA, 2009). <https://www.lex.bg/laws/ldoc/2135646627>.

