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Acting Appointments: From Phenomenon to Abuse

Introduction

Group for Legal and Political Studies (GLPS) has consistently tackled the phenomenon of acting appointments as a dangerous phenomenon for public administration, warning institutions about the situation and its consequences, as well as providing a series of recommendations on how to address and overcome this situation. On the contrary, the situation has worsened both at the level of legal framework and in practice.

Acting appointments are turning as one of the main tools of daily politics for intervention in the public service, minimizing the meritocracy and professionalism of the public administration. Acting appointments are not an isolated phenomenon in our country but also in other countries, including those in the Balkans and in countries that are part of the European Union. The SIGMA/OECD Toolkit ¹on Temporary Appointments ²addresses precisely the phenomenon of acting officials, providing a valuable set of solutions on how to manage acting appointments without violating the fundamental principles of the public service. Although the toolkit clarifies how the risk in these situations can be reduced, at the same time it reiterates the fact that in order to ensure good and sustainable management, the functioning of acting appointments must be prevented and reduced.

¹ SIGMA is a joint initiative of the OECD and the EU which is mainly funded by the EU.

² "Top public management toolkit- Acting appointments" SIGMA/OECD, Available at: https://www.sigmaweb.org/content/dam/sigma/en/documents/2024/tpm-toolkit/TPM-Toolkit_07_Acting-appointments.pdf

This brief analysis assesses whether the legislation is complete and sufficient to address this issue and also provides an overview of the situation with Acting Appointments at the Management Level, with an emphasis on the senior management category. In terms of good practices, the SIGMA/OECD document is reviewed to see the appropriate model that could be applied in Kosovo regarding acting directors.

Does the legislation guarantee public officials sufficient legal basis to prevent abuse?

GLPS in the analysis "The Phenomenon of Acting Officials in Public Administration"³ has explained in detail the legal regulation regarding acting officials, therefore in this analysis the focus will be on the changes made with Law No. 08/L-294 on Amending and Supplementing Law No. 08/L-197 on Public Officials (LASLPO). The new regulation is even more problematic as it fails to regulate the issue of acting officials and, on the contrary, creates space for potential abuse in practice.

In terms of who can be appointed as acting official, paragraph 1 of Article 9 of the LASLPO is more specific and also defines the person responsible for the appointment of acting officials at the senior management level. However, the regulation of paragraph 2 of Article 35 of Law No. 08/L-197 on Public Officials (LPO) remains unchanged, which is quite problematic in itself⁴ because there is no legal restriction or procedural guarantee except that officials must be from the following category without taking into account: the skills and abilities that the official must have, the assessment of work results, seniority and other elements that also guarantee professionalism and meritocracy for these types of appointments. When combined with the direct appointment and dismissal mechanism⁵ and the prolonged possibility of remaining in acting positions, this arrangement becomes conducive to day-to-day political interference, enabling the appointment of individuals closely aligned with decision-makers.

In relation to the duration of mandates for acting appointments, there has again been a change in the term from 6+6 months as it was with the LPO to 2 years with the LASLPO. These changes are provided for in paragraphs 3 and 4 of article 9 of the LASLPO, extending the term from 1 year to 2 years. The term of up to one year is automatic "except in cases where the recruitment procedure has been announced but for objective reasons the position has not been filled". This type of regulation raises several unanswered questions, including: What are the objective reasons? What mechanism do institutions (especially those holding political positions) have to verify these reasons and what are the procedural guarantees for their verification? How is the justification of "objective reasons" made and are these made public in the decision-making process? The lack of these restrictions in relation to the above-mentioned regulation leaves a great deal of political discretion which in practice will be misused, in addition to the fact that the prolongation of recruitment procedures can be made intentional for the sole reason of extending the term and maintaining positions with acting officers. The two-year term in itself is even more problematic due to the fact that it is very long, i.e. half of a regular mandate which is 4 years. Such an approach encourages political appointees to maintain positions with acting officials at most, knowing the fragile procedure of appointment and dismissal and the fact of the pressure they may have due to dismissal which can be done at any time. Re-

3 "The Phenomenon of Acting Positions within the Public Administration", Legal and Political Studies Group, Available at: <https://legalpoliticalstudies.org/the-phenomenon-of-acting-positions-within-the-public-administration/>

4 Paragraph 2 of Article 35 states "In accordance with paragraph 1 of this Article, the acting official may be appointed as the highest official of the next category, depending on the position being appointed, from any organizational unit within the institution."

5 These appointments and dismissals are carried out in a manner similar to political appointments.

garding the legal consequences of exceeding the maximum term of acting officers, the rules in paragraph 5 of article 35 of the LPO apply, which stipulates that “any decision taken by the acting officer, after the expiry of the term specified in paragraph 3 of this article, is illegal”. The purpose of this provision is to potentially punish public officials who exceed the deadline by making their decisions illegal. This rule is neither accurate nor comprehensive and entails multiple risks. It is not accurate and complete because it only includes “decisions”, therefore excluding other actions that can be exercised precisely by the acting officials and that not all management positions (senior, middle and low) necessarily make decisions. It endangers the legal certainty of individuals, as decision-making may appear lawful and procedurally complete, including the fulfillment of professional requirements, while the fact that a decision is taken by an acting official who has exceeded the legally prescribed mandate renders the entire decision-making process unlawful. The consequences of such unlawfulness directly affect the legitimate interests of individuals who have duly fulfilled all material and procedural conditions to acquire a right.

The regulation of the LPO and that of the LASLPO is quite problematic and opens the possibility of its abuse in practice. Finally, the legal regulation for acting officers set out in the LPO and LASLPO is not complete and accurate and essentially undermines the very principle of meritocracy and professionalism by leaving discretion to political appointees both in the appointment of acting officers and in their retention for long periods of time.

Misuse in Practice

The legal changes as elaborated above have not only not limited the possibility of abuse but on the contrary have left the possibility for this exception to be applied as a rule, such as in the appointment of public officials who are close to daily politics or even keeping them in positions for a long time. Such a phenomenon has created a situation where public officials gain experience and knowledge due to their appointment as acting officials, which creates an unfair advantage over other candidates. Another aspect of abuse is the practice of giving broad opinions with the tendency to write the law, which is quite evident in many cases, not excluding the case of acting officials. One such was given by the Department for the Management of Public Officials (DMPO) immediately after the entry into force of the LASLPO, where among other things it openly mentions “...increasing flexibility...” and, strangely, also “establishes transitional provisions” missing from the LASLPO⁶. Among other things, this type of opinion stipulates that “Due to the change in the terms and rules of appointment, the period of exercise of the duty spent under the provisions of the basic law is not counted in these terms.” So here, the DMPO takes great care to write a transitional provision that would be problematic if it were set out in the law, let alone in such a “legal” opinion.⁷

Another abuse committed against acting officials concerns the procedure for their appointment, namely the disregard of the procedures already established in the LASLPO regarding persons who may be appointed as acting officials. One such case of violation of the rules of procedure occurred in the appointment as acting official in the Kosovo Memorial Management Agency (KMMA) by the Minister of the Ministry of Culture, Youth and Sports. The violation concerns the appointment of a public official who holds a lower position than that required for an acting official when it comes to the senior management level, namely the Executive Director of KMMA, a violation found by the Independent Oversight Body for the Civil Service of

⁶ Announcement regarding the entry into force of Law No. 08/L-294 on Amending and Supplementing Law No. 08/L-197 on Public Officials and the main changes issued on 25.06.2025 by the Department for Management of Public Officials.

⁷ This document is called a “notice” but in substance it is a legal opinion.

Kosovo (IOBCKS)⁸. An even more serious case of violation of procedures is when the position of Executive Director of the Central Labor Inspectorate is assigned as acting director by the Minister of the Ministry of Finance, Labor and Transfers (MFLT) to an official who is in a professional position, i.e. two categories lower than that required by the LASLPO. In this case too, the IOBCKS repealed the decision of the Minister of MFLT, finding that the same is in contradiction with the rules set forth in the LASLPO⁹.

Current State of Acting Appointments

In the last 4 years, the phenomenon of acting appointments has taken place at all management levels, from the top to the lower management level. According to the Corrwat project data¹⁰, in 2023, at the top management level in the ministries, more than half of them, including the Office of the Prime Minister (OPM), operated with acting officials. In the OPM, the exercise of the position of Secretary General began from 2021 until November 2024 when the Secretary General was appointed, albeit illegally. In this case, even though the recruitment procedure had been completed, the appointment phase was extended for more than two years. In the Ministry of Finance, Labor, and Transfers, the office of Secretary was exercised in an acting capacity from February 2020 until the formal appointment in January 2025, resulting in a continuous period of five years during which the position was held by an acting official. The same phenomenon also occurs in the Ministry of Industry, Entrepreneurship and Trade (MIET), where since 2020 until now, this Ministry has been functioning with an acting Secretary General. In MIET, the reasons for this failure are different, starting from exceeding the deadlines by the evaluation committee, the lack of candidates who meet the criteria, to the failure to open the competition. The same situation is also in the Ministry of Environment, Spatial Planning and Infrastructure (MESPI), where this position has been with an acting one since February 2020 and is still ongoing. The competition for this position in this institution was not opened until December 2024, and then due to exceeding the deadlines and the institutional crisis, the recruitment process has not been completed.

At the moment, the Ministry of Health (MoH) is operating with an acting Secretary, in addition to MIET and MESPI. The Ministry of Regional Development also operates with an acting Secretary, where in this case, the acting appointment is due to the suspension of the Secretary General, whose mandate remains ongoing.

According to the Human Resources report for 2024¹¹, 72% of senior management positions are filled by acting appointments. While there is no data for middle and lower management positions, according to the report, in 2024, 57 middle management positions and 258 lower management positions were vacant. However, this data for these two categories does not include all public institutions.

As for subordinate or executive agencies, out of 46 in total, 25 of them have acting heads of senior management positions in the institution, either executive or general director. Some of these agencies include: the Agency for the Administration of Seized or Confiscated Assets, the Agency for Free Legal Aid, the Information Society Agency, the Business Registration Agency, Kosova Medicines Agency, the Employment Agency (the full list is in Appendix 1). The reasons for the same situation are

⁸ Decision of the IPCSC A.nr.1444/2025 dated 29.10.2025

⁹ decision The IPMSCK A .nr.1390/2025 dated 27.11.2025

¹⁰ Number of Acting Secretaries, Corrwat, available at: <https://www.facebook.com/photo/?fbid=227314373549475&set=pb.100088127417538.-2207520000>

¹¹ Human Resources Management Report 2024, Ministry of Internal Affairs, Available at: <https://mpb.rks.gov.net/Uploads/Documents/Pdf/AL/9318/Raporti%20p%C3%ABr%20Menaxhimin%20e%20Burimeve%20Njer%C3%A-Bzore%202024%20Shtator%202025.pdf>

various, ranging from the failure to open the competition, the lack of candidates in general and the lack of qualified candidates, the illegalities of the processes that have led to their cancellation. A practice that raises serious concerns regarding institutional stability and functioning is the functioning of Kosovo Medicines Agency with acting appointments since September 2018.

In independent institutions, some of them are already in this situation, while others are expected to face the same situation in the coming year. Given this, as well as the institutional and political crisis throughout 2025, it is necessary to act urgently in order to prevent this practice of acting as acting heads. The situation is clearly reflected in several key institutions: The mandate of the Board of the Kosovo Privatization Agency expired in August 2025; Radio Television of Kosovo has not had a functional board since December 2024; The Board of the Kosovo Railways Regulatory Authority has not been functional since 2021. Additionally, the Independent Media Commission does not have the necessary quorum to hold meetings. In the case of the Ombudsperson Institution, the mandate of the Ombudsperson expired in September 2025, while that of the deputies expired in June of the same year.

Conclusion and recommendations

The phenomenon of acting officials is widespread at all management levels in the state administration, including executive agencies, but has also begun to be visible in independent institutions, so it is now the rule and not the exception.

The changes made to the legal framework, in 2023 and 2024, have not imposed sufficient restrictions, creating space for politics to violate the principles of meritocracy and professionalism in management positions in public institutions. Furthermore, the law does not provide for professional criteria for the appointment of acting officials other than the fact that they must be from the next management level, a rule that has been ignored in some cases in violation of the law. The lack of clear criteria weakens the professionalism of public administration.

Furthermore, the 2-year term of office for an acting position creates the possibility of deliberately prolonging recruitment procedures, which creates sufficient space for political influence and poses a risk to the functioning and sustainability of the institution. Another aspect of the terms remains their exceeding, where according to the law, decisions taken by acting officials after exceeding the term of office in such a way are illegal. In addition to the fact that this has taken place, it threatens the legitimate interests of third parties and the public.

Recommendations

- The human resources recruitment plan in civil service institutions should pay special attention to positions that could potentially remain vacant (retirement, end of mandate, suspensions for foreseeable reasons, etc.).
- In accordance with the law, immediate action should be taken to develop recruitment procedures for vacant positions in the civil service. For positions that may remain vacant in accordance with the recruitment plan, initiate the development of early recruitment procedures to minimize the likelihood of positions remaining vacant.
- Define clear legal limits specifying the circumstances under which an acting official may be appointed (e.g., recruitment procedures, maternity leave, long-term suspensions), as well as reasonable and objective timeframes for each situation.
- Finding alternative solutions for the automatic acting appointments, e.g. in an institution there is a deputy for a senior management position, the deputy is automatically appointed to the positions. In the absence of a deputy, the acting official is appointed from the lower category, but always proactively, in order to avoid the position becoming vacant.
- Establish legal rules that limit the possibility of appointing candidates to senior management positions, in cases where the Government functions as a Caretaker Government¹².
- Take into account the SIGMA/OECD recommendations and incorporate them into legislation and practice:
 - » Reducing the time of job vacancies with early and smooth selection procedures.
 - » To appoint acting individuals who will not be candidates in the recruitment process
 - » Ensure maximum transparency.
 - » Do not give formal priority to civil/public servants appointed as acting officials in senior management positions.
 - » Discouraging long-term appointments through salary caps for acting officials in senior management positions.
 - » Ensuring that only career civil/public servants are appointed as acting officials.
 - » Appointment of external individuals who have accredited capacities through a previous competitive procedure¹³.

¹² "Top public management toolkit- Acting appointments SIGMA/OECD , page 8, available at: https://www.sig-maweb.org/content/dam/sigma/en/documents/2024/tpm-toolkit/TPM-Toolkit_07_Acting-appointments.pdf

¹³ Ibid, page 9.

Annex 1

Executive Agencies with Acting Directors

Ministry	Institution / Agency	Current status
Ministry of Justice	State Attorney's Office	Acting State Attorney General
Ministry of Justice	Agency for the Administration of Seized or Confiscated Assets	Acting Executive Director
Ministry of Justice	Inspectorate of the Ministry of Justice	Acting Executive Director
Ministry of Justice	Free Legal Aid Agency	Acting Executive Director
Ministry of Internal Affairs	Kosovo Academy for Public Safety	Acting Director General
Ministry of Internal Affairs	Kosovo Forensic Agency	Deputy Chief Executive Officer
Ministry of Internal Affairs	Information Society Agency	Acting Director
Ministry of Internal Affairs	Cyber Security Agency	Acting Executive Director
Ministry of Industry, Entrepreneurship and Trade	Kosovo Business Registration Agency	Deputy Executive Director
Ministry of Industry, Entrepreneurship and Trade	Kosovo Investment and Enterprise Support Agency (KIESA)	Deputy General Director
Ministry of Industry, Entrepreneurship and Trade	Central Inspectorate for Market Surveillance	Deputy Chief Inspector
Ministry of Industry, Entrepreneurship and Trade	Kosovo Agency for Standardization	Deputy Director
Ministry of Industry, Entrepreneurship and Trade	Kosovo Metrology Agency	Deputy General Director
Ministry of Industry, Entrepreneurship and Trade	Industrial Property Agency	Deputy General Director
Ministry of Finance, Labor and Transfers	Central Procurement Agency	Acting Executive Director
Ministry of Finance, Labor and Transfers	Kosovo Employment Agency	Deputy Executive Director
Ministry of Finance, Labor and Transfers	Kosovo Treasury	Acting Executive Director

Ministry	Institution / Agency	Current status
Ministry of Finance, Labor and Transfers	Labor Inspectorate	Acting Chief Labor Inspector
Ministry of Agriculture, Forestry and Rural Development	Kosovo Forestry Agency	Acting Executive Director
Ministry of Education, Science, Technology and Innovation	Agency for Vocational Education and Training and Adult Education	Acting Executive Director
Ministry of Economy	Geological Service of Kosovo	Acting Director General
Ministry of Health	Kosova Medicines Agency	Acting Executive Director
Ministry of Culture, Youth and Sports	Kosovo Anti-Doping Agency (KosADA)	Acting Executive Director
Ministry of Environment, Spatial Planning and Infrastructure	Kosovo Environmental Protection Agency	Acting Executive Director

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