

**UNIVERSITY OF CRAIOVA  
THE FACULTY OF LAW AND ADMINISTRATIVE SCIENCES**

**THE ABSTRACT OF THE DOCTORAL THESIS**

*The civil servant in the European law system.*

*The admission into the civil service*

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Within the doctoral thesis with the theme **The civil servant in the European law system. The admission into the civil service**, we have realized a study on the institution of the civil servant in the states of the European Union, analyzing thoroughly the issue of the admission into the civil service in Europe, a Europe where nowadays we can hear people talking more and more about the reform of all the levels of the public administration.

Nowadays, the public administration, an integral part of the state, undergoes a process of change as a result of the influences exercised upon the contemporary states by different factors as globalization, integration, fragmentation (decentralization), each of these factors triggering effects with universal, regional and local characteristics.

Thus, we made reference to the implications of the emergence of these phenomena and to the ways in which the public administration tries to adapt itself in order to cope with all the transformations, developing the issue of the public administration staff (the center of our analysis being *the admission into the civil service*), its quality having a fundamental importance in the development of a state, knowing the fact that a public authority, comprises, structurally, three elements: proficiency, material financial means and staff, the staff comprising also the civil servants.

One can say about these ideas that they represent a constant of the public law doctrine or of the administrative sciences doctrine, reason for which the civil service appears to be one of the preferred elements of the comparative studies,

even if tradition, the judicial rule, the recent institutional mutations make it difficult to realize a comparative study like this.

The structure of this thesis comprises two parts, which, in their turn, are made up of several chapters, each of them analyzing distinctly the concepts of civil service and civil servant, pursuing their evolution and presenting aspects regarding the terminology, the civil service systems in the European Union, the principles regulating the admission into the civil service, the process of recruitment, the opening of the civil service within the Member States of the European Union and also some de lege ferenda proposals.

Within each chapter we presented the national and European regulations, the opinions formulated by the specialized literature, our own critical opinions regarding the legal and specialized texts, but also the national and foreign jurisprudence referring to the civil servants.

Seeing the scientific interest in clarifying the notions of civil service and civil servant in the states of the European Union, scientific interest displayed by the doctrine and not only, within the first part, named *The European civil servants between the classical paragon and the modern views*, we dedicated the first chapter to terminological explanations, conceptual delimitations and analysis of the civil service and civil servant concepts.

We also considered being useful the civil service systems presentation, because the recruitment of the civil servants has specific aspects taking into account the system adopted by each country. We have analyzed comparatively the two grand civil service systems, i.e. the “career” system and the “post” system, the analysis being based on the structural characteristics of each type of system and we observed the emergence of new systems derived from the previous mentioned ones.

Within the latter part of the thesis, named *The admission into the civil service in Europe*, we have embarked upon the analysis of the “core” of the theme of the thesis, the admission into the civil service in the Member States of the European Union being a research theme that was not thoroughly approached in the Romanian doctrine, and in the European Union doctrine being approached only by professor Jacques Ziller in his work *Égalité et mérite* (1988). Even though, we do not pretend that the analysis presented by our thesis is exhaustive.

We have started by treating the principles that “should” govern the admission into the civil service (the equal opportunities principle and the merit principle), firstly presenting their historical evolution and then realizing a comparative analysis in order to see if they really govern the admission into the civil service or if they are only declarative principles at a political and organizational level, but not juridical principles.

Another interesting aspect that aroused the interest of the researchers and also our interest, was the result obtained as a consequence of the implementation of both principles.

There is no person who can be admitted into a civil service if he or she does not fulfill the terms stipulated by law; that is why the legal and constitutional regulations regarding the admission into the civil service represented the starting point of the comparative analysis of the recruitment process. We have tried to underline the “well-known” elements for a good development of the competition, its legal regulation and also the “non-democratic” influences (the politicization of the civil service) that affect the recruitment process, leading to the emergence of a “subservient” administration.

Within the framework of the process of European integration, this analysis is of a particular interest because no one can say exactly where begins and where ends the influence of the European Union upon the national public administrations and implicitly upon their staff. Even if the juridical texts of the European Union do not establish a paragon of public administration that the Member States should implement, one cannot say that there are not certain influences upon them.

As for the civil service, even if it is considered by the specialized doctrine as being the least affected by the European integration, nevertheless, the lack of European regulations in the domain of the civil service is not total; the European integration presupposes also a Europeanization of the careers, Europeanization based on the principle of the free movement of workers and on the derogations from this principle.

Thus, within a European Union requiring the Member States to rescind the discriminations regarding the European Nationals and to increase the mobility of workers, the analysis of the free movement of workers from the public sector is a part of the series of researches on this theme that “aroused” powerful reactions at European level.

We have presented the impact that the European law system has on the national systems of civil service, making reference to the derogation clause for the jobs in the public administration, i.e. to the article no. 45 of the Treaty on the Functioning of the European Union (the former article no. 39, the 4<sup>th</sup> paragraph of the Treaty establishing the European Community), according to which, the Member States may refuse or restrict the access to the posts in the public administration domain, on the basis of the worker’s citizenship, thus limiting the implementation of the principle of the free movement of workers within the European Union.

Within our study, we have used the logical method, knowing the fact that all the juridical sciences make use of the categories, laws and reasoning pertaining to logic, the historical method, using the data that it provides to us (the evolution of various institutions, the meaning of past events, etc.) and last, but not least, the comparative method, that provided to us the most data on the structural characteristics of the civil service systems from the Member States of the European Union.

To conclude, we may say that none of the European administrations will cope with the challenges of the globalization and with the increasingly bigger and “sophisticated” demands of their citizens, without having a professional civil servants corps. That is why the recruitment process of future civil servants should be a rigorous, honest and professional one, irrespective of the country where it takes place.

In order to realize this desideratum it is necessary for all the ones interested in getting into a civil service to benefit from the same chances as the other candidates to that post and for their selection to be done as a result of the combination of the employer’s impartiality and competence.