

312/2002 Coll.
ACT
Of 13th June 2002
Public servants of Territorial Self-Governing Units and Amendments
to Certain Acts

The Parliament Has Resolved to Pass the Following Act of the Czech Republic:

PART ONE
PUBLIC SERVANTS OF TERRITORIAL SELF-GOVERNING UNITS
CHAPTER I
INTRODUCTION

Section 1

Subject

- (1) This Act shall govern the employment of public servants of territorial self-governing units, and their education/training.
- (2) Labour-law relationships of public servants employed by territorial self-governing units shall be regulated by the Labour Code, except as otherwise provided herein.
- (3) This Act shall not apply to employees of territorial self-governing units who:
 - a) are assigned to their organizational units,¹⁾
 - b) are assigned to their special bodies,²⁾
 - c) perform exclusively auxiliary, maintenance or manual works, or manage such works.

Section 2

Definitions

- (1) A territorial self-governing unit shall be a municipality and a region, and for the purposes of this Act also the Capital City of Prague, city, statutory city and districts of the Capital City of Prague.
- (2) Authority shall be taken to mean: a municipal authority, city authority, magistrate of a statutory city, magistrate of a territorially subdivided statutory city, regional authority, the Magistrate of the Capital City of Prague and a city borough authority of the Capital City of Prague.
- (3) For the purposes of this Act, administrative activities shall mean tasks performed as independent, or delegated tasks of a territorial self-governing unit according to separate legislation.
- (4) For the purposes of this Act, public servant shall be: an employee of a territorial self-governing unit participating in administrative activities performed by a municipal authority, city authority, magistrate of a statutory city, magistrate of a territorially subdivided city, city borough authority or city borough authority of

a territorially subdivided city, regional authority, Magistrate of the Capital City of Prague or a city borough authority of the Capital City of Prague that the employee was assigned to.

(5) For the purposes of this Act, senior official shall be a public servant holding a management position. ³⁾

(6) Employment of a senior official shall be established by appointment. The appointment is carried out by the head of authority.

(7) For the purposes of this Act, the head of authority is a senior official holding the office of secretary of a municipal authority, secretary of magistrate of a statutory city, secretary of a city district or a city borough of territorially subdivided statutory city, director of a regional authority, director of the Magistrate of the Capital City of Prague or secretary of a city borough authority of the Capital City of Prague.

(8) Pursuant to this Act, the tasks of the head of authority shall be performed by the mayor in the municipalities, city districts and city boroughs where the position of secretary is not established, or where no secretary is appointed.

Section 3

Assignment of Administrative Activities Portfolio

An employee shall be assigned a portfolio of administrative activities by the head of a given authority in accordance with the job specifications stipulated in the employee's employment contract.

CHAPTER II

EMPLOYMENT OF PUBLIC SERVANTS

Subchapter 1

Prerequisites for Employment of Public Servants and Prerequisites for Appointment of the Head of Authority

Section 4

Prerequisites for Employment of Public Servants

(1) Natural person who is a citizen of the Czech Republic, or natural person who is a citizen of another country and has permanent residence in the Czech Republic⁴⁾, is over 18 years of age, has legal capacity, is a person with integrity, has an excellent command of the official language⁵⁾ and meets other prerequisites to perform administrative activities defined by separate legislation, may become a public servant.

(2) For the purposes of this Act, a natural person with integrity shall not be a person that was finally convicted
a) of a criminal offence, or

b) of a criminal offence committed with serious negligence while performing their public administration tasks unless such person shall not be considered non-convicted according to this Act.

(3) Employment contract for the performance of duties of public servant can only be entered into with a natural person that shall comply with the prerequisites defined in paragraph (1); appointment of head of authority and appointment of senior official shall be subject to additional prerequisites set out by a separate act.⁶⁾

Section 5

Prerequisites for Appointment of Head of Authority

(1) In order to be eligible to become head of authority, a natural person shall be obliged to meet the prerequisites defined in section 4 and have at least three years of experience in:

- a) the role of a senior official, or
- b) the performing of administrative activities as an employee of a territorial self-governing unit, or in the performing of public administration tasks as an employee of the state or civil service.
- c) in the role of a city council member of a territorial self-governing unit who has been disengaged to perform the duties of a council member.

(2) The candidate shall have gained their experience as per paragraph (1) in the 8 years immediately preceding their appointment.

Subchapter 2

Public Call and Selection Process

Section 6

Public Call

(1) Except as otherwise provided herein [section 7, paragraph 1b)]: before an employment contract is signed with a candidate interested in signing the employment contract (hereinafter as “the candidate”), a public call must be issued. The first sentence shall not apply to a fixed-term employment contract.

(2) The public call shall specify:

- a) the name of the territorial self-governing unit,
- b) the type of work and place where the work shall be performed,
- c) prerequisites as per section 4,
- d) other requirements as defined by a territorial self-governing unit for the employment relationship to be established corresponding to the characteristics of the administrative activity that shall be performed by the candidate,
- e) a list of documents that a candidate shall enclose to their application (paragraph 4),
- f) pay grade corresponding to the type of job,
- g) deadline for applications,
- h) where and how the applications shall be submitted,
- i) address where applications shall be mailed to.

(3) A candidate shall submit their application to the territorial self-governing unit in writing. The application shall contain:

- a) candidate’s forename(s), surname and title,
- b) candidate’s date and place of birth,
- c) candidate’s citizenship,
- d) candidate’s permanent address,
- e) identity card number or residence permit number, if the candidate is a citizen of another country⁴⁾,
- f) the date and candidate’s signature.

(4) The following documents shall be enclosed in the application:

- a)** curriculum vitae with information about previous work experience, expertise and skills relating to administrative activities performed by public authorities,
- b)** criminal record check certificate not older than 3 months; for citizens of other countries also a similar criminal record check attesting to candidate's integrity issued by their home country; should their home country not issue such a document, the candidate shall attest their integrity by declaration on word of honour,
- c)** certified copy of a document attesting the highest level of education achieved by the candidate.

(5) The public call shall be displayed on authority's official notice board at least 15 days before the deadline for candidates' applications, and shall be also published in a way enabling remote access;⁷⁾ head of authority shall be responsible for this obligation to be met.

(6) Should the application lack any of the information specified in paragraph 3 or should the documents pursuant to paragraph 4 be missing, head of authority shall invite the candidate to provide the missing information or documents within a reasonable time period.

(7) Within 15 days of signing an employment contract with a candidate recruited based on a public call, or of a decision that the employment contract shall not be signed with any of the candidates, head of authority shall draft a report on the assessment and evaluation of candidates, the report shall contain the following:

- a)** a list of candidates,
- b)** a list of candidates who were disqualified for failing to meet the prerequisites and conditions specified in the public call, or for failing to provide missing information to their application or requested documents by an extended deadline,
- c)** a brief description of the candidates' evaluation process,
- d)** identification of the candidate who was offered to sign an employment contract, or explanation that no employment contract was signed with any of the candidates.

Head of authority must allow all candidates to inspect the report.

(8) The employment contract may only be signed with a candidate meeting the prerequisites and conditions specified in the public call, after the candidate submitted a complete application, their identity card or residence permit should the candidate be a citizen of another country⁴⁾, and the documents specified in paragraph 4.

Section 7

Selection Process

(1) Selection process shall be a prerequisite for:

- a)** a candidate to be appointed head of authority and senior official,
- b)** an indefinite duration employment of a senior official assigned to work at:
 - 1.** a regional authority,
 - 2.** the Magistrate of the Capital City of Prague,
 - 3.** a municipal authority of a municipality with extended competence,
 - 4.** a delegated municipal authority,
 - 5.** a city authority or borough authority of a territorially subdivided statutory city or, borough of the Capital City of Prague delegated to exercise extended competence corresponding to the competence of the delegated municipal authority.

(2) The notification of the selection process (hereinafter referred to as “the notification”) shall contain information specified in section 6, paragraph 2. Should a selection process be for a position for which only a natural person meeting the prerequisites stipulated in section 5, can be appointed, the prerequisites shall also be specified in the notification. Compliance with the prerequisites pursuant to section 5 shall be evidenced by a candidate’s declaration on word of honour.

(3) The selection process shall be announced by a head of authority by publishing the notification on an official notice board of a territorial self-governing unit at least 15 days before deadline for applications by candidates interested in being appointed senior official, or candidates for a public service job pursuant to paragraph 1b) (hereinafter referred to as “the candidate”), the notification shall also be also published in a way enabling remote access.⁷⁾ Should the selection process select head of authority, the notification shall be published by a president of a regional council or mayor of a city or municipality.

(4) A candidate shall submit a written application to a territorial self-governing unit. The candidate’s application shall contain the following information:

a) candidate’s forename(s), surname and title,

b) candidate’s date and place of birth,

c) candidate’s citizenship,

d) candidate’s permanent address,

e) candidate’s identity card number or number of residence permit, if the candidate is a citizen of another country⁴⁾,

f) the date and candidate’s signature.

(5) Documents pursuant to section 6, paragraph 4 shall be enclosed to the application.

(6) Should the application lack any of the information specified in paragraph 4, or should the documents specified in section 6, paragraph 4 be missing, head of authority shall invite the candidate to provide the missing information or documents within a reasonable time period.

(7) Applications shall be forwarded by a person specified in paragraph 3 to the selection panel after the deadline specified in paragraph 3, or as the case may be, paragraph 6.

Section 8

(1) Candidates shall be reviewed by the selection panel. The selection panel shall have at least 3 members.

(2) Chairman and other members of the selection panel shall be appointed and removed by the person specified in section 7, paragraph 3. At least one third of the panel members shall be public servants representing the territorial self-governing unit organizing the selection process.

(3) Meeting of the selection panel shall not be public. The selection panel shall proceed, if more than half of its members are present, and shall decide by absolute majority of the present members of the selection panel.

Section 9

(1) The selection panel shall review completeness of candidates applications and documents pursuant to section 6, paragraph 4, and ensure that candidates comply with the prerequisites pursuant to section 4 or 5, as the case may be, if they are applying for the position of senior official. Should it be necessary to invite candidates in order to verify their compliance with the defined prerequisites, the selection panel shall invite the candidates who submitted

complete applications including the documents pursuant to sections 6 and 4, and comply with the prerequisite defined in section 6 paragraph 4 or 5, in case of appointment of senior officials, to such a meeting.

(2) The selection panel shall draft a report containing the following information:

a) the composition of the selection panel,

b) a list of candidates,

c) a list and order of candidates who submitted completed applications including the documents pursuant to section 6, paragraph 4, and who meet the prerequisites specified in section 4 or 5 as well as the prerequisites specified in the notification.

(3) The report pursuant to paragraph 2 shall be signed by all the present members of the selection panel, the chair of the panel shall forward the report together with the selection process file to the person specified in section 7, paragraph 3.

(4) The position of the head of authority or senior official may only be occupied by a person named on the list prepared according to paragraph 2c). Employment contract shall only be signed with a candidate whose name is shown on the list prepared according to paragraph 2c).

(5) Head of authority shall include information about a signed employment contract or about appointment pursuant to paragraph 4 in the report drafted in accordance with paragraph 2 herein. When requested to do so, the person specified in section 7, paragraph 3 must allow a candidate to inspect the report.

(6) Costs incurred by a candidate in relation to the selection process shall be borne solely by the candidate.

Subchapter 3

Employment

Section 10

Length of Employment

(1) Employment contracts with public servants shall be for an indefinite period. Should it be necessary to carry out an administrative activity limited in time, or to temporarily replace an absent public servant, namely in case of a maternal or parental leave, sick leave that is likely to last for more than 3 months according to a medical report, civil or military service or appointment to a public office, employment contract for an indefinite period may be concluded.

(2) Should the employment contract be entered into for a defined period of time, the relevant territorial self-governing unit shall specify the reason for the contract being for the defined period in the said contract. Should the reason as per the first sentence herein not be specified in the employment contract or appointment, or should the reason fail to comply with paragraph 1, the employment shall be for indefinite period.

Section 11

Transfer to Another Job

Should a public servant fail to demonstrate their special professional competence by the deadline defined in section 21, paragraph 2, the territorial self-governing unit shall transfer the public servant to perform another job, the prerequisites of which the public servant complies with.

Section 12

Removal from Position

- (1) Senior official or head of authority may only be removed from their position, if
- a) they no longer meet the prerequisites specified in section 4,
 - b) they seriously violate any of the duties imposed on them by the law, or violate, in a less severe manner, at least two duties specified by the law in the past 6 months, or
 - c) they fail to finish senior officials training by the deadline pursuant to section 27, paragraph 1.
- (2) Senior official or head of authority may also resign from their position.
- (3) Removal or resignation shall be in writing and shall be delivered to the other party in order to be valid. Removal must also specify reasons pursuant to paragraph 1 in order to be valid. Term of office shall end on the day following the delivery of a removal or resignation letter unless a later date is provided in the removal or resignation letter.
- (4) Employment contract of a senior official or head of authority does not end by removal or resignation from the position of senior official or head of authority; the previous sentence shall not apply; if the employment contract was based on an appointment for a defined period. Territorial self-governing unit shall be obliged to suggest change of position to a senior official or head of authority to continue their employment at the territorial self-governing unit at a different position corresponding to their health condition and qualification. Should there be no suitable position for the senior official or head of authority available at the territorial self-governing unit, or should the senior official or head of authority reject the offered position, such situation shall be considered impediments to work on the side of the territorial self-governing unit and shall be a reason for termination of employment pursuant to section 52c) of the Labour Code; in case of restructuring, senior official or head of authority shall not be entitled to severance pay, if their employment is terminated following their removal from position or resignation from the position of senior official or head of authority.

Section 13

Additional Severance Pay

- (1) A public servant whose employment contract shall be terminated by a territorial self-governing unit via notice for reasons specified in section 52a)-c) of the Labour Code, or by an agreement for the same reasons, shall be entitled to additional severance pay under conditions specified in paragraphs 2 to 4 in addition to the severance pay pursuant to section 67 and 68 of the Labour Code.
- (2) The additional severance pay shall be paid to a public servant who on the day of termination of their employment completed the required number of years of employment. The additional severance pay shall be
- a) twice the average monthly earnings of a public servant who on the day of termination of their employment completed at least 10 years of employment pursuant to paragraph 3,
 - b) three times the average monthly earnings of a public servant who on the day of termination of their employment completed at least 15 years of employment pursuant to paragraph 3
 - c) four times the average monthly earnings of a public servant who on the day of termination of their employment completed at least 20 years of employment pursuant to paragraph 3
- (3) For the purposes specified in paragraph 2
- a) only the duration of employment of a public servant, at the territorial self-governing unit terminating the employment with the public servant as per paragraph 1 or at another territorial self-governing unit or, at an

administrative authority starting after 24th November 1990 shall be considered, provided that activities related to such employment mostly concerned administrative activities (section 2, paragraph 3),

b) duration of employment that is secondary employment is not included in the duration of the primary employment.

Section 14

Remuneration for Stand-by Duty

Should a state of danger, state of emergency or state of peril to the country be declared pursuant to a separate legislation ⁸⁾, territorial self-governing unit may impose a stand-by duty on an employee either at their workplace, or in another location. The stand-by duty can be imposed on an employee provided that overtime hours are anticipated in their employment contract, and only for a necessary period of time that shall not exceed 400 hours per calendar year.

Section 15

Responsibility of Territorial Self-Governing Unit for Damage to Property

Territorial self-governing unit shall be responsible for damage to property of a public servant also if it was established that the damage was caused to the property of the public servant in connection with performing their work tasks.

CHAPTER III

BASIC DUTIES OF PUBLIC SERVANT

Section 16

(1) Public servant shall be obliged to:

a) maintain the constitutional order of the Czech Republic⁹⁾,

b) comply with the legislation relating to the performed work; comply with other regulations relating to the performed work, provided that the employee was properly instructed about them,

c) defend public interest while performing administrative activities,

d) comply with the instructions of senior officials, unless they violate the law; should a public servant believe that an issued instruction is violating the law, they shall be obliged to immediately notify the senior official who issued such an instruction, the notification shall be given in writing, or should there be a danger in delay, the information shall be provided orally; under such circumstances, the public servant shall only be obliged to act on the instruction after being ordered to do so by the senior official in writing; however, the public servant must not act on such an instruction or order, if by doing so they would commit a crime, or an administrative offence, the public servant shall be obliged to inform the head of authority about the fact in writing without undue delay.

e) develop their qualifications as specified herein,

f) act and decide impartially regardless of their conviction, and to refrain from anything in their work that could undermine confidence in impartial decision-making.

g) refrain from any acts that would seriously affect credibility of a territorial self-governing unit,

h) refrain from any acts that could cause a conflict between public interests and personal interests, in particular, they shall refrain from misusing the information they learn while performing their work, for their own benefit or for the benefit of others,

i) not to receive any gifts or any other benefits in relation to the performance of their work with the exception of gifts or benefits provided by the territorial self-governing unit they are employed by, or in compliance with legislation and collective agreement,

j) within the scope specified by separate legislation, maintain confidentiality of information obtained while performing their work or in relation to it; this provision shall not apply, provided that a public servant was discharged from such an obligation. head of authority, senior official authorized by head of authority or relevant administrative authority may discharge a public servant from such an obligation in accordance with separate legislation, unless provided otherwise in separate legislation¹⁰⁾,

k) provide information concerning activities of territorial self-governing unit pursuant to separate legislation¹¹⁾ in the scope corresponding to their work position,

l) provide information about their forename(s), surname, authority they work for and position within a department of the authority in oral or written interactions with natural or legal persons; territorial self-governing units may define in their organisation rules for which functions and activities this information can be replaced by an identification number of a public servant,

m) inform territorial self-governing unit about circumstances justifying transfer to other work (section 11) or removal from position (section 12).

(2) furthermore, public servant shall be obliged to

a) perform their work tasks conscientiously and according to their capacities, knowledge and abilities,

b) use working hours and means of work to the maximum to perform the entrusted work, and to perform their work tasks in a quality, economic and timely manner,

c) properly manage resources that are entrusted to them by their territorial self-governing unit, guard and protect the assets of the territorial self-governing unit against damage, loss, destruction and misuse and not to violate justified interests of the territorial self-governing unit,

d) follow rules of proper conduct while handling administrative matters and in interaction with other public servants.

(3) Public servant must not be a member of a managing, supervising or audit body of a legal person engaged in business activities. This shall not apply, if a public servant is delegated to be a member of such a body by the territorial self-governing unit that employs them. The public servant delegated in such a way shall not be entitled to remuneration for performing a role as per the first sentence. They shall not be entitled to such remuneration even after their employment ends.

(4) Public servant may engage in another gainful activity only, if they obtained a previous written consent of the territorial self-governing unit that employs them.

(5) The limitations established in the previous paragraph shall not apply to scientific, teaching, journalistic, literary or artistic activity, activity of court experts and interpreters carried out pursuant to separate legislation¹²⁾ for a court or administrative authority, participation in advisory bodies to the government and management of one's own property.

(6) Provisions of sections 301 and 303 of the Labour Code shall not apply.

CHAPTER IV

TRAINING OF PUBLIC SERVANTS

Section 17

(1) Under this Act, training to develop qualifications can only be provided by:

- a) a legal or natural person authorised to organise training activities pursuant to separate legislation and accredited pursuant to section 30,
- b) an organisation co-financed by a state budget incorporated by the Ministry of the Interior (hereinafter referred to as “the Ministry”),
- c) territorial self-governing unit accredited pursuant to section 30 herein, (hereinafter referred to as “educational organisation”).

(2) Educational organisation shall provide training in accordance with the training programme accredited pursuant to section 31 herein focused on developing a particular type of qualification (section 18, paragraph 1 and 2).

(3) Territorial self-governing unit shall organise development of public servant’s qualifications at educational organisations accredited for a relevant training programme.

(4) Under this Act, territorial self-governing unit shall be obliged to develop public servant’s qualifications pursuant to the training plan specified in paragraph 5 herein.

(5) The training plan shall specify a training schedule to develop a public servant’s qualifications, at least 18 working days in the course of three years shall be dedicated to the training. Territorial self-governing unit shall be obliged to prepare the training plan during the first year of employment of a public servant. Progress of the training plan shall be reviewed at least every three years and shall be updated based on the review results.

Section 18

(1) Public servants shall be obliged to develop their qualification by attending

- a) introductory training,
 - b) ongoing training, and
 - c) special professional competence training and verification,
- except as otherwise provided herein.

(2) Senior officials and heads of authorities shall be obliged to develop their qualification also by attending training for senior officials (section 27), except as otherwise provided herein.

(3) Territorial self-governing unit shall make it possible for a public servant to take unpaid leave to repeat a special professional competence examination (hereinafter referred to as “the examination”).

(4) Under this Act, the costs of the qualification development training shall be borne by a territorial self-governing unit; costs associated with a retaken examination shall be borne by a public servant with the exception of examination retaken pursuant to section 26, paragraph 1.

Section 19

Introductory Training

(1) The introductory training shall include:

- a)** the basics of public administration, in particular; public administration and territorial self-governing unit organisation and activity guidelines, basics of public law, public finances, European administrative law, rights and obligations and code of conduct of a public servant,
 - b)** basic skills and habits necessary to carry out administrative activities,
 - c)** basic IT skills,
 - d)** basic communication, organisation and other skills associated with the position of a public servant.
- (2)** Public servants shall be obliged to complete their introductory training within 3 months of the beginning of their employment at the latest.
- (3)** Completion of the introductory training shall be evidenced by a certificate issued by the organisation organising the training.
- (4)** The obligation of introductory training shall not apply to public servants who have already obtained special professional competence.

Subject 20

Ongoing Training

- (1)** The ongoing training shall include development of competences, updates and special skills development training focusing on administrative activities performed by a territorial self-governing unit including obtaining and developing of language skills.
- (2)** The ongoing training is offered through courses.
- (3)** Head of authority shall decide on participation of a public servant in individual courses based on the needs of the territorial self-governing unit with regard to the training plan of the public servant; the public servant shall be obliged to attend the course.
- (4)** Participation in a course that is part of the ongoing training shall be evidenced by the organisation organising the course.

Subject 21

Special Professional Competence

- (1)** Territorial self-governing unit shall ensure that the administrative activities specified by separate legislation are carried out by public servants who demonstrate special professional competence. In exceptional cases these activities may be carried out by a public servant who does not possess the special professional competence,
- a)** however, the public servant shall only be permitted to do so for 18 months after beginning their employment at the territorial self-governing unit, or from the day they started performing the activity requiring special professional competence certification, or
 - b)** provided that they comply with the conditions specified in section 34, paragraph 1, or section 43, paragraph 10.
- (2)** Special professional competence shall be verified by an examination and evidenced by a certificate. Public servant shall be obliged to demonstrate their special professional competence required to perform administrative activities specified by separate legislation within 18 months after beginning their employment at the territorial self-governing unit, or from the day they started performing the activity requiring special professional competence certification.

(3) Special professional competence shall be a combination of knowledge and skills needed to perform activities specified in implementing legislation. Special professional competence consists of a general and specialised part. The general part includes knowledge of the public administration basics, in particular the general principles of public administration organisation and activities, knowledge of the Act on Municipalities, Act on Regions, Act on the Capital City of Prague and Code of Administrative Procedure, public servants shall demonstrate their ability to apply this knowledge. The specialised part includes, knowledge needed to perform administrative activities laid down by implementing legislation, namely the knowledge of areas of action of territorial self-governing units and territorial administrative authorities associated with these activities and public servant's ability to apply this knowledge.

(4) Should a public servant perform 2 or more administrative activities laid down by implementing legislation

a) in a municipality where a municipal authority is not organised in at least in two departments, or where there is no designated municipal authority, the public servant shall be obliged to demonstrate special professional competence for only 1 administrative activity determined by the head of authority,

b) in different settings than those described in clause a), the public servant shall be obliged to demonstrate their special professional competence for each of the administrative activities performed by them; the examination shall only consist of the specialised part in order to verify the second and any other professional competence.

(5) Territorial self-governing unit shall be obliged to register a public servant performing administrative activities laid down by implementing legislation for the examination within 6 months after the beginning of their employment at the territorial self-governing unit, or within 3 months from the day they started performing the activity requiring special professional competence certification. Method of registration for the examination, essentials of registration, manner and organisation of the examination and essentials of a certification document shall be specified in implementing legislation.

(6) Senior officials managing public servants performing administrative activities laid down by implementing legislation shall demonstrate their special professional competence by sitting for the general part and specialised part of an examination concerning at least one of the administrative activities laid down by implementing legislation and performed by public servants managed by them, the special professional competence to be tested shall be determined by the head of authority.

(7) Heads of authority shall only be obliged to demonstrate knowledge of the general part of a special professional competence.

Section 22

Organisation of Examinations

(1) The examinations shall be organised and documents certifying special professional competence issued by the Ministry in cooperation with relevant other ministries and other central administrative authorities.

(2) The Ministry shall inform a public servant of the date, place and time of the examination, set of test questions and a list of references within 30 days of receipt of a registration request.

Section 23

Examination Panel

(1) The Ministry shall set up examination panels to test the special professional competences. The examination panels shall consist of 3 members and shall include experts for the general part and for the specialised part of the examination. The Ministry appoints a chairperson as well as other members of an examination panel.

(2) The chairperson of an examination panel shall be in charge of its activity. The examination panel shall decide by majority of votes of its members.

(3) During examination, the examination panel is obliged to follow defined sets of test questions.

(4) The examination panel shall be authorised to disqualify a participant using unauthorised aids or disrupting the examination in a serious manner.

Section 24

Examination

(1) The examination shall be divided into 2 separately executed and evaluated parts, a written and oral part. Knowledge pertaining to the general part and to the specialised part of the examination shall be evaluated separately in the written as well as oral examination.

(2) A public servant shall first sit for the written part of the examination. Successful participation in the written test shall be a prerequisite for the oral part of the examination to be sat.

(3) A public servant applying for verification of additional special professional competence shall only sit for the specialised part of the written and oral examination.

(4) Examination panels shall issue a protocol to testify to the organisation and result of an examination. The examination and examination results shall be public. The Ministry shall inform a public servant about their written and oral examination results on the day of the examination.

(5) Should a public servant fail the written or oral part of the examination, they shall be allowed to retake the examination two more times. The retaken examination shall take place 30 days at the earliest, and 90 days at the latest, from the day of the failed examination.

Section 25

Certificate

(1) Public servants who shall be marked as “passed” in the general as well as the specialised part of their examination, shall receive their certificate from the Ministry within 15 days of their oral examination.

(2) The Ministry shall keep a record of the special professional competence certificates issued by the Ministry.

(3) Educational organisation shall keep a record of certificates and completed initial training, senior official training and ongoing training courses that it has organised.

Section 26

Objection Procedure

(1) Should a public servant “fail” their written or oral examination, they shall be entitled to object against the approach of the examination panel within 15 days after being informed of the examination result; the objections shall be submitted to the examination panel. The examination panel shall accept the objections or shall forward them to the Ministry. The Ministry shall decide about the objections within 30 days of their receipt either by confirming the evaluation issued by the examination panel, or should the evaluation issued by the examination

panel violate the law or regulations, the Ministry shall change or cancel the evaluation issued by the examination panel and shall invite the public servant to retake the examination.

(2) Should a public servant “fail” the retaken examination, the Ministry shall issue a resolution to testify to the “failed” result based on the suggestion of an examination panel.

(3) A public servant shall be entitled to inspect all the documents relating to them and being significant for the decision about their examination result.

(4) The general administrative procedure guidelines shall not apply to the objection procedure.¹³⁾

Section 27

Training of Senior Officials and Heads of Authorities

(1) Public servants shall be managed by a territorial self-governing unit represented by senior officials who completed training for senior officials. In exceptional cases, the management role may be entrusted to a senior official who has not completed their senior official training, however, only for a maximum period of two years from the date they assumed the role of senior official, except as otherwise provided herein (section 43, paragraph 10). Participation in the training for senior officials shall be evidenced by a certificate issued by the educational organisation organising the training. Senior official shall be obliged to complete the training for senior officials within 2 years of the date when they assumed the role of senior official.

(2) The training for senior officials shall consist of a general and specialised part. The general part shall include knowledge and skills required to manage public servants. The specialised part shall include an overview of activities performed by subordinate public servants in accordance with implementing legislation.

(3) A public servant who participated in the training for senior officials pursuant to this Act, and whose training costs were covered by a territorial self-governing unit, shall be obliged to stay employed by the given territorial self-governing unit for a period of 3 years. Should a senior official end their employment with the given territorial self-governing unit less than 3 years after completing their training for senior officials, they shall be obliged to reimburse costs associated with the training to the territorial self-governing unit. Should a senior official honour the said employment obligation towards the territorial self-governing unit only in part, the reimbursement requirement shall be proportionately reduced. Section 235 of the Labour Code, paragraph 3 shall apply proportionately also to the obligation of a senior official to cover the costs pursuant to the herein paragraph.

(4) Provisions of paragraphs 1 to 3 shall be applied accordingly to the training of heads of authorities.

Section 28

Time Limits

(1) The deadlines laid down in section 21, paragraphs 1, 2 and 5, and in section 27, paragraphs 1 and 3 shall exclude the duration of maternal and parental leave, sick leave, basic military (substitute) service, civil service and duration of a public office term. Absence at work due to serving unsuspended sentence or detention following a final conviction, unless the committed crime violates the prerequisite of integrity as per section 4, paragraph 2 shall also be excluded.

(2) Termination of employment and renewal of employment shall not cause running of new time limits as per paragraph 1.

Section 29

Accreditation of Educational Organisations or Training Programmes

- (1) For the purposes of this Act, the Ministry shall accredit educational organisations or training programmes under the conditions specified herein upon request from a natural or legal person (“applicant”).
- (2) Accreditation shall be granted to an educational organisation or training programme for a period of 3 years. Before the expiry of the time limit laid down in the first sentence, the holder of an accreditation granted to an educational institution or training programme may request its extension.
- (3) Accreditation granted to an educational organisation or training programme shall be non-transferrable and shall not be passed to legal successors.
- (4) Should an audit performed by the Ministry identify shortcomings in execution of a training programme, the Ministry shall call upon the educational organisation to take corrective action within a reasonable time limit. Should the organisation fail to take the corrective action within the set time limit, the Ministry shall revoke the accreditation of the educational organisation or training programme. Should new circumstances arise on the side of an educational institution that would justify rejection of a request for accreditation of an educational institution or training programme, the Ministry shall revoke the accreditation that had been granted to the educational organisation or training programme.
- (5) Should the Ministry revoke the accreditation that had been granted to an educational organisation or training programme, the organisation losing the educational organisation or training programme accreditation shall be obliged to provide public servants an opportunity to resume the same or similar training programme in the same or another educational organisation. The Ministry shall set a reasonable time limit for such obligation to be met.

Section 30

Accreditation of Educational Organisation

- (1) Application for accreditation of an educational organisation shall also contain an application for accreditation of at least 1 training programme (section 31, paragraph 1 and 2).
- (2) Application for accreditation of an educational organisation shall contain forename(s), surname, place of business and individual identification number (hereinafter referred to as “identification number”) of an applicant who is a natural person, or name, registered address, statutory body and identification number of an applicant who is a legal person.
- (3) Educational organisation shall enclose the following to the application for accreditation:
- a)** their authorisation to organise training pursuant to separate legislation¹⁵; should the applicant be a territorial self-governing unit, there shall be no need to evidence such authorisation,
 - b)** an overview of human, technical and material resources of an applicant applying for the accreditation of an educational organisation to organise training under this Act,
 - c)** an overview of current activities of the applicant applying, for the accreditation of an educational organisation to organise training,
 - d)** the training programme that is to be accredited.
- (4) The information specified in paragraphs 2 and 3 shall be confidential and the Ministry may use such information only to evaluate the application for accreditation of the educational organisation submitting the information.

(5) The Ministry shall grant the accreditation of an educational organisation to a natural or legal person, provided that the conditions specified in paragraphs 2 and 3 are met.

(6) The Ministry shall not grant the accreditation of an educational organisation, if the natural or legal person:

- a) failed to enclose the documents specified in paragraph 3 to the application,
- b) provided incorrect or incomplete information in their application and failed to provide the information by a deadline specified by the Ministry,
- c) does not meet the conditions specified in paragraph 3,
- d) submitted a training programme that does not meet the requirements of section 31, paragraph 3,
- e) is not a person with integrity.

(7) A natural person shall not be considered a person with integrity, if they were finally convicted of a criminal offence, unless they are considered a person that has not been convicted.

(8) A legal person shall not be considered a person with integrity, if they were finally convicted of a criminal offence, unless they are considered a person that has not been convicted.

(9) The Ministry shall request an extract from the Criminal Register pursuant to separate legislation¹⁹⁾ in order to verify integrity pursuant to paragraph 7 or 8. The request for the extract from the Criminal Register and the extract from the Criminal Register are exchanged electronically in a way enabling remote access.

Section 31

Accreditation of a Training Programme

(1) Application for accreditation of a training programme shall contain the forename(s), surname, place of business and identification number of an applicant who is a natural person, or the name, registered address, statutory body and identification number of an applicant who is a legal person.

(2) The following shall be enclosed to the application for accreditation of a training programme:

- a) a verified copy of accreditation granted to the educational organisation that shall organise the training programme, or an application of a natural or legal person for accreditation of an educational organisation,
- b) the training programme,
- c) at least 2 expert opinions evaluating the training programme.

(3) The training programme shall contain:

- a) name, type, format and objectives of the programme; the type of training programme shall specify the kind of training to develop qualification (section 18, paragraphs 1 and 2); the format of the training programme, i.e. classroom or distance learning or a combination of both,
- b) a specification and description of learning activities,
- c) a training plan; the training plan defines schedule and content of the learning activities and length of training,
- d) a list of instructors for the training programme.

(4) The information specified in paragraphs 2 and 3 shall be confidential and the Ministry may use such information only to evaluate the application for accreditation of the educational organisation submitting the information.

(5) The Ministry shall grant the training programme accreditation to a natural or legal person, provided that the conditions specified in paragraph 3 are met.

(6) The Ministry shall not grant the accreditation, if the natural or legal person:

- a) failed to enclose the documents specified in paragraph 2 in the application,
- b) provided incorrect or incomplete information in their application and failed to provide the information by a deadline specified by the Ministry,
- c) submitted a training programme that does not meet the requirements set out in paragraph 3.

Section 32

Accreditation Board

- (1) The Ministry shall set up accreditation boards as advisory bodies in charge of accreditations pursuant to sections 29 to 31.
- (2) An accreditation board shall consist of public administration experts and representatives of regions and municipalities. Members of accreditation boards shall be appointed and removed by the Ministry.
- (3) Accreditation board shall evaluate whether accreditation conditions are met and shall draft their opinion on the application.

Section 33

Equality of Education

- (1) The obligation to evidence special professional competence (section 21), obligation to participate in the training for senior officials and heads of authorities (section 27) and obligation to participate in the initial training (section 19) shall not apply to public servants who graduated bachelor or master study programmes defined in separate legislation, or whose education, or a part thereof, was recognised as equal pursuant to section 34. The obligation to evidence the special professional competence associated with the general part shall not apply to a natural person who has passed the civil service examination pursuant to the Act on Civil Service.
- (2) Territorial self-governing unit may employ public servants as per section 1 to carry out the activities specified by implementing legislation (section 21), or to manage public servants (section 27).

Section 34

- (1) Upon request of a public servant or a territorial self-governing unit, the Ministry shall issue a certificate recognising equivalence of education, or part thereof, obtained by a public servant in a different study programme than the study programme defined by implementing legislation, or education in a different field or course, provided that the applicant can demonstrate that the content and scope of such education that is to be recognised, correspond to the relevant training programme to develop qualification pursuant to this Act, or part thereof.
- (2) Should the Ministry identify substantial differences between the scope and content of the study programme or course that is to be recognised and the relevant training programme to develop qualification pursuant to this Act, the request for recognition of equivalence of education or part thereof shall be rejected.
- (3) General administrative procedure guidelines¹³⁾ shall apply to the certification process, except as otherwise provided herein. The Ministry shall decide on the recognition of equality of education or part thereof within 3 months of receipt of the request.

CHAPTER V

PUBLIC ADMINISTRATION AND TRAINING OF PUBLIC SERVANTS

Section 35

Competences of the Ministry

(1) The Ministry shall:

- a) coordinate the development of public servants' qualifications pursuant to this Act,
- b) determine the content of the general part of the examination,
- c) define the set of test questions for the general part of the examination including the examination content and evaluation criteria,
- d) maintain a list of experts for the general and specialised part of the examination,
- e) decide on inclusion of natural persons on the list of experts for the general part of the examination,
- f) appoint members of the examination panel from the list of experts pursuant to clause d),
- g) annually publish a list of experts pursuant to clause d) in a way that enables remote access⁷⁾,
- h) issue certificates pursuant to section 25 and keep a record of the certificates,
- i) decide on objections against decisions pursuant to section 26,
- j) recognise equivalence of education pursuant to section 34,
- k) set up the accreditation board pursuant to section 32 and appoint and remove its members,
- l) provide material and financial resources to the accreditation board to perform its activities,
- m) audit the activities of accredited educational organisations and the delivery of accredited programmes (section 29, paragraph 4); the Ministry shall proceed pursuant to separate legislation¹⁶⁾ to carry out the audits,
- n) decide on accreditation of educational organisations and training programmes,
- o) annually publish a list of educational organisations holding a valid accreditation pursuant to this Act in the Government Journal for Regional and Municipal Authorities (“Věstník vlády pro orgány krajů a orgány obcí”), the Journal shall be also published in a way enabling remote access⁷⁾,
- p) publish reports issued by educational organisations pursuant to section 39 in a way enabling remote access⁷⁾,
- r) draft and publish an annual report on the training of public servants in territorial self-governing units,
- s) carry out other tasks under this Act.

(2) The Ministry shall cooperate with other central administrative authorities and regions.

Section 36

Cooperation Between the Ministry and Other Central Administrative Authorities

Relevant ministries and other central administrative authorities shall:

- a) determine the content of the specialised part of the examination and ensure it is continuously updated to correspond to the valid legislation,
- b) define the sets of test questions for the specialised part of the examination including the examination content and evaluation criteria,
- c) decide on the inclusion of natural persons on the list of experts for the specialised part of the examination.

Section 37

Should an educational organisation not be able to prepare senior officials or heads of authorities for examinations or organise their training, the Ministry in cooperation with other relevant central administrative authorities shall organise the preparation and training. Should this be the case, the Ministry shall organise preparation for and

examination of senior officials and heads of authorities for the general part, and the relevant ministries and other central administrative authorities shall organise their preparation for and examination for the specialised part.

CHAPTER VI COMMON AND TRANSITIONAL PROVISIONS

Subchapter 1 Common Provisions

Section 38

Offence Committed by Educational Organisation

- (1) Educational organisation shall commit an offence by failing to satisfy the obligation pursuant to section 29, paragraph 5.
- (2) A fine of up to CZK 200 000 may be imposed for such an offence.
- (3) The offence as per paragraph 1 shall be reviewed by the Ministry.

Section 39

Educational organisations shall draft annual written reports outlining basic information about the training delivered under this Act in the previous calendar year. The educational organisation shall submit the report to the Ministry by 31st May of the following year.

Section 40

It shall not be possible to negotiate a non-competition clause with a public servant (section 310 of the Labour Code).

Section 41

Common Provisions Relating to Boards and Panels

(1) Participation of the members of selection panels and members of accreditation boards in their meetings, and members of examination panels in examinations under this Act shall represent other tasks carried out in the public interest¹⁷⁾, members of the boards and panels shall be entitled to time off work as necessary and to compensation of their earnings (salary). Members of the boards and panels who have no employment contract, or a contract similar to an employment contract, and are engaged in gainful activity shall be entitled to compensation of lost earnings for the period in which they perform the role of the board or panel member in the amount they shall document, however, the maximum amount shall be CZK 80 per hour or CZK 680 per day. Members of the boards and panels shall be entitled to reimbursement of travel expenses as documented; the means of transport shall be decided by the board or panel chairperson; the reimbursement of travel expenses and lost earnings shall be paid out by the Ministry. The employer of a board or panel member shall not be entitled to compensation of wage or salary for releasing their employee to serve on a board or panel.

(2) Should there be well-founded doubts concerning impartiality of a natural person due to their relationship with any of the candidates participating in a selection process, or an applicant for accreditation, or a public servant sitting for an exam, such a natural person must not be on the board. A board or panel member must immediately notify the person who appointed them of their bias. Candidates, applicants, or public servants must inform the person appointing board or panel members that a board or panel member may not be impartial as soon as they become aware of the fact. The possible bias of a board or panel member shall be determined, without undue delay, by the person appointing members of the board or panel. Should such a person find that the board or panel member is biased, they shall remove them and appoint another person to replace them.

Section 42

The Ministry shall issue relevant decrees to implement section 21 and section 33, paragraph 1.

Subchapter 2

Transitional Provisions

Section 43

(1) This Act shall also govern the labour-law relationships established prior to 1st January 2003, except as otherwise provided hereinafter; however, their establishment as well as rights arising from such relationships and legal acts performed before 1st January 2003 shall be assessed pursuant to existing legislation.

(2) except as otherwise provided herein, a natural person who shall be an employee of a territorial self-governing unit as of the effective day of this Act, shall carry out administrative activities and meet the prerequisites as per section 4, shall be considered a public servant according to this Act, from the effective date of the Act.

(3) A natural person who shall be a management employee of a territorial self-governing unit as of the effective date of this Act, shall carry out administrative activities and meet the prerequisites as per section 4, shall be considered a senior official according to this Act, as of the effective date of this Act.

(4) A natural person who shall hold the office of secretary of municipal authority, secretary of magistrate of statutory city, secretary of city district or city borough of territorially subdivided statutory city, director of regional authority, director of the Magistrate of the Capital City of Prague or secretary of city borough authority of the Capital City of Prague shall be considered head of authority according to this Act.

(5) Special professional competence verified by an examination pursuant to separate legislation¹⁸⁾ in the period of 24th November 1990 until the effective date of this Act shall be considered special professional competence evidenced pursuant to this Act.

(6) Special professional competence examination applications submitted prior to the effective date of this Act shall be considered applications submitted pursuant to section 21, paragraph 5.

(7) Public servants carrying out administrative activities subject to the special professional competence prerequisite who fail to meet the prerequisites as of the effective date of this Act, shall have 30 months to meet the prerequisites, the time-limits pursuant to section 21, paragraph 1 and 2 shall start as of the effective date of this Act. Should the public servant not be registered for the special professional competence examination as of the date of this Act, their territorial self-governing unit shall be obliged to register them within 3 months of the effective date of this Act.

(8) Should the time limits according to section 21, paragraphs 1 and 2 applicable to a public servant otherwise expire before the 30-month period of the effective date of this Act, the time limits shall be extended by 12 months.

(9) An employee who is a senior official in office at a territorial self-governing unit as of the effective date of this Act shall be obliged to complete their senior official training within 4 years of the effective date of this Act.

(10) Public servant who shall become entitled to retirement pension before 31st December 2007 shall evidence their special professional competence only at their own request. Senior official who shall become entitled to retirement pension before 31st December 2007 shall participate in the training for senior officials only at their own request.

(11) Public servant training plans pursuant to section 17, paragraph 5 for an employee who holds a position of a public servant as of the effective date of this Act shall be drafted by the head of their authority within 2 years of the effective date of this Act at the latest.

(12) A natural person who shall be considered a senior official pursuant to section 3 herein or a natural person who shall be considered a head of authority pursuant to section 4 herein shall be obliged to demonstrate their compliance with the prerequisites set out in section 4, paragraph 3, in the clause after the semicolon by 30th June 2003 at the latest.

PART TWO Repealed

Section 44 Repealed

PART THREE Repealed

Section 45 Repealed

PART FOUR

Amendments to the Act on the Capital City of Prague

Section 46

The Act no. 131/2000 Coll., on the Capital City of Prague, as amended by the Act no. 145/2001 Coll., Act no. 273/2001 Coll., Act no. 320/2001 Coll., Act no. 450/2001 Coll., and Act no. 311/2002 Coll., shall be amended as follows:

1. Sections 84, 85 and 86 shall be repealed.
2. The words “and 86” in section 120, paragraph 2 shall be repealed.
3. Section 127 including the footnote no. 24) and a related reference shall be repealed.

PART FIVE

Amendment to the Act Determining Some Further Prerequisites for Certain Positions in State Bodies and Organizations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic

Section 47

Act no. 451/1991 Coll. determining some further prerequisites for certain positions in state bodies and organizations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic as amended by the finding of the Constitutional Court of the Czech and Slovak Federative Republic of 26th November 1992 published in Series Issue 116/1992 Coll., Act no. 254/1995 Coll., Act no. 422/2000 Coll., Act no. 147/2001 Coll., Act no. 151/2002 Coll., and Act no. 309/2002 Coll., shall be amended as follows:

1. In section 1, paragraph 1 a new clause g) shall be added after clause f):

"g) in the offices of territorial self-governing units,".

2. The following sentence shall be added to section 1, end of paragraph 3: "Functions pursuant to paragraph 1, clause g) shall be the positions of head of authority and of senior officials."

PART SIX

EFFECT

Section 48

This Act shall become effective on 1st January 2003 with the exception of provisions of the sections 29 to 32, section 35, paragraph 1k), l) and n) and section 41 that shall become effective on the day of publication.

Transitional Provision Established by Act no. 234/2006 Coll., Article X

Transfer to another job based on section 11, paragraph 1 of the Act no. 312/2002 Coll. in the version in force until the effective date of this Act shall be repealed.

Klaus v. r.

Havel v. r.

v z. Rychetský v. r.

Footnotes

1) Section 23 et seq. of the Act no. 250/2000 Sb., on Budgetary Rules for Territorial Budgets.

2) E.g. the Water Act no. 254/2001 Coll., as amended by the Act no. 76/2002 Coll.

3) Section 9, paragraph 3 of the Labour Code.

4) Section 65 et seq. of the Act no. 326/1999 Sb., on the Residence of Foreign Nationals in the Czech Republic and Amendments to Certain Acts as amended by the Act no. 140/2001 Sb.

5) E.g. section 3, paragraph 1 of the Act no. 337/1992 Coll. Sb., to Regulate Taxes and Charges as amended by the Act 255/1994 Coll.

6) Act no. 451/1991 Coll., determining some further prerequisites for certain positions in state bodies and organizations of the Czech and Slovak Federative Republic, the Czech Republic and the Slovak Republic as amended.

7) Section 3, paragraph 2 of the Act no. 106/1999 Sb., on Free Access to Information.

8) Section 2c) of the Act no. 240/2000 Coll., on Crisis Management and Amendments to Certain Acts (Crisis Act).

9) Article 112, paragraph 1 of the Constitutional Act no. 1/1993 Coll., The Constitution of the Czech Republic.

¹⁰⁾ E.g. section 46 of the Act no. 148/1998 Coll., on Protection of Classified Information and Amendments to Certain Acts as amended by the Act no. 363/2000 Sb.

¹¹⁾ E.g. the Act no. 106/1999 Coll., as amended.

¹²⁾ Act no. 36/1967 Coll., on Experts and Interpreters.

¹³⁾ Act no. 71/1967 Coll., on Administrative Procedure (Code of Administrative Procedure), as amended.

¹⁵⁾ Act no. 29/1984 Coll., to Regulate the System of Elementary Schools, Secondary Schools and Higher Professional Schools (School Act), as amended.

Act no. 111/1998 Coll., on Higher Education Institutions and on Amendment to Other Acts (the Higher Education Act), as amended.

The Trade Licensing Act.

Commercial Code.

¹⁶⁾ Act no. 552/1991 Coll., on State Inspection, as amended.

¹⁷⁾ Section 203 of the Labour Code.

¹⁸⁾ Act no. 128/2000 Coll., on Municipalities (Establishment of Municipalities), as amended.

Act no. 129/2000 Coll., on Regions (Establishment of Regions), as amended.

Act no. 131/2000 Coll., on the Capital City of Prague, as amended.

Act no. 147/2000 Coll., on District Authorities, as amended by the Act no. 320/2001 Coll.

Decree no. 345/2000 Coll., on Verification of Special Professional Competence of Employees of Municipalities, Districts, the Capital City of Prague, City Districts of the Capital City of Prague and District Authorities, of Heads of Special Bodies Established By Separate Legislation and of Board Chairs Exercising Extended Competence (Special Professional Competence Decree), as amended by the Decree no. 427/2000 Coll.

Decree no. 51/1998 Coll., Determining Prerequisites for Positions Requiring Special Professional Competence at District and Municipal Authorities (Special Professional Competence Decree), as amended by the Decree no. 121/1999 Coll.

Decree no. 260/1991 Coll., Determining Special Professional Competence for District Authority Employees and Verification of the Special Professional Competence, as amended by the Decree. 535/1992 Coll.

¹⁹⁾ Act no. 269/1994 Coll., on Criminal Register, as amended.