

THE PERSONNEL OF THE CENTRAL ORGANS OF THE EUROPEAN UNION

Zsolt CZÉKMANN*

Abstract: *The functioning of the European Union – like the functioning of a nation state – is unimaginable without one attendant consisted of loyal experts. The Union institutions recruit the manpower from the nation states, which has the role to supply the public challenge beyond the frames of the nation states, so on the union level. The Treaty of Rome declares the free movement of labour and in pursuance of this the Union citizens can enter employment on same conditions, like the citizen of the member state, so in this way prohibiting the bias between certain employees. The exceptions to the free movement of the labour are the filling vacancies in member states, in which the employee personalizes the member states' public authority, namely he fills his/her vacancy in possession of the public authority. In favour of the defence of the state sovereignty, the article 39. (4) of the Treaty of Rome provides facilities for the member states, that it is possible for the member states to tailor a criterion of citizen assuring the creating of a loyal public sphere of the member state .*

The objective of the EU is also the creating of a loyal public sphere of the employing institution (so accordingly for the EU too), where the public officers work exclusively with this end in view of the EU and they utilize their expertises on behalf of EU. Out of consideration for the frequent conflicts of interest between certain member states and the Union it is a serious hazard for the EU, if the interests of the member states are prevailing among the employees in the institutions and not in the forums(for example in the Council) which are made for it. Because of the elimination of this problem was born the individual legal status assuring regulation, which is inspired to ensure the independence of the employees in the institutions and to ensure the expert functioning of the institutions

The aim of the presentment is to demonstrate this special legal actuality, to disclose the specialities in peculiar consideration of the institution of the competition examination.

Keywords: *free movement of labour, public officer, civil servant, employee, loyal experts.*

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The Staff of the EU Central Organizations

The operation of the European Union – like a national state – can not be imagined without staff consisting of loyal experts. Institutions of the Union recruit manpower from the nation-states, whose job is to provide public tasks over nation frames, at union level. Principle of free manpower movement has been declared in the Treaty of Rome. According to it citizens of the Union are allowed to take up a work in any of the member states with the same conditions, like the own citizens in the given member state, prohibiting with it the prejudicial discrimination among certain employees.

* University of Miskolc, Faculty of Law, Hungary.

In the member states those spheres of activity create exception from the free movement of the labor in which the employee embodies the public authority of the member state, namely he performs duties in the frame of the executive power. On behalf of the state supreme power defense the article No.39 in the Treaty of Rome creates opportunities for the member states in public service to fix the terms of citizenship criterion providing with it the creation of the loyal public sphere to the member states.

The objective of the Union is, as well, to create a common sphere joining to the employing companies (and as a consequence to the EU itself), where the civil servants keep in mind the solely interests of the Union, their knowledge is used on behalf of it. Regarding the frequent conflicting interests between certain member states and the EU, it means a serious risk for the EU if in its central organizations the interests of the member states prevail through the employees in the institutions and not in the related authorities (e.g. Council). To eliminate this a regulation was born about the individual legal status concerning the civil servants. The aim of this regulation is to provide the independence for employees in the institutions and professional operation of the institutions.

As a first step, in 1962 the legal regulations of Staff questions took place, which were supervised 6 years later and was recodified with the 29 Feb. 1968, **259/68/EEC, EURATOM, ECSC order in Council** - which contains the Staff regulations of the European Community and the conditions of employment for other employees in the European Community. The last major reform took place with the 723/2004/EK, EURATOM order in Council. In this way it has become suitable for the realization of organizational and institutional changes according to the Treaty of Nisa.

The meaning of European civil servant

If we start from the article in the Staff regulations of civil servants in the European Community and the conditions of employment for other employees in the European Community (i.e. Staff Regulations), we get a very wide definition. In accordance of the Staff Regulations 'the civil servant of the Community' is any person, who according to the acts of the Staff Regulations is being nominated with an assignment document for a post in any of the institutions of the Community by a legal nominating authority.

In the lack of different orders, in accordance with the Staff Regulations, we have to consider the Economic and Social Committees, the Committee of Regions and the ombudsman of the EU as institutions of the Community. Comparing with the solutions used usually in nation-states, which start from the concepts of occupied posts of the civil servant – here the bases of the civil legal state is the institution providing work. That is not so important what duties the person performs, but more important is in which kind of institution he is being employed (in this way the leading manager and the receptionist at the parliament are counted as civil servants).

The basis of the EU Staff organization is the institution system separated from the member states, not the duties carried out, because in human politics long term scheming and secure (legal) background are necessary. In relation of the member states and the EU the dynamical change of (often unambiguous) duty share does not meet to such criteria.

In central organizations of the EU approximately 35000 people work, from which the most, about 25000 people are employed by the Committee.

Beside the civil servants other employees have been employed in other jobs by the institutions of the Union. However regulations related to them do not show essential differences comparing with the civil servants, at least in relations of rights and liability. Essential divergences can be seen in lack of professional, secure promotion system and in measure of fees and refund of expenses.

Establishment of public service legal relationship

Subjects of procedures

Two participants should be examined in establishment of public service legal relationship. Organizations, organizational units publishing applications and making decisions on employment and EU citizens applying for legal relationship.

The European Staff Selection Office (EPSO) was established in 2002. Its centre is in Brussels. Its task is to organize open competition exams for admission of constant staff with high qualification in all institutions and organizations of the European Union – that is to recruit them for the European Parliament, the Council, the European Committee, the Court, the Audit Office, the European

Ombudsman, the Data Protection Commissioner, the Economic and Social Committee and Region Committee. The EPSO itself is not a recruitment organization.

In case of necessity it gives help in completing competition exams. Its creation provides common application standards and principles for each institution. Mr. Grass the chairman of management and office head of European Court says: 'Applying for a job is often the first opportunity for the European citizens to get in touch with the institutions of the Union'. So far citizens have had to get over with difficulty with mass of different, totally independent from each other and badly-organized institutions, procedures, memorandum. From 2003 EPSO has been the only contact body, which gives information to the candidates, processes the applications and organizes the entrance exams in practice. The result: for the citizen better quality service, for tax payer lower administrative expenses and better point of view about EU institutions. Thanks to EPSO a unified, cheaper and calculable entrance procedure has been done in the EU.

As you can see ESPO is an independent organization, which centrally coordinates the civil servants' nomination, however inside each institution committees in the frame of institutions can be found to decide on particular vacancies of which establishment decision is made in the Staff Regulations as follows:

a) within each institution:

- a Staff committee which can be organized into different use of sections;
- one or more mixed committees – if the number of employees makes it necessary at a given place (consultations can take place with the nomination entitled authorities or the Staff committee about general questions, in which any of the last ones decides to turn to them);
- one or more disciplinary councils – if the number of employees makes it necessary at a given place, which is to make decisions in disciplinary questions;
- in case of necessity a committee responsible for evaluation (its opinion is required when the preparatory period is over about the next steps, discharges because of unfitness, any choice of officials in connection with reducing Staff at the institution).

b) in case of Communities:

- a disability committee.

The officials are represented by the Staff committee against the institution as well as it has continuous contact between the institution and Staff, it contributes to smooth operation of the service by providing possibility for the staff to express and enforce their opinion. The committee gives advice to competent organizations of the institution in connection with the organization and the operation of the service, gives suggestions regarding improvements in working conditions and general living conditions of the staff.

Roles of such committees varies at institutions, their importance can change depending on the vacancies.

The EU citizen as the other subject of the legal relation must fulfill the next conditions:

- a) he/she is a citizen of one of EU member states – except if the nomination entitled authority makes an exception to this – and his/her citizen rights are his full legal due;
- b) he has fulfilled all his military obligation written in the military service regulations;
- c) he/she meets the necessary moral requirements to perform his/her duties;
- d) he/she passes trainings or exams, or passes the tender exam based on trainings and exams;
- e) he/she is physically suitable to fulfill his/her tasks;
- f) he/she proves his/her qualified language knowledge in one of the official languages of the EU and he/she also demonstrates his/her language skill in another official language at a required level at work.

Those who meet the above requirements can apply for the advertised vacancies.

The process of preliminary

Before an institution would fill the empty status, the authority entitled to appointment considers if the status can be filled by promotion or transfer among institutions, or a competition exam should be kept within house. If all these fail or simply unsuitable for the goal, it is right to conduct an open exam based on qualifications and exams, or both. The primary objective is to fill in the gaps by manpower transfer within institution, decreasing the supernumerary employee and to use the advantages the inactive manpower.

The enrollment is bound to exam competition. On behalf of the institutions the EPSO organize exams to fill the different level and kind jobs. All exams are promoted on the official webpage of EPSO, so as the planned exams. By this way enquirers can get on line about future jobs.

The Official Journal also informs about the exams. The announcement details the conditions of participation and the process itself. Entrants have to report themselves on-line, then get invitation to pre-winning. Every member state has at least one exam center.

The examiners have to take three test, all on their second known union language. These are recitation tests, measuring the linguistic, mathematical-logical skills, the knowledge about the EU and the job. The ones who have the best result, have to take an another test in writing about the applied job, then those with the highest points are invited to the oral test.

After, the committee compiles the list of successful examiners. The empty places are filled based on this list. Most of the enlisted get a job offer, but it depends on how much they meet the requirements. Being listed is not a warrant of being employed by any authorities.

The interdict of discrimination is a main principle of the process, especially discrimination based on races, ethnical or political conviction, familiar state, etc. Of course, positive discrimination should be handled carefully, since the EU prefers to employ the manpower from the newly joined states. This balancing phenomenon queries the anti-discrimination doctrines. The same problem can be seen in some „over-masculine” institutions, where female employees are favorites.

If a candidate is chosen by an institute, appointment can take effect. The appointment document must contain when the nomination step into force, this date can not forestall the date the officer steps into duty.

Offices powered by the Staff Regulations must be labeled in a look of their importance and nature into AD or AST classes. The AD class is open for Staff with master degree, where the officer may get qualification level AD5 to AD16. These are the status from the administrators to leaders , claiming separateness, precision and good communicational skills.

The AST class is for employees without higher qualification, labeled from AST1 to AST11, e.g. secretariat states (see appendix)

The functionaries have to be appointed to one of these states and during their career belong one of these:

- a) active duty
- b) service-warrant
- c) personally reasonable holiday
- d) inactive or non-active state
- e) furlough due to military service
- f) parental or „family” holiday

The active duty officer does the job he/she was appointed to or delegated temporarily.

The service-warrant officer is that enrolled officer who was directed to work outside his/her institution or help a Staff who works by an institution established by the Treaty of Rome, on the agreement of Staff Regulation Committee. By the expiration of warranty the officer has to be redirected to his/her original job.

For the question of the officer unpaid-term holiday can be given due to personal reasons. It can not be longer than one year, but one time can be lengthened with two more years. The request must be launched two months before the expiration, at the entitled authority. For this period, another officer can be pointed for the job and with the expiration of holiday the officer has to be redirected to his/her original state.

The non-active officer is that employee, who became supernumerary because of cut-back at the institution. The mixed committee decides who gets this status, with a view on competency, performance, behavior, marriage state and spent time in duty. While the officer is in this state, not doing any job, not having the rights for promotion but for five years counts pensionable. In two years non-active officer is primary to take back to active duty against other officers. During the inactivity the Staff Regulations have effect not he employee.

That servant, who has to apply for military services gets the furlough due to military services status. During the absence the officer keeps the right for promotion but not for getting salary.

The Union officer is entitled to 6 months non-paid holiday, what can be taken in twelve years after the birth of child. The period can be twice longer, if the parent is single. The shortest period can be one month.

After the appointment, the servants get through qualification in 6 months cycle and in every two year the check is compulsory to support the promotion. Promotion depends on the quality and behavior of working.

The subject of civil servant legal relation

To understand the meaning of civil servant relation, necessary to understand human policy the EU. The objective is that to fill each offices with the most competent men and ensure their loyalty, knowledge and routine. For the good of this idea the EU introduced the professional civil servant career model, what means the servants can count on sure promotions, competitive salary, large scale of social assignments and retirement pension.

By the primary objective, who was found serviceable on the competition exam should keep active duty for the community as long as possible, so it is important to keep up-to-date the employees with courses. A good example, when an assignment breaks off there is no way to fire the servant, that is why inactive status exists. These, and the 11 level labeling and promotion system are able to sustain the professional civil servant career and after all educating experienced laborers.

Keeping these objectives in regard says the Staff Regulations about the rights and obligations the follows:

Before all, the servant must keep the interests of the Union in mind. Beside the institution, the servant can not ask or receive orders, promotions, insignias, gifts or payment from any other authorities, institutions, governments or persons without the permission of the community authority. Can be seen the technocratic working and the idea of independence.

The officer must keep away every public affair or deliverance what may put bad spot on the authority, public appearance or deliverance can only happen with authorization of the entitled office. Any other revenue is forbidden without the agreement of authorities. The independence means a very strict system of rules.

Secrecy expands the time of active duty – and like the private sphere – as well as the period after the legal relation stands. The officer have to show the highest discretion when doing the job, and never allowed to give information unauthorized Staff.

The servant helps the superior Staff. Responsible for the entrusted tasks. The controlling employee is responsible for the given orders as well as the staff under. As the employee gets irregular direction has to report that the superiors in writing. If the superior confirms the directive, the officer has to follow it – except when it collides with rules of criminal law or breaches security standards.

The community service legal relationship balances the rights and obligations, the work and payment so there came wide scope of rights.

The servant has the right for proper payment based on working as financial labeling, what has to be expressed in € and paid in the homeland currency. The amount of salary is yearly supervised by the Committee (see appendix).

After ten years of duty the servant becomes entitled to old-age pension.

Alongside the salary allowance and social assignments are entitled to the officers and their family. The community job often comes with changing home place what effects the whole family as the Union considered, so that is the reason for assignments for non-working consort and children. Allowance, bonus holidays and health insurance for the whole family are the same too.

Termination of community law

The legal relation lapses in case of:

- a) resignation
- b) compulsory resignation
- c) retiring for the good of serve
- d) dismissal by incapacity
- e) extraction from duty
- f) retirement or
- g) because of death

Resignation has to be announced in script. The authority decides about agreeing within one month from posting. The authority can deny the resignation if disciplinary arrangement is in effect or will take effect within 30 days against the employee.

The only case when the employee can be obliged to resign, if the incapability is not broken, against the order, and the five years of inactive status are expired.

The executive and leading executive officer may be pensioned for the good of service by the order of entitling authority. This kind of pension can not be disciplinary arrangement.

The servant who is proved to be incapable might be discarded. The authority may offer to label the officer into lower qualification level. Every proposal needs to contain the reasons of dismiss and must be foreshown to the officer, who is entitled to make proposals.

The officer has to be pensioned off

- automatically, at the last day of the month when reaches age of 65
- for own proposal, at last day of the month of the proposal if reached age 60 or between 50 and 60, meeting the requirements of immediate superannuation.

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