



DEMOCRACYPLUS

POLICY BRIEF

DUPLICATION IN THE CIVIL SERVICE POSITIONS AS A RESULT OF GOVERNMENT RESTRUCTURING: WHAT IS THE SOLUTION?

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Summary

- According to the structure of the government voted in the Parliament at the beginning of February 2020, we are dealing with the merging of ministries, or parts of them, into other ministries but not the abolition or eradication of existing ministries. This is because ministerial departments (or parts of them) have only been transferred to ministries that have been found to make more sense in this structure than the way they were before.
- The law covering the area of civil service (whether the Law on Civil Service or the Law on Public Officials) regulates the resettlement of redundant civil servants as a result of the restructuring or dissolution of an institution;
- According to the Law on Civil Service, the transfer process has two deadlines: one month for resettlement in equivalent positions (if such position exists) and up to one year for a resignation in another position within the civil service;
- According to the Law on Public Officials, the transfer process has no deadline and it must happen within the same category (not necessarily at the same position). For this, a restructuring committee is established which is headed by the receiving unit (personnel unit) of the relevant institution and is composed of representatives of ministries or bodies serving as alternatives to resettlement;
- The manner and the procedure of resettlement for redundant civil servants depends on which law will cover it, either the Law on Civil Service or the Law on Public Officials which is pending at the Constitutional Court until February 28th 2020;
- Four out of six merging ministries will join ministries as a whole, whereas two others will be divided in two: Ministry of Diaspora and Strategic Investments and Ministry of Innovation and Entrepreneurship. In total, there will be 100 positions in minimum from the six merging ministries that will create duplication in positions in home ministries, and those are mainly position of the managerial level;
- Ministries which will join other ministries as a whole (so those that will not be divided) have the opportunity of easier and uniform resettlement, and the reassignment process is done on a case-by-case basis which can most likely be a downgrade for the civil servant whose position is existent in the home ministry. On the other hand, ministries that are divided in two, especially if the home ministries integrate only the functional departments, the deployment of civil servants may be divided into more than one ministry;
- The lowest number of redundant civil servants as a result of the restructuring comes from ministries with a wide portfolio, because servants of the professional category are easily resettled due to the load of work these merging ministries have;

Duplication of positions from integrating six ministries in 15 ministries

The number of ministries in Kosovo since the establishment of the first Government after the first national elections in 2001 has been rising. The previous Government which started its mandate in 2017 took over a Government comprised of 19 ministries, but it added two more, bringing the number up to 21 ministries: The Ministry of Rural Development and The Ministry of Innovation and Entrepreneurship. Additionally, the component of Strategic Investments was added to the Ministry of Diaspora. On the other hand, although initially it was promised that the Government would consist of only 12 ministries, the new Government voted in the 3rd of February 2020 has 15 ministries. Accordingly, six ministries will integrate in 15 other ministries, merge into existing ones, since government departments have not been abolished.

In this aspect, the Ministry of Diaspora and Strategic Investments will be divided in two, the diaspora component will join the Ministry of Foreign Affairs, and the strategic investments component will join the Ministry of Economy, Labor, Trade, Industry, Entrepreneurship and Strategic Investments. The Ministry of Environment and Spatial Planning will join the Ministry of Infrastructure, the Ministry of Innovation and Entrepreneurship will be divided in two, with the Innovation part joining the Ministry of Education, Science and Technology and the Entrepreneurship part joining the Ministry of Economy just like the Ministry of Labor and Social Welfare and the Ministry of Trade and Industry from the

previous government. So, what used to be known as the Ministry for Economic Development will now consist of three previous ministries and two components from other ministries and will be the ministry with the largest portfolio and number of employees. Lastly, the Ministry of Public Administration will join the Ministry of Internal Affairs becoming the Ministry of Internal Affairs and Public Administration.

However, even though the beforementioned ministries have been presented as the new Cabinet (including the Prime Minister and his two vice-Prime-ministers), the mandate of the ministries continues to be the same or undefined according to the new formation. The merging of ministries whose duties and responsibilities are outlined in the Regulation on the Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries¹ will definitely need to change. Also, Regulations on internal organization and job systematization of each affected ministry by the restructuring of the government must change. Additionally, it is unknown for the employers of the merging ministries what positions they will have in the new formations, and how the part of employers who will create duplication in positions in home ministries will be systemized. The table below shows the number of employers (civil, public and appointed servants) in six ministries who will be integrated in 15 other ministries.

¹ Regulation 02/2011 on the Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries: <https://bit.ly/3a-OKeRC>

TABLE 1: TOTAL NUMBER (ACTUAL AND PLANNED) OF EMPLOYERS IN SIX MINISTRIES

| Nr. | Ministry | Actual | Planned |
|-----|--|--------|---------|
| 1. | Ministry of Labor and Social Welfare | 794 | 855 |
| 2. | Ministry of Trade and Industry | 225 | 248 |
| 3. | Ministry of Diaspora and Strategic Investments | 77 | 82 |
| 4. | Ministry of Innovation and Entrepreneurship | 27 | 52 |
| 5. | Ministry of Public Administration | 266 | 277 |
| 6. | Ministry of Environment and Spatial Planning | 323 | 343 |

SOURCE: ANNUAL FINANCIAL REPORT 2018

In order to extract the number of positions that create duplication in the six relevant ministries, the regulations on internal organization and systematization of jobs in each of these ministries were analyzed. Although the regulations in question involve staff planning and do not represent the actual / real number of employees, in the absence of any other data, positions have been derived based on these regulations. On the other hand, this was not difficult as all ministries (with a few exceptions) have three departments that go with

the ministry itself, such as the finance and general services department, the legal department, the European Integration department and three divisions reporting to the Secretary General, namely the Minister. Next are the ministries listed by their names as presented in the Cabinet's proposal in the Parliament on the 3rd of February 2020 and there's an elaboration for each ministry or component joining the respective ministry. Under each ministry there are also given a minimum of positions which create duplication with the corresponding positions in the home ministry.

Ministry of Economy Labor, Trade, Industry, Entrepreneurship, and Strategic Investment

The ministry in question consists of three prior ministries, the Ministry of Economic Development (MED), the Ministry of Labor and Social Welfare (MLSW), the Ministry of Trade and Industry (MTI) and two components of the other two ministries, the Entrepreneurship component from the Ministry of Innovation and Entrepreneurship and the Strategic Investment component from the Ministry of Diaspora and Strategic Investment. To analyze how civil servant positions are duplicated or multiplied, below we will elaborate on department or other structure positions that are identical to those in the Ministry of Economic Development. So, in this case MED is taken as the umbrella ministry which integrates two ministries and two components of the other two ministries, thus serving as a benchmark to draw duplication / multiplication of civil servant positions.

Ministry of Labor and Social Welfare (MLSW)

MLSW with all central and local authorities subordinated to it had 794 employees at the end of 2018 according to the annual financial report of the Ministry of Finance.² However, according to the

Regulation on internal organization and systematization of jobs in the MLSW,³ the Ministry offices alone have 470 employees which are divided as following: 404 relate to functional departments which, in a new definition of responsibilities of this part within the Ministry of Economy, would have to be transferred according to these functions to the home ministry. This is because even the applicable laws create obligations for these departments and units which are not only related to the Government Regulation on administrative responsibilities of the office of the Prime Minister and the Ministries.⁴ On the other hand, 66 employees are part of three departments and divisions that create duplication with the same departments in the Ministry of Economy.

The number of 66 employees potentially creates duplication with similar positions in the Ministry of Economy because we are dealing with three departments (nine divisions within them) which are organized in each ministry (Department for European Integration and Policy Coordination with 10 employees, Legal Department with 11 employees and Finance and General Services Department with 30 employees). This number is also added to the staff in structures such as the Internal Audit Division with 3 employees, the Division of Public Communications with 3 employees, the Procurement Division with 3 employees and the Office of

² Ministry of Finance, Annual report for the year ending in the 31st of December 2018, p. 86: <https://bit.ly/2R4QUdW>

³ Regulation no. 14/2015 on Internal Organization and Systematization of Jobs in the Ministry of Labor and Social Welfare: <https://bit.ly/2R7bEuj>

⁴ Regulation no. 02/2011 on the Areas of Administrative Responsibility of the Office of the Prime Minister and Ministries

the Secretary General with 3 employees including the position of Secretary. If due to the volume of work, the part of officials from these departments

and structures can be accommodated in the Ministry of Economy, there are still some official positions that create duplication and require solutions.

TABLE 2: POSITIONS AND NUMBER OF EMPLOYEES WHICH CREATE DUPLICATIONS

| Position in MLSW | Number of positions |
|---|---------------------|
| Secretary General | 1 |
| Personnel of General Secretary's office | 2 |
| Head of Internal Audit Division | 1 |
| Head of Public Communication Division | 1 |
| Head of Procurement Division | 1 |
| Director of the Department for European Integration and Policy Coordination | 1 |
| Head of European Integration Division | 1 |
| Head of Policy Coordination Division | 1 |
| Director of the Legal Department | 1 |
| Head of Division for drafting and harmonization of legislation | 1 |
| Head of the division for overseeing the implementation of legislation | 1 |
| Head of Division for Reviewing Complaints and Appeals | 1 |
| Head of Finance and General Services Department | 1 |
| Head of Human Resource Division | 1 |
| Head of Budget and Finance Division | 1 |
| Head of IT division and Logistic Services | 1 |
| Total | 17 |

Ministry of Trade and Industry (MTI)

MTI with all its subordinate central bodies had 225 employees at the end of 2018 according to the annual financial report of the Ministry of Finance.⁵ However, according to the Regulation on internal organization and systematization of jobs in MTI,⁶ there are 198 employees in the Ministry offices and central bodies, of whom these are the following: 147 relate to functional departments which in a new definition of responsibilities of this part within the Ministry of Economy should be transferred according to these functions to the home ministry. This is because for these departments and units the applicable laws create obligations that are not only related to the Government Regulation on administrative responsibilities of the office of the Prime Minister and Ministries On the other hand, 51 employees are part of three departments which create duplication with the same departments in the Ministry of Economy.

The number of 51 employees potentially creates duplication with similar positions in the Ministry of Economy because we are dealing with three departments (10 divisions within them) which are organized in each ministry (Department for European Integration and Policy Coordination with 5 employees, Legal Department with 6 employees and Finance and General Services Department with 28 employees). Officials in such structures as Internal Audit Division with 2 employees, Public Communication Division with 3 employees, Procurement Division with 4 employees and the Office of the Secretary General with 3 employees includ-

ing the position of Secretary are added. If even in this case due to the volume of work, the part of the officials of the relevant departments and structures in MTI can be accommodated in the Ministry of Economy, there are still some official positions that create duplication and require resolution.



MLSW with all central and local authorities subordinated to it had 794 employees at the end of 2018 according to the annual financial report of the Ministry of Finance.

⁵ Ministry of Finance, Annual report for the year ending in the 31st of December 2018, p. 86

⁶ Regulation no. 29/2012 on Internal Organization and Systematization of Jobs of the Ministry of Trade and Industry: <https://bit.ly/2w-W2Y35> and Regulation no. 10/2018 on Amending and Supplementing the Regulation no. 29/2012 on Internal Organization and Systematization of Jobs of the Ministry of Trade and Industry: <https://bit.ly/39En6UA>

TABLE 3: POSITIONS AND NUMBER OF EMPLOYEES WHICH CREATE DUPLICATION

| Positions in MTI | Number of positions |
|---|---------------------|
| Secretary General | 1 |
| Personnel of General Secretary's office | 2 |
| Head of Internal Audit Division | 1 |
| Head of Public Communication Division | 1 |
| Head of Public Procurement Division | 1 |
| Director of the Department for European Integration and Policy Coordination | 1 |
| Head of European Integration Division | 1 |
| Head of Policy Coordination Division | 1 |
| Director of the Legal Department | 1 |
| Head of Division for drafting and harmonization of legislation | 1 |
| Head of the division for overseeing the implementation of legislation | 1 |
| Head of Finance and General Services Department | 1 |
| Head of Human Resource Division | 1 |
| Head of Budget and Finance Division | 1 |
| Head of IT division and Logistic Services | 1 |
| Total | 16 |

Ministry of Innovation and Entrepreneurship (MIE)

MIN had 27 employees at the end of 2018 according to the Ministry of Finance's annual financial report⁷. The MIN is divided into two, the innovation component which is integrated into the Ministry of Education, Science, Technology and the entrepreneurship component is integrated into the Ministry

of Economy. If the Ministry of Education integrates only the innovation component (innovation department with seven employees) and the Ministry of Economy only the entrepreneurship component (entrepreneurship department with seven employees), then two departments (legal department and department of finance and general services)⁸, in this case their employees, would have to be accommodated in a relevant ministry⁹.

TABLE 4: POSITIONS AND NUMBER OF EMPLOYEES WHICH CREATE DUPLICATION

| Positions in MIE | Number of positions |
|---|---------------------|
| Secretary General | 1 |
| Personnel of General Secretary's office | 1 |
| Director of the Legal Department | 1 |
| Head of Division for drafting and harmonization of legislation | 1 |
| Head of the division for overseeing the implementation of legislation | 1 |
| Official in the Legal Department | 4 |
| Head of Finance and General Services Department | 1 |
| Head of Human Resource Division | 1 |
| Head of Budget and Finance Division | 1 |
| Head of IT division and Logistic Services | 1 |
| Official in the department of Finance and General Services | 4 |
| Total | 17 |

⁷ Ministry of Finance, Annual report for the year ending in the 31st of December 2018, p. 86.

⁸ The Ministry of Innovation and Entrepreneurship does not have a department for European integration and policy coordination.

⁹ Regulation no.23/2017 on Internal Organization and Systematization of Jobs in the Ministry of Innovation and Entrepreneurship: <https://bit.ly/2wLfk4x>

Ministry of Diaspora and Strategic Investments

MDIS had 77 employees at the end of 2018 according to the Ministry of Finance's annual financial report.¹⁰ This ministry is also divided in two, the diaspora component is integrated into the Ministry of Foreign Affairs and the strategic investment component is integrated into the Ministry of Economy. If the two ministries receiving one component will

only integrate functional departments (MDIS has three departments related to the diaspora component and one strategic investment department), then there are 23 other employees who are part of the legal department and divisions within the department, finance and general services department and divisions within it¹¹ and three divisions under the minister and general secretary (internal audit division, public procurement and public relations division).¹²

TABLE 5: POSITIONS AND NUMBER OF EMPLOYEES WHICH CREATE DUPLICATION

| Positions in MDIS | Number of positions |
|---|---------------------|
| Secretary General | 1 |
| Director of the Legal Department | 1 |
| Head of Division for drafting and harmonization of legislation | 1 |
| Head of the division for overseeing the implementation of legislation | 1 |
| Official in the Legal Department | 2 |
| Head of Finance and General Services Department | 1 |
| Head of Human Resource Division | 1 |
| Head of Budget and Finance Division | 1 |
| Head of IT division and Logistic Services | 1 |
| Official in the department of Finance and General Services | 13 |
| Total | 23 |

¹⁰ Ministry of Finance, Annual report for the year ending in the 31st of December 2018, p. 86.

¹¹ MDIS does not have a department for European integration and policy coordination.

¹² Regulation no. 03/2018 for Internal Organization and Systematization of Working Positions in the Ministry of Diaspora and Strategic Investments: <https://bit.ly/2X2n5az>

Ministry of Internal Affairs and Public Administration (MIAPM)

The Ministry of Internal Affairs and Public Administration consists of the Ministry of Internal Affairs and the Ministry of Public Administration. According to the annual financial report of the Ministry of Finance, MIA, in its central bodies and local branches, had 9,894 employees at the end of 2018.¹³ The MIA has three departments that are the same in almost every ministry and divisions with reporting duties to the Minister, namely the Secretary General of the ministry.

ment, Public Communication Division and Internal Audit Division. However, since both ministries, MIA and MPA, are ministries with a large portfolio and large number of employees, due to the volume of work, the part of officials does not create duplication of positions with MIA, except for the 12 leading positions. This means that out of 69, only 12 positions are leadership positions which could still be systematically re-assigned to the ministry only to a position other than the current one.

Ministry of Public Administration (MPA)

According to the annual financial report of the Ministry of Finance, MPA had 266 employees at the end of 2018 while the planned and foreseen number of jobs through the Regulation on internal organization and systematization in MPA is 277.¹⁴ This number includes the two central bodies or executive agencies within the MPA, the Kosovo Institute for Public Administration (KIPA) and the Information Society Agency (ISA). According to the said Regulation and the attached organogram, there are 69 employees who are systematized in the departments and divisions existing in the MIA such as: finance and general services department, legal department, department for European integration and policy coordination, division Procure-

¹³ Ministry of Finance, Annual report for the year ending in the 31st of December 2018, p. 86.

¹⁴ Regulation no.02/2018 on Internal Organization and Systematization of Jobs in the Ministry of Public Administration (MPA): <https://bit.ly/2wYQNCx>

TABLE 6: POSITIONS AND NUMBER OF EMPLOYEES WHICH CREATE DUPLICATION

| Positions in MPA | Number of positions |
|---|---------------------|
| Secretary General | 1 |
| Director of the Legal Department | 1 |
| Head of Division for drafting and harmonization of legislation | 1 |
| Head of the division for overseeing the implementation of legislation | 1 |
| Head of Finance and General Services Department | 1 |
| Head of Human Resource Division | 1 |
| Head of Budget and Finance Division | 1 |
| Head of IT division and Logistic Services | 1 |
| Head of Public Communication Division | 1 |
| Head of Internal Audit Division | 1 |
| Head of Public Procurement Division | 1 |
| Head of European Integration and Policy Coordination Division | 1 |
| Total | 12 |

Ministry of Infrastructure and Environment (MIE)

The Ministry of Infrastructure and Environment consists of the Ministry of Infrastructure and Transport and the Ministry of Environment and Spatial Planning. According to the Ministry of Finance's annual report, the Ministry of Infrastructure and Transport had 281 employees at the end of 2018¹⁵. Like other ministries, the Ministry of Infrastructure and Transport has departments and divisions that create duplication both as a structure and as job positions when compared to other ministries, in this case with the Ministry of Environment and Spatial Planning.

finance and general services department, legal department, integration division and Policy Coordination, Procurement Division, Public Communication Division and Internal Audit Division. However, since both ministries, MESP and MIT, are ministries with a large portfolio and large number of employees, due to the volume of work, the share of officials does not create duplication of positions with the home ministry except for the 15 posts that are managerial.

Ministry of Environment and Spatial Planning

According to the annual financial report of the Ministry of Finance, MESP had 323 employees at the end of 2018, while according to the Regulation on internal organization and systematization of jobs in MESP, there are 224 employees¹⁶. This number also includes the two central bodies or executive agencies within the MESP, the Kosovo Environmental Protection Agency (KEPA) and the Kosovo Cadastral Agency (KCA). According to the regulation in question and the attached organogram, there are 91 employees who are systematized in the departments and divisions existing in the Ministry of Infrastructure and Transport (MIT) such as:



According to the annual financial report of the Ministry of Finance, MESP had 323 employees at the end of 2018.

¹⁵ Ministry of Finance, Annual report for the year ending in the 31st of December 2018, p. 86.

¹⁶ Regulation nr. 05/2017 on Internal Organization and Systematization of Jobs in the Ministry of Environment and Spatial Planning (MMPH): <https://bit.ly/2UCzeBm>

TABLE 7: POSITIONS AND NUMBER OF EMPLOYEES WHICH CREATE DUPLICATION

| Positions in MESP | Number of positions |
|---|---------------------|
| Secretary General | 1 |
| Director of the Legal Department | 1 |
| Head of Division for drafting and harmonization of legislation | 1 |
| Head of the division for overseeing the implementation of legislation | 1 |
| Head of Finance and General Services Department | 1 |
| Head of Human Resource Division | 1 |
| Head of Budget and Finance Division | 1 |
| Head of IT division and Logistic Services | 1 |
| Head of European Integration and Policy Coordination Department | 1 |
| Head of European Integration Division | 1 |
| Head of Policy Coordination Division | 1 |
| Head of Public Communication Division | 1 |
| Head of Internal Audit Division | 1 |
| Head of Public Procurement Division | 1 |
| Total | 15 |

Minimum number of positions from six ministries that create duplication

Based on the elaboration of the above ministries, there is a minimum number of positions that result in duplication (even in multiplication in the case of the Ministry of Economy) as a result of the existence of several identical departments and divisions in each ministry. These positions are mainly managerial because in most cases civil servants or officials in these ministries can be assigned due to the volume of work. However, for the ministries that are divided in two, the same analogy cannot be used because with the division of the Ministry of Innovation and Entrepreneurship between the

Ministry of Education and the Ministry of Economy, integrating only the functional departments (related to innovation and entrepreneurship), leaves the remaining departments in the middle and without an address. This means that one ministry, such as the Ministry of Education, integrates the remaining departments as it is one of the ministries which is not in charge of merging other ministries in this ministry. The following table shows the minimum positions of the six ministries that potentially create duplication with the same positions in the home ministries.

TABLE 8: MINIMUM OF POSITIONS IN SIX MINISTRIES THAT CREATE DUPLICATION

| Nr. | Ministry | Duplicated positions |
|--------------|---|----------------------|
| 1. | Ministry of Labor and Social Welfare | 17 |
| 2. | Ministry of Trade and Industry | 16 |
| 3. | Ministry of Diaspora and Strategic Investment | 23 |
| 4. | Ministry of Innovation and Entrepreneurship | 17 |
| 5. | Ministry of Public Administration | 12 |
| 6. | Ministry of Environment and Spatial Planning | 15 |
| Total | | 100 |

If we divide these positions by titles, for example, personnel in the office of the Secretary and other secretary, director of the relevant departments, positions, then we are dealing with the following:

TABLE 9: DIVISION OF POSITIONS THAT CREATE DUPLICATIONS IN SIX MINISTRIES BY TITLE

| Nr. | Positions in MTI | Number of positions |
|--------------|---|---------------------|
| 1. | Secretary General | 6 |
| 2. | Director of the Legal Department | 6 |
| 3. | Director of Finance and General Services Department | 6 |
| 4. | Director of the Department for European Integration and Policy Coordination | 4 |
| 5. | Head of Division for drafting and harmonization of legislation | 6 |
| 6. | Head of the division for overseeing the implementation of legislation | 6 |
| 7. | Head of Human Resources Division | 6 |
| 8. | Head of Budget and Finance Division | 6 |
| 9. | Head of IT division and Logistic Services | 6 |
| 10. | Head of European Integration Division | 4 |
| 11. | Head of Policy Coordination Division | 4 |
| 12. | Head of Internal Audit Division | 6 |
| 13. | Head of Public Communication Division | 6 |
| 14. | Head of Public Procurement Division | 6 |
| 15. | Official in the legal department | 6 |
| 16. | Official in the finance and general service department | 16 |
| Total | | 100 |

The road ahead

As stated above, the reorganization of the Government in the way the cabinet was voted in the Parliament does not mean the abolition of any ministry or organization but the merger of ministries or parts of ministries with other home ministries. That means that six merging ministries' portfolios have not been extinguished, but only accommodated in the home ministries. However, the Government should not think of reorganizing the Government into separate sections in the sense that we have a union of several ministries around one ministry, but should see functions as a whole and promulgate new duties and responsibilities for ministries which later take the form of organization. There may be cases where one particular ministry joins another, but part of the former may be closer to joining another ministry. For example, the MLSW will be united as a whole in the Ministry of Economy, but if you look at the tasks it performs today, the MLSW including the subdivision of subsidies for certain schemes or categories, it should be thought that certain of its functions may be better linked to the Ministry of Finance and Transfers. For this reason, the reorganization of the Government should be thought of in its entirety and not in part by some ministries because only merging some ministries into one without looking at the problematic as a whole can lead to organizations that will later produce more harm than good.

Regarding the deployment of civil servants, one fact that makes the situation at least for some



The MLSW will be united as a whole in the Ministry of Economy, but if you look at the tasks it performs today, the MLSW including the subdivision of subsidies for certain schemes or categories, it should be thought that certain of its functions may be better linked to the Ministry of Finance and Transfers.

weeks more complex or nebulous is the legislation applicable to the civil service. The civil service law has been repealed since September 12, 2019¹⁷ due to the enforcement of the Law on Public Officials¹⁸ but the latter has been suspended from November 19, 2019 until February 28, 2020¹⁹. In this situation, according to the jurists' opinion, the old law, that is, the Law on Civil Service, should be returned. So, at this time, the situation should be assessed

17 Law nr. 03/L-149 on Civil Service in the Republic of Kosovo: <https://bit.ly/3aBUOLL>

18 Law nr. 06/L-114 on Public Officials: <https://bit.ly/2UU9klm>

19 Constitutional Court, decisions of the hearing held on 19 November 2019, decision 1 for interim measure (case 203/19): <https://bit.ly/3aDMCLa>

according to the two laws because until February 28 the Law on Civil Service applies, whereas after February 28 it depends on the verdict of the Constitutional Court and it is expected that if not in full, the Law on Public Officials be returned.

Option 1

The first option relates to the application of the Law on Civil Service according to which civil servants who are redundant after the merger of the ministries, if equivalent positions exist, should be assigned to those positions. However, if there are no equivalent positions, then they are assigned to other positions and undergo appropriate training according to the position where they are reassigned.²⁰ I.e. in this case a reduction in position may occur in case of resetting to a position that is not equivalent to the previous position. On the other hand, if the civil servant refuses to undergo training in order to resettle in another position, this means that the civil servant terminates their employment in the civil service. Moreover, when a civil servant is in the status of surplus civil servant, there are two terms: the first term is one month for reassignment to an equivalent position, and the second term is one year during which the civil servant is expected to settle in an institution in a different position.²¹ If one year elapses and no assignment or re-assignment has taken place, the relevant civil servant loses his job in the civil service.



The first option relates to the application of the Law on Civil Service according to which civil servants who are redundant after the merger of the ministries, if equivalent positions exist, should be assigned to those positions.

Option 2

Option two relates to the application of the Law on Public Officials which also deals with the transfer of civil servants in the event of the closure or restructuring of the ministry. This law treats this element more favorably to the civil servant than the Civil Service Law. According to the Law on Public Officials, the civil servant is transferred to another position within the same category (although it does not mean the same position), but this law does not refer to terms and opportunities for termination of employment after the deadline for transfer has passed. Thus, when a ministry is merged with another ministry, the civil servant is in principle transferred to the home ministry within the category of either professional or managerial

²⁰ Law nr. 03/L-149 on Civil Service in the Republic of Kosovo, article 32.

²¹ Regulation no. 08/2012 for Redundant Civil Servants: <https://bit.ly/2UCKrC4>

(leadership by level) but does not mean that the position is equivalent to the one before. If it is not possible for the civil servant to be transferred to the home ministry, they can also be transferred to another civil service institution and in any case a restructuring commission is set up which is headed by the receiving unit (staff unit) and consists of representatives of institutions where the civil servant can be accommodated (executive agency, other institution, home ministry, etc.). The issue of resettlement of civil servants, according to the Law on Public Officials, is regulated in detail by a sub-legal act proposed by the ministry responsible for public administration, but due to its suspension of the Law on Public Officials, the finalization and adoption of secondary legislation has stalled.

Regarding the positions that this paper has dubbed as duplicated positions, there are two possible scenarios, all depending under which law that regulates the civil service the procedure of reassignment will undergo. Under the Civil Service Law, the civil servants of the six ministries since the date of the new Government's approval are redundant civil servants and within one month (by law) must be assigned to equivalent positions, if equivalent positions exist. However, as this is impossible in most cases, it will be up to one year during which it is expected that civil servants will be assigned to other positions in their home ministries or other civil service institutions. In a situation where the Law on Public Officials becomes effective after a Constitutional Court verdict, we are still dealing with transfers of civil servants within the category of resettlement whether in the home ministry, the home ministry's executive agency, or even another civil service institution. However, as noted above, this law does not set deadlines for reassignment and if such deadline or opportunity is not met, the civil servant may lose their job after one year. If we

consider the principle of career in the civil service, then resettlement of civil servants, including positions that create duplication, should be done with the Law on Public Officials.



Option two relates to the application of the Law on Public Officials which also deals with the transfer of civil servants in the event of the closure or restructuring of the ministry.

Recommendations

Based on the above elaboration, a number of recommendations can be given mainly to the Government in the process of reorganization and resettlement of civil servants:

- 1 The Government should see the restructuring of the Government as a whole and not just the ministries affected by the restructuring of the Government. This is because civil servants can also be transferred to other civil service institutions outside the ministries affected by the reorganization, and therefore the problem of organization and systemization should be seen as a whole rather than partially;
- 2 In order to have a manner and procedure for the entire process of resettlement of civil servants, the Government should await the judgment of the Constitutional Court on the Law on Public Officials which has been suspended until 28 February 2020;
- 3 In case the Law on Public Officials is brought back, the Ministry of Internal Affairs and Public Administration shall submit to the Government the bylaws deriving from the Law on Public Officials including the detailed procedure for resettlement of civil servants and the composition of the restructuring commission;
- 4 The Government should go through a lengthy process of restructuring (as a whole) and resettlement of civil servants throughout the Government because proper restructuring and resettlement require time and expertise that in the end produce Government organization and systemization that ultimately provides professional services to citizens;
- 5 The government should not enter a dismissal cycle simply because the dismissed officials are redundant. The civil service in Kosovo is career-based and this should be maintained on an ongoing basis;

- 6 The government should not reduce the number of civil servants through re-organization. If the Government aims to reduce the number of employees in the civil service, it should freeze employment for a certain period until the full resettlement of the civil servants currently employed in the civil service, and then through centralized recruitment for Government level establish a rule on the number and placement of civil servants in ministries;
- 7 A number of management positions (even senior management positions) can be assigned to equivalent positions in situations where there is a lack of staff. For example, a Secretary General may be reassigned as the General Director of the executive agency, or a departmental director of the ministry can be the departmental director of an executive agency within the ministry;
- 8 Likewise, by defining the role and responsibilities of post-merger ministries, new departments and divisions may be created which are equivalent to the current leadership positions in the ministries subject to the merger;

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