

Law 9131

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LAW

Nr. 9131 dated 8 September 2003

ON

THE RULES OF ETHICS IN THE PUBLIC ADMINISTRATION

In reliance on articles 78 and 83, point 1, of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY

OF THE REPUBLIC OF ALBANIA

D E C I D E D:

CHAPTER I

GENERAL PROVISIONS

Article 1

Purpose

The purpose of this law is to set rules of conduct of employees of the public administration,

according to the required standards, to help them achieve these standards and to make the public aware of the conduct that an employee of the public administration should have.

Article 2

Field of Action

1. The provisions of this law are obligatory for all employees of the public administration so long as it is not contemplated otherwise in other legal provisions.
2. The provisions of this law do not¹ constitute an obligation for elected persons, members of the Council of Ministers and judges.
3. The provisions of this law constitute an obligation for persons employed by private organizations that perform public services.
4. Within the meaning of this law, "Employees of the Public Administration" are all persons employed at an institution of the public administration.

Article 3

General Principles of Ethics

1. In the performance of functions, an employee of the public administration should respect the following principles:
 - a) to perform duties in conformity with the legislation in force;
 - b) to act in a manner independent from his political viewpoint and not to impede the implementation of policies, decisions or legal actions of authorities of the public administration;
 - c) in the performance of duties he should be honest, impartial, efficient, taking account only of the public interest;
 - ç) to be polite in relations with citizens whom he serves and with superiors, colleagues and subordinates;
 - d) he should not act arbitrarily to the harm of a person or organization and should show

appropriate respect for the personal interests and rights of third parties;

dh) he should not permit his private interests to conflict with his public position and should avoid conflicts of interest and never use his position for his private interest;

e) always to behave in such a manner that the trust of the public in the honesty, impartiality and efficiency of public service be kept and increased;

ë) to preserve the confidentiality of the information that he possesses, but without violating the implementation of the obligations that come from law nr. 8503 dated 30 June 1999 "On the right to get information about official documents."

2. The Council of Ministers issues rules in implementation of the principles indicated in point 1 of this article.

CHAPTER II

CONFLICTS OF INTERESTS

Article 4

A Conflict of Interests

1. A conflict of interests is a situation in which an employee of the public administration has a personal interest such that it affects or might affect the impartiality or objectivity of the performance of his official duty.

2. Personal interests of the employee include every priority for himself, his family, his relatives up to the second degree, persons or organizations with which the employee has or has had business relations or political ties. A conflict of interest also includes every kind of financial or civil obligation of the employee.

3. When an employee has knowledge that such a situation exists, he is obligated:

- a) to verify whether he has a current possible conflict of interests;
- b) to undertake measures necessary to avoid such a conflict;
- c) to make his direct superior and the personnel unit aware immediately, on his own initiative, about the actual or possible conflict of interests;
- ç) in case of doubt about being in a situation of conflict of interest, to consult with his direct superior and/or with the personnel unit of the institution;
- d) to obey every final decision not to take part in the process of decision-making or to resign from the priorities that the conflict causes.

4. Possible conflicts of interest of a candidate for employment in the public administration should be resolved before his appointment.

Article 5

Avoidance of a Conflict of Interests

1. The direct superior, with the support of the personnel unit, on the basis of the data that he has, takes the measures necessary to avoid the appointment of an employee to a position in which he has a conflict of interests or where they might arise or that the employee shall not be assigned duties that might lead to the appearance of a possible conflict of interests.
2. The avoidance of a conflict of interests is done in conformity with the Code of Administrative Procedures.
3. An employee who has such interests that continuing to have them would constitute a real danger that a conflict of interests would arise and would bring the continuing exclusion from his official activity or the inability to exercise his official duties should give the interests up or transfer them, so that the possibility of a conflict of interests is avoided.

CHAPTER III

OUTSIDE ACTIVITY OF AN EMPLOYEE OF THE PUBLIC ADMINISTRATION

Article 6

Outside Activities

Outside activities of an employee mean every kind of activity, whether regular or occasional, that requires the commitment of the employee of the public administration, whether for purposes of profit or not, that the employee exercises outside of official duty.

Article 7

Prohibition of Outside Activities

1. A public employee should not be engaged in an outside activity that impedes the performance of his official duty or asks for his commitment, mental or physical, so as to make difficult the performance of his duties, or is a continuation of this duty, that infringes in any manner the image of the employee of the public administration.

2. In case of doubt about the qualification of an activity as permissible or not, the employee consults with the personnel unit of the institution.

3. The Council of Ministers specifies the rules of classification of an outside activity as permissible or not.

Article 8

Permission of Outside Activities

1. The performance of outside activities should be made known in advance to the direct superior of the employee of the public administration and the personnel unit.

2. Activities in the sphere of labor union activities or the representation of employees or teaching activities are permissible when they do not hinder the performance of duty.

Article 9

Compensation for Outside Activities

An employee may not be compensated for outside activities when they have to do with the duties that he has performed in the exercise of his functions or are a direct continuation of them, except for cases when it is otherwise provided in other legal or substatutory acts.

CHAPTER IV

BENEFITS

Article 10

Gifts and Favors

1. An employee of the public administration should not ask for or accept gifts, favors, receptions or any other benefit, or avoidance of possible losses, or promises of them, for himself, his family, relatives or friends, persons or organizations with which he has relationships, which affect or seem to affect the impartiality of the performance of duty, or are or seem to be a compensation for the manner of performance of his official duty.

2. Point 1 of this article is not applicable to the occasion of ordinary invitations, traditional hospitality, gifts of a symbolic or traditional value, of politeness, which do not raise suspicions

about the impartiality of the employee.

3. In a case of doubt about the impartiality of benefits, the employee consults the personnel unit of the institution.

Article 11

Reaction to Offers

1. If an employee is offered an unfair advantage, he should:

a) refuse without having the need to accept it to use it as evidence;

b) try to identify the person who is making the offer;

c) avoid long contacts with the person who made the offer, but knowledge of the reason for which the offer was made may serve as evidence;

ç) if the gift cannot be refused to be returned to the sender, it should be kept, used as little as possible and reported immediately to the direct superior;

d) to have as witnesses, if possible, colleagues who work with him;

dh) to report the attempt as quickly as possible to his superior or to the personnel unit;

e) to continue work normally, especially about the problem for which the unfair advantage was offered.

2. The Council of Ministers determines the value of gifts that may be accepted by the employee and the manner of dealing with gifts that cannot be returned.

CHAPTER V

OTHER OBLIGATIONS DURING THE PERIOD OF EMPLOYMENT IN THE PUBLIC ADMINISTRATION

Article 12

Abuse of Office

An employee of the public administration should not use his official duty or permit it to be used in such a way as to encourage or oblige any other person, including his subordinates, to have any financial benefit or any other kind of benefit of a personal interest.

Article 13

State Property

1. Employees should protect and guard property of the institution, including official documentation. An employee should not use property that the institution owns or uses, or permit it to be used, for any other purpose, except for the performance of approved activities in conformity with the legal and substatutory acts in force.
2. An employee should use the means that his work position offers only for the accomplishment of his duties and not for personal purposes.

Article 14

Time of Work

An employee should use the time of work in an effective manner for the realization of official duties. This time is not used for any other purpose, except in cases when its use for other purposes is officially authorized, in conformity with the legislation in force.

Article 15

Appearance of the Employee

The clothing and appearance of the employee should be serious, in order to to represent the public administration in the most worthy way.

Detailed rules about dress and the appearance of employees in the institutions of the public administration are specified by the internal rules of the institutions.

CHAPTER VI

PERIOD AFTER EMPLOYMENT

Article 16

Use of Information

After leaving office, an employee of the public administration should not use confidential information received during the performance of duty for a personal interest.

Article 17

Prohibition of Representation in Conflicts with the Public Administration

For a two-year period of time after leaving office, the former employee should not represent any person or organization in a conflict or commercial relationship with the Albanian public administration for the duty that he performed or in continuation of it.

CHAPTER VII

TRANSITIONAL AND FINAL PROVISIONS

Article 18

Implementing Provisions

1. The personnel unit is obligated to make known to the employee at the moment of his employment the obligations that come from this law and which should be respected by the employee.
2. The employee has the duty of behaving in conformity with this law and, for this reason, is informed of its provisions and of every amendment or addition.
3. The employee should ask for advice from the personnel unit of the institution when he is uncertain about acting. The personnel unit of the institution also consults with the Department of Public Administration for particular cases.
4. The provisions of this law are part of the conditions of employment of the employee. A violation of them becomes a reason for taking disciplinary measures.
5. The direct superior of the employee of the public administration has responsibility to check whether they are applying the rules indicated in this law and to undertake or propose the appropriate disciplinary measures for violations of it.

Article 19

Measures

Employees who violate the principles of ethics specified in this law, when their actions do not constitute a criminal offense, are punished with disciplinary measures according to the procedure specified in the legislation on the status of the civil servant.

Article 20

Recording Measures

1. Every institution of the public administration should communicate to the Department of Public Administration every disciplinary measure taken against an employee within 10 days from the taking of the measure.

2. The Department of Public Administration records all the disciplinary measures in the National Register of the Public Administration.

Article 21

Final Provisions

The Council of Ministers is charged with issuing substatutory acts in implementation of articles 3, 7 and 11 of this law.

Article 22

Entry into Force

This law is effective 15 days after publication in the Official Journal.²

Promulgated with decree nr. 3969 dated 29 September 2003 of the President of the Republic of Albania, Alfred Moisiu.

1 Tr. note: The words "do not" were added in an erratum in vol. 90/2003 (October) of the Official Journal.

2 Tr. note: Since the stated publication date was 6 October 2003, this law went into force on 21 October.

Translation by K. Imholz - October 2003