

SOME ASPECTS OF CIVIL SERVICE PAY POLICY

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Abstract

Staff salary budget theme is timeless and very complex one, and the 'unification' wage legislation in the public system is quite difficult.

In recent years two laws were adopted unitary wage framework of personnel paid from public funds: the Framework Law no. No 330/2009 and Law framework. 284/2010. But they did not bring a uniform salary and no easing wage, conversely created large discrepancies between employees and state employees, even within the same profession.

Therefore, it is necessary to adopt a new law on the unitary pay of personnel paid from public funds to consider such as the unitary principles, rule of law, fairness and consistency, discrimination, financial sustainability.

When classifying different types of motivation arises from the outset the difficulty of choosing the criterion that could be used. Building on the main categories of incentives involved in professional life we can identify the following incentive key:

- Incentive money, financial, economic - economic motivation;
- Work, professional activity - professional motivation;
- The interaction between group members work - psychosocial motivation.

The economic motivation is produced by stimulus money, financial.

Although money has no incentive value, they can receive motivational valences in that they are the primary means by which man can meet most of its own needs. It is highly difficult, if not impossible, to find a remuneration system that contains only positive aspects, able to satisfy all employees equally. More useful is to use more varied forms of remuneration so as to ensure the fulfillment of several needs. In addition, it has been found that the same form of payment may have positive effects in certain conditions, and in others negative, therefore it requires proper handling of the system of remuneration.

Public administration staff from his office may have moral and material advantages.

The importance of benefits varies by age, country or functions. Sometimes public office is surrounded by great prestige, so the material advantages are left in the background and may even disappear. Lofty prestige of public office was enough to attract them towards true professional authority which long time continued to exercise, apart from this small or no retribution.

The situation was valid for Prussia and France after the revolution. Today, unfortunately, the prestige of the public function is dwindling, except for countries in the Middle East and Orient extreme.

Among the advantages of materials entering first and especially remuneration. . Remuneration paid from budget funds replaced as a way of remuneration, the perception by them of their gross royalties from those administered in the exercise of the function.

Salary is payable by monthly installments and regular manner; sometimes in other countries is delaying payment of those wages, which causes protests.

Retribution is usually fixed, but it is often increased by allowances, accessories.

Salaries are sometimes smaller than those paid in private enterprises. Some countries are more generous with their officials, others less. In general, they are stingy.

However, there are advantages of administrative staff compared with those in private enterprise: guarantees stability, certainty of wages, pensions, and surveillance against

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unfair dismissals. Those who work in administration, however, are subject to difficulties in terms of monetary instability and inflation. This discourages them and many private enterprises migrate towards ensuring their remuneration.

Low wages, regardless of the temptations of corruption that expose the officials, incites and outdoor pursuits for seeking to form additional resources. In South American countries, in Spain, officials, after several hours of office, have a private job.

Salary constitutes consideration for work performed by the employee based on individual employment contract or on the order of appointment to public office, the civil servant.

The legislature recognizes civil servant entitled to any salary as an employee. The use, and in the case of civil servant to the same term does not mean that the legal status of civil servant salary is the same as the salary for an employee with an individual employment contract, especially with the employee in the private sector.

Due retribution between the official and the employee there are common elements but also differences. Beyond this identity form, terminology, the law governing different in substance, the salary of the public servant from that of the employee.

In accordance with the provisions of Article 31 of the Statute of the civil servants in the fixed part of the salary structure, includes base salary and bonus for seniority.

It was established in the manner mentioned a conception of the pay structure inspired by the payroll systems of other countries, especially Anglo-Saxon system where, by means of wages, seeks to ensure an individualization of the salary quantum which is the responsibility of different categories of staff depending on the complexity and specificity of activity it performs.

As a matter of fact, as shown in the article 9 of the Framework Law no. 284 of 28 December 2010 on the unitary remuneration of personnel paid from public funds pay system governing the remuneration of public sector employees in relation to job responsibilities, work, quantity and quality of it, the social importance of labor, the specific conditions under which it is developing, the results obtained.

The pay system is based on the following principles:

a) The unitary character in the sense that regulates the payment of all categories of staff in the public sector, taking into account the rights of salary set by special normative acts in the payroll system covered by this law;

b) Law supremacy in the sense that the rights of the nature of the employer shall be established only by legal rules of force law;

c) Fairness and coherence by creating equal opportunities and equal pay for work of equal value, based on uniform principles and rules for fixing and granting salary and other salary rights of public sector employees;

d) Financial sustainability by establishing wage increases based on annual special laws.

You can see an improvement of this rule in relation to the common law in this matter, in accordance with international norms by replacing "equal work" by "work of equal value" in the sense that public sector work can be equal for functions identical and the same amount for equivalent functions.

In the application of the Law no.284/2010 have been adopted. Law No.285 of 28 December 2010 on staff salaries in 2011 paid from public funds and Order no. 42/77 of 13 January 2011 on approving the Methodological Norms for the application of Law no. 285/2010 on salaries in 2011 of personnel paid from public funds.

According to the provisions of Art. 2 of Law no. 285/2010 according to which in 2011, for the newly-classified by function, staff named / employed within the same institution / public authority on the functions of the same kind, as well as for the staff

promoted to grade / step salary shall be made at the level of salaries and wages in the payment for the functions of similar institution/public authority in which it is highlighted.

In practice this has not happened thus leading to a situation where three civil servants of the same class, professional grade and seniority, working in the same compartment and carried on the same activity, to have three different salaries. The difference results from the fact that they are engaged in different wage increments unlawfully since the provisions on pay scales were repealed.

With regard to this aspect by Decision No 108/2013, the High Court of Cassation and Justice has found the illegality pt. III lit. b) the common Order no. 77 of 14 January 2011 approving the Methodological Norms for the application of Law no. 285/2010 respectively with reference to the phrase "where civil servants hired or promoted new salary levels for similar positions in payment is appropriate stage III payroll used in 2010.

Moreover, the High Court of Cassation and Justice - complete unraveling questions of law by Decision No. 32 / 19.10.2015 issued in case no. 1329/1/2015 admitted complaint filed by Pitesti Court of Appeal - Civil Division I, in case no. 2651/104/2013 and, therefore, concluded that:

In relation to the provisions of article 7 of the Framework Law no. 284/2010, which establish gradual application of its provisions and those of art. 4 paragraph (2) of Law no. 285/2010, art. 4 paragraph (2) of Law no. 283/2011, art. 2 of Government Emergency Ordinance no. 84/2012, art. 1 of Government Emergency Ordinance no. 103/2013, which stop the effective implementation of the benchmark and corresponding coefficients of hierarchy classes payroll Annexes Framework Law no. 284/2010, taking into account the provisions of art. 6 paragraph (1) and (3) of Law no. 285/2010, will distinguish between reflow, according to the Framework Law on wages and actual payment of wages.

The actual payments of salary rights are to be made in accordance with Art. 2 of Law no. 285/2010 in relation to the wage payment for similar function, namely by reference to the remuneration payable to a person of the same grade and the same professional employment and seniority-based and passed the seniority after the entry into Law no. 285/2010.

In accordance with the provisions of article 8 of Law no. 285/2010, the amounts corresponding to annual prize for 2010 will be no longer granted starting with January 2011, these being taken into account when in order to establish wage increases to be granted in 2011 public sector employees.

Point out that this article had no practical applicability although civil servants entitled to receive this award was won as long as the legal provisions that were in force on 31.12.2010, only cash payment amounts being postponed for January following the year for which the award is granted, any provision contrary to the principle of non-retroactivity in violation.

At the same time, The Constitutional Court, by Decision no. 658 of November 11, 2014 regarding the exception of unconstitutionality of art. 8 of Law no. 285/2010 on salaries in 2011 personnel paid from public funds, that given the fact that the Framework Law no. 330/2009 on the unitary pay of staff paid from public funds provided a legal right for such year 2010 and the legislature not eliminated during 2010, the annual award for 2010 represents an outstanding debt, liquid and due on which the employee has on public employer and constitutes a "good" within the meaning of article 1 of the First Additional Protocol to the Convention for the protection of human rights and fundamental freedoms.

It can be appreciated that the interpretation given by the Constitutional Court of the fact that the right to award that has been not removed by repealing art. 25 of the Framework Law no. 330/2009, but also continued to be an outstanding debt, liquid and due to the employee on the employer, as amended, in particular, only the manner of granting,

namely successively phased in during 2011, namely by increasing in accordingly, the amount of wages / Balance / indemnity basis, is correct.

But in relation to this conclusion, it retains the right to annual prize has been maintained and after the repeal of Article 25 of the Framework-Law no. 330/2009, starting with January 2011.

In this context, the rights governed by law and not granted, we can mention art. 1 of O.U.G. no. 8/2009 on granting holiday vouchers, public institutions defined under Law no. 500/2002 on public finances, as amended and supplemented, and local government defined under Law no. 273/2006 on local public finances, as amended and supplemented, regardless of the system of financing and subordinating, including those financed entirely from own revenues, employing civil servants and / or staff by concluding an individual contract of employment, as the case may be, granted under the conditions of the law, holiday bonuses only in the form of holiday vouchers.

A particular situation in this respect is on granting holiday vouchers for 2015.

Thus, O.U.G. no. 83/2014 regulating the remuneration of civil servants for 2015 and which provided for the art. 8 paragraph 2 that in 2015, public authorities and institutions, regardless of how funding, will not award prizes and holiday bonuses, entered into force on 18 December 2014.

The law granted us the right to receive holiday vouchers in 2015, Law no. 173/2015 approving Government Ordinance no. 8/2014 for the amendment of certain terms set out in the Government Emergency Ordinance no. 8/2009 on granting holiday vouchers, entered into force on July 4, 2015.

Moreover, the detailed rules on the granting holiday vouchers came into force on August 6, 2015.

Given these two subsequent regulations O.U.G. no. 83/2014 (which provided that public authorities and institutions, regardless of the mode of financing, will not award prizes and holiday bonuses), we felt that we are in the presence of tacit repeal since the new regulation is contrary to the former regulation, the two legal norms being incompatible.

An important moment in achieving a fair wage policy is Law no. 71/2015 approving Government Emergency Ordinance no. 83/2014 regarding the salaries of staff paid from public funds in 2015 as well as other measures in public spending.

By adopting this law have been eliminated discrimination by the nature of the employer who were undergoing since 2011 after the entry into force of Law no. 284/2010, Law no.285 / 2010 on salaries in 2011 personnel paid from public funds and all legal acts that have subsequently appeared "frozen" at the same level framing salary of civil servants, meaning that for identical markers public officials regarding professional grade and class were different wage entitlement.

Thus, the provisions of article 1 paragraph 51 stipulates that "staff remunerated at the same level receiving an amount of base salaries and bonuses lower as the set at maximum level in the organization for each professional degree (assistant main and higher) will be paid to maximum level provided to carry out the work under the same conditions. "

Regarding the text of the law invoked, the only condition imposed by the legislature for the application of the provisions of article 1 paragraph 51 GEO no. 83/2014, so that the entire staff paid at the same level to benefit from the wage set at maximum level for public functions, it implies the effective activity in the same conditions as other employees.

It is true that in the legal text which recalled mentioned some authorities of which it was intended to apply O.U.G. no. 83/2014 amended by Law no. 71/2015 (Romanian Parliament, Court of Auditors, the Competition Council), but this specification is necessary because the staff in these authorities have different status (civil servant parliamentary,

external public auditors, inspectors of competition), governed by special normative acts (for example, Law no. 7 of 11 January 2006 relating to the status of civil servant parliamentary).

Important in this case I think it is the legislator's intention, which is to eliminate wage discrimination of any kind at any level, not just the institutions provided by law.

Moreover, the legislature, in this case the Romanian Senate, in the motivation of the amendment proposed by the Commission for work Family and Social Protection states that regulatory intervention was needed "to remove discrimination arising as a result of legislative developments unrelated to reality."

In the same direction, the meeting of 26 September 2016, The High Court of Cassation and Justice- complete unraveling of points of law in civil, admitted notification formulated by the Court of Appeal - Section VIII of administrative and fiscal in file no. 28.884 / 3/2015 on a judgment prior and therefore, determined that:

"In the interpretation and application of art. 1 paragraph (51) of the Emergency Government Ordinance no. 83/2014 regarding the salaries of staff paid from public funds in 2015 and other measures in public spending, approved with amendments by Law no. 71/2015, as amended and supplemented, the phrase "remunerated at the same level" refers to the staff of the staff of Parliament, staff of the Competition Council, the Court of Auditors and of the other public authorities and institutions listed art. 2 paragraph (1) a) of the Framework Law no. 284/2010 regarding the unitary remuneration of personnel paid from public funds, with subsequent amendments; wage level to be considered in interpreting and applying the same rules shall be determined by application of Art. 1 paragraph (1) and (2) of Government Emergency Ordinance no. 83/2014, approved with amendments by Law no. 71/2015, as amended and supplemented, within the same public authority or institution ".

Currently, according to art. 1 paragraph 1 of O.U.G. no. 57/2015 of December 9, 2015 on remuneration of personnel paid from public funds in 2016, the extension of deadlines and measures fiscal, the gross basic salaries / solders basic function / salary base / allowances of employment enjoyed by staff paid from public funds is maintained at the same level as what was given in December 2015 to the extent that staff operate under the same conditions do not apply to the reference value and the coefficients of hierarchy that classes salary listed in the annexes to the framework Law No. . 284/2010 regarding the unitary remuneration of personnel paid from public funds, as amended and supplemented.

This decree was amended and supplemented by O.U.G. no. 20/2016 of 8 June 2016 for amending and supplementing Government Emergency Ordinance no. 57/2015 regarding the salaries of staff paid from public funds in 2016, the extension of deadlines and fiscal measures and amending and supplementing normative documents and O.U.G. no. 43/2016 of 31 August 2016 amending and supplementing Government Emergency Ordinance no. 57/2015 regarding the salaries of staff paid from public funds in 2016, the extension of deadlines and fiscal measures, amending and supplementing certain acts and for the uniform application of laws.

By these acts they were brought important changes.

According to Article 31, through an exception to the provisions of art. 1 paragraph (1) since August 2016, the staff paid from public funds which benefit from a rate base salaries / allowances of employment, corresponding to a normal schedule of working hours, lower than the established payment at maximum level for each function, grade / stage, grade, seniority or specialty, if applicable, will be paid at the maximum basic salary / allowance of employment within the institution or public authority, if it operates under the same conditions, and starting with August 2016 staff holding a PhD (doctor*s scientific title), working in the field in which he obtained the title and not receiving compensatory

amount included in 2010 base salary, the pay/salary function, monthly allowance framing benefit from the compensatory amount corresponding to the scientific title of doctor set at similar payment for the same function, didactic, tranche seniority teacher at school or grade / stage work and, where appropriate seniority for other groups staff of the institution or public authority, or, where appropriate, in a similar public institution or authority.

As for the remuneration of staff in the European Union institutions for work performed, their salaries are set by grade level and within the echelons (steps).

Title V of the EU Staff Regulations is entitled "the financial arrangements and social benefits of officials'.

From the content of the articles of this title governing the remuneration of European officials, we can draw several conclusions:

- Granting retribution is the right of an European official
- The official can not waive this right, which expressly stipulated in Article 62 paragraph 2;
- The payment is granted by grade and echelon, and attracted European official appointment, it is therefore a result of the act of appointing a European function;
- Official retribution is expressed in Belgian francs and paid in the currency of the country in which it operates;
- Official retribution is subject to annual review and some corrections, whose purpose is to protect the official;
- The remuneration, by grade and echelon, is established by Article 66 of the Statute;
- Outside the basic salary Officials and emoluments, the basic salary adding various bonuses and allowances.

The basic salary can be defined as a salary, usually monthly, constant, fixed and periodic official charged.

The evolution of the civil service in many countries is towards a degree or remuneration not only in the station, but watching it and certain specific factors (assessment officials on skills, competencies and performance).

Management allowances (more or less fixed, in addition to the basic salary) are granted for certain occupations or certain specific posts. They don't have a special connection with the services provided but are considered as a supplement to fixed basic salary determined by function. Management allowances are granted especially in Germany, Austria, Spain and France.

The first yield is a way to pay depending on benefits and efficiency. Such raw exist in Germany, Spain, France, Ireland, the Netherlands and Austria.

Regarding the word "traitment" used by French doctrine to appoint civil servants' salaries, it expresses the fact that is not just an amount of money, but a rule of treatment in terms of remuneration, public service, the company ultimately to the work of the service department.

Apart from expressing wage income, civil servants may get different incomes called bonuses and allowances, as well as rent allowance, salary indexation and others.

Given the above, I believe that it is appropriate to adopt a new law on the unitary pay of personnel paid from public funds to take into account principles such as the unitary character, rule of law, fairness and consistency, discrimination, financial sustainability.