

Assembly of the Republic

Law no. 66-B/2007

28 December

Establishes the integrated system for management and performance assessment in Public Administration

The Assembly of the Republic, under the terms of paragraph c) of Article 161 of the Constitution decrees as follows:

TITLE I

General and common provisions

Chapter I

Object and scope of application

Article 1

Object

1 – The present law establishes the integrated system for management and performance assessment in Public Administration hereinafter referred to as SIADAP.

2 – SIADAP aims to contribute to improving the performance and quality Public Administration service, for the coherence and harmony of the activities of services, managers and other staff as well as to promote professional motivation and competency development.

Article 2

Scope of application

1 – The present law shall apply to services of direct and indirect state administration, as well as, with due adaptations, namely regarding the competences of the corresponding bodies, to services of autonomous regional administration and to local authority administration.

2 – The present law is also applicable with the adaptations imposed by the observance of the corresponding competences to bodies and supporting services of the President of the Republic, the Assembly of the Republic, courts and to Public Prosecutions' Office and respective management bodies and of other independent bodies.

3 – Without prejudice to provisions set out in Article 83, the present law is not applicable to public corporate entities neither to supporting

offices either of holders of the referred to bodies in the preceding numbers or of members of the Government.

4 – The present law applies to the performance of:

a) Services;

b) Managers;

c) Public Administration state employees, irrespective of the type of formation of public employment legal relationship.

Article 3

Adaptations

1 – SIADAP shall be governed by principles, objectives and rules defined in the present law.

2 – Alternative systems to SIADAP may be passed and adapted to the specificities of regional and local authority administrations, by way of a regional legislative decree and a regulatory decree respectively.

3 – By means of a joint order from the supervising members of the Government and members responsible for the finance and public administration areas, a number of adaptations may be carried out to the system provided for in the present law as a result of the responsibilities and organisation of services, workforce careers or management needs.

4 – In case of public institutes, the adaptation referred to in the preceding number is approved by means of internal regulation confirmed by the members of the Government referred to in the preceding paragraph.

5 – In the case of public employment contractual legal relationships, the adaptation to the system provided for in the present law may be set out in the collective labour regulation instrument.

6 – The adaptations to SIADAP provided for in the preceding paragraphs are made in compliance with the provisions set out in the present law in matters pertaining to:

a) Principles, objectives and SIADAP subsystems;

b) Performance assessment based on the comparison between set objectives and achieved results and, in case of managers and other workforce competences shown and to be developed;

c) Differentiation of performances, complying with the minimum number of assessment scores and the value of maximum percentages provided for in the present law.

Chapter II

Definitions, principles and objectives

Article 4

Definitions

For the purposes of the provisions set out in the present law, it is deemed by:

a) «Competences» the parameter of assessment that reflects the knowledge, capacity for action and behaviour necessary for efficient and effective performance, suitable to the fulfilment of functions by managers or other workforce;

b) «Service top managers», holders of top managing positions of grade 1 or with legally equivalent rank, other managers responsible for the service who report to the member of the Government or the Presidents of a collegiate management body under their supervision or superintendence;

c) «Senior Managers», top managers of services, holders of top managing positions of grade 2 or with legally equivalent rank and vice-presidents or members of a collegiate management body;

d) «Middle Managers» - holders of middle managing positions of or with legally equivalent rank, staff;

e) «Objectives» - the parameter of assessment that translates the expected results that are to be attained in the time, and which, as a rule are quantifiable;

f) «Effective and actual Service» the work actually performed by state employees in the services;

g) «Services» - direct and indirect state administrative services, autonomous regional administration and local authority administration, including the respective de-concentrated or outlying services and public establishments, with the exception of public corporate entities;

h) «Workers» - Public Administration workers who do not hold management positions or have equivalent rank, irrespective of the legal title of the employment relationship, provided that the respective job attachment be for an equal time limit or higher than six months, including staff integrated into a career that is not part of management functions of a service or with equivalent rank inherent in the functional content of that career;

i) «Homogeneous Units» - de-concentrated or outlying direct and indirect state administrative services that develop the same type of activities or provide the same type of goods and or deliver the same type of services;

j) «Organic units» - the structural elements of the internal organization of a service that are in line with the hierarchical, matrix or mixed structure model;

l) «External users» - citizens, companies and civil society;

m) «Internal users» bodies and services of direct and indirect state administration as well as regional and local authority administrations, with the exception of public corporate entities.

Article 5

Principles

The SIADAP shall be governed by the following principles:

a) Coherence and integration, matching the action of services, managers and remaining staff in the pursuit of objectives and in the implementation of public policies;

b) Accountability and development, by strengthening the sense of responsibility of managers and other public employees for results achieved by the services, articulating improvements in organisational systems and work processes and the competency development of managers and other staff;

c) Universality and flexibility, targeting the application of performance management systems to all services, managers and remaining staff, and providing for their adaptation to all specific situations;

d) Transparency and impartiality, by ensuring the use of objective and public criteria in the performance management of services, managers and remaining staff, based upon performance indicators;

e) Effectiveness, orienting the management and the activity of services, managers and other staff to attain the predicted results;

f) Efficiency, relating the goods provided and services delivered to a better use of resources;

g) Orientation towards quality in public services;

h) Comparability of service performances, through the use of indicators allowing for a comparison between national and international standards whenever possible;

i) Publicizing results of service assessment, fostering visibility of actions to users;

j) Publicizing assessment of managers and other staff, pursuant to the terms provided for in the present law;

l) Participation of managers and other staff at setting of service objectives, in management performance, in improvement of working processes and in services assessment;

m) Participation of users at the service assessment.

Article 6

Objectives

The global objectives of SIADAP are as follows:

- a) Contribution to improving management of the Public Administration as a result of users' needs and matching services activity to the objectives of public policies;
- b) Development and consolidation of assessment practices and Public Administration self-regulation;
- c) Identification of training and professional development needs for the improvement in performance of services, managers and other staff;
- d) Promotion, motivation and development of competences and qualifications of managers and remaining staff, favouring lifelong training;
- e) Recognition and rewarding services, managers and other staff for their performance and results achieved, stimulation and development of an excellence and quality culture;
- f) Improvement of the architecture of processes, generating added value to users, within a perspective of time, cost and quality;
- g) Improvement in the supply of information and transparency of action of Public Administration services;
- h) Supporting the process of strategic decisions by means of information related to results and costs, namely in matters pertaining to the pertinence of services, their responsibilities, organization and activities.

Chapter III

Framework and SIADAP subsystems

Article 7

Planning System

1 – SIADAP is articulated with the planning system of each ministry, and works as a tool for assessing compliance with the strategic multi-annual objectives superiorly determined, as well as the annual objectives and activity plans, based upon measurement indicators of results to be attained by services.

2 – Articulation with the planning system presupposes permanent coordination among all services and that which in each ministry fulfils responsibilities in matters pertaining to planning, strategy and assessment.

Article 8

Management cycle

1 - SIADAP is articulated with the management cycle of each Public Administration service and includes the following building blocks:

a) Setting of service goals for the subsequent year, taking into account their mission, responsibilities, multi-annual strategic goals superiorly determined, engagements assumed in the charter of mission by the top manager, results of performance assessment and budget availabilities;

b) Approval of the budget and passage, maintenance or change in the workforce list of respective staff, under the terms of applicable legislation;

c) Drafting and approval of the service activity plan for the subsequent year, including the objectives, activities, performance indicators of both the service and each organic unit;

d) Monitoring and possible revision of service objectives and each organic unit, according to non-predictable contingencies at the political or administrative level;

e) Drafting the activity plan, with qualitative and quantitative demonstration of results attained, integrating herein the social report and self-assessment report provided for in the present law.

2 – It is incumbent upon each ministry and service with responsibilities in matters pertaining to planning, strategy and assessment to ensure the coherence, coordination and follow up of the management cycle of services with global ministry objectives and their articulation with SIADAP.

Article 9

SIADAP Subsystems

1 – SIADAP includes the following subsystems:

a) The performance of services subsystem of Public Administration shall be known in short as SIADAP 1;

b) The performance assessment of manager subsystem of Public Administration shall be known in short as SIADAP 2;

c) The performance assessment of Public Administration public employees subsystem shall be known in short as SIADAP 3.

2 - The subsystems referred to in the preceding number operate in an integrated way through the coherence between the set objectives in the ambit of the planning system, objectives of service management cycle, set objectives in the top managers' charter of mission and set objectives in relation to other managers and remaining public employees.

TITLE II

The Public Administration performance assessment subsystem (SIADAP 1)

Chapter I
General provisions

Article 10

Assessment and Accountability Framework

1 – The performance assessment of each service is based upon an assessment and accountability framework (QUAR), subject to a permanent and updated assessment from service information systems where the following are highlighted:

- a) The service mission;
- b) Multi-annual strategic objectives superiorly established;
- c) Annually set objectives that, as a rule, are of a hierarchical nature;
- d) Performance indicators and their respective checking sources;
- e) Available means, synthetically referred to;
- f) Degree of accomplished results in the pursuit of objectives;
- g) Identification of deviations and, synthetically, the respective causes;
- h) The final service performance assessment.

2 – The QUAR is related to the service management cycle and is set and maintained updated in articulation with the competent service in matters pertaining to planning, strategy and assessment of each ministry.

3 – The forward-looking documents and of reporting of accounts legally provided for must be fully coherent with QUAR.

4 – In order to update the QUAR it is necessary to analyze external involving factors, to identify existing capacities and opportunities for service development, as well as the degree of user satisfaction.

5 – The QUAR is the subject of publication on the electronic page of the service.

6 – The services must resort to methodologies and assessment tools already used at national or international level that enable to make the provisions set out in the present title operational.

Article 11

assessment parameters

1 – The performance assessment of services is carried out and based on the following parameters:

- a) «Objectives of effectiveness», understood as to what extent a service attains its objectives and achieves or exceeds the expected results;

- b) «Objectives of efficiency», while a relationship between goods provided and services delivered and resources used;

- c) «Objectives of quality», translated as a set of features and characteristics of goods or services, that confer upon them ability to meet the explicit or implicit users' needs.

2 – The objectives are proposed by the service to the member of the Government to whom is accountable, or where the service comes under his/her superintendence and are approved by this member.

3 – For assessment of results achieved in each objective the following graduation levels are laid down:

- a) The objective has been reached or gone beyond;
- b) The objective has been attained;
- c) The objective has not been attained.

4 – In each service the following are defined:

- a) Performance indicators for each objective and respective sources for checking;
- b) Operating mechanisms that support the graduation levels referred to in the preceding number and diverse weightings may be set for each parameter and objective, according to the nature of the service.

Article 12

Performance indicators

1 – Performance indicators to be established in the QUAR must comply with the following principles:

- a) Pertinence in relation to objectives that are to be measured;
- b) Credibility;
- c) Ease of collection;
- d) Clarity;
- e) Comparability.

2 – The indicators shall allow for performance measurability.

3 – The participation of various service organic units shall be ensured in defining performance indicators.

Article 13

QUAR follow-up

It is incumbent upon each service with responsibilities in matters pertaining to planning, strategy and assessment, in each ministry:

a) To support the identification of performance indicators and the operative mechanisms of the assessment parameters referred to in Article 11;

b) To support services, namely through guiding scripts and instruments to disseminate good practices;

c) To validate the performance indicators and their operative mechanisms referred to in Article 11;

d) To monitor information systems and performance indicators and, in particular, QUAR as to feasibility and the data integrity;

e) To promote the creation of indicators of result and impact at the level of programmes and projects developed by one or more services, so as to make national and international comparisons feasible.

Chapter II

Arrangements, procedures and assessment bodies

Article 14

Arrangements and periodicity

1 – The assessment of services is conducted through self-assessment and hetero-assessment.

2 – The self-assessment of services is carried out annually in articulation with the management cycle.

3 – The periodicity referred to in the preceding paragraph does not prejudice the carrying out of a multi-annual assessment if the budget allows that temporal dimension and to justify decisions relating to the pertinence of the existence of said service, its responsibilities, organization and activities.

Article 15

Self-assessment

1 – Self-assessment is compulsory and shall emphasise the results achieved and deviations verified in accordance with the service QUAR, particularly in relation to annually set objectives.

2 – The self-assessment is part and parcel of the annual activity report and must be accompanied by the following information relating to:

a) Appraisal, by users, on the quantity and quality of services delivered, with particular emphasis when it deals with units that are providers of services to external users;

b) Assessment of the internal control system;

c) Reasons for non-compliance with actions or projects not carried out or with poor and insufficient results;

d) Measures that will be taken for positive strengthening of performance, showing the limitations affecting the results to be achieved;

e) Comparison with the performance of equivalent services, at both national and international levels, that may constitute comparison standards/benchmarks;

f) The hearing of middle managers and other staff in the self-assessment of the service.

Article 16

Comparison of homogeneous units

1 – In the case of the service integrating homogeneous units, over which has managing power the top manager is entrusted with ensuring the conception and monitoring of a performance indicator system that allows for their comparability.

2 – The indicator system referred to in the preceding paragraph shall reflect the set of activities pursued and make the ordering of these units feasible within a perspective of relative efficiency for each homogeneous group, in each service.

3 – The quality of this monitoring is compulsorily considered in the assessment of the service in the parameter provided for in no. 1, paragraph c), Article 11.

4 – A final performance assessment shall be given to each homogeneous unit, under the terms of Article 18 or alternatively, a hierarchical list of homogeneous units should be drawn up by assessment order.

5 – The provisions set out in preceding paragraphs are also applicable, with due adaptations, to central services developing the same type of activities, providing the same type of goods or delivering the same kind of services as those which are ensured by homogeneous units.

6 – In case of the homogeneous units constituting outlying ministry services, the service with responsibilities in matters pertaining to planning, strategy and assessment is charged with ensuring compliance with the provisions set out in the present article.

Article 17

Critical analysis of self-assessment

1 – In each ministry, the service responsible for matters pertaining to planning, strategy and assessment is entrusted with delivering its opinion with a critical analysis of self-assessments set out in the activity reports drawn up by other services.

2 – The result of this analysis is reported to each one of the services and to the member of the Government concerned.

3 – The services referred to in no 1 must make a comparative analysis of all ministry services with a view to:

a) Identify annually services that have distinguished and excelled as regards performance levels;

b) Identify annually services with a greater number of non-justified deviations, between objectives and results or by other reasons that may be deemed pertinent, must be the subject of hetero-assessment and thereof made known to the Coordinating Council of the Internal Control System of the State Financial Administration (SCI) for the purposes provided for under the present law.

Article 18

Qualitative assessment scores

1 – The final performance assessment of services is expressed qualitatively by the following scores:

a) A *Good Performance* rating means that all objectives have been attained and some objectives have been exceeded;

b) A *Satisfactory Performance* rating means that all objectives have been attained or those which are more relevant;

c) An *Insufficient/poor performance* rating means that the most relevant objectives have not been attained.

2 – (Repealed).

3 – Scores provided for in paragraph 1 are proposed by the top service manager as a result of the self-assessment system and, after the opinion provided for in no 1 of the preceding Article is confirmed or changed by the respective member of the Government.

Article 19

Merit Award

1 – (Repealed)

Article 20

Hetero-assessment

1 – Hetero-assessment is aimed at obtaining in-depth knowledge of the grounds for any deviations shown in the self-assessment or detected in any other way and submitting proposals with a view to improving processes and future results.

2 – Hetero-assessment is of the responsibility of the SCI Coordinating Council and may be carried out by internal evaluators, namely inspectorates-general or external evaluators, consumer associations or other external users, provided that

the functional independence of the entities to be assessed is ensured.

3 – Hetero-assessment of services with responsibilities in matters pertaining to planning, strategy and assessment is proposed by the respective minister.

4 – Hetero-assessment referred to in preceding paragraphs does not lead to the granting of the scores provided for in Article 18.

5 – Hetero-assessment may also be requested from the service itself, as an alternative to self-assessment, by way of a proposal submitted to the SCI Coordinating Council at the beginning of the year in which performance is to be assessed.

Article 21

SCI - Coordinating Council Specialized Section

1 – A Specialized section charged with fostering and coordinating hetero-assessments is to be set up in the scope of the SCI - Coordinating Council.

2 – It is incumbent upon the specialized section referred to in the preceding paragraph to propose hetero-assessment policy to the Government, define the reference terms of assessments and validate the quality of the work carried out by several evaluators.

Article 22

Annual programme of hetero-assessments

1 – The SCI - Coordinating Council proposes annually to the Government, through the members of the Government responsible for finance and public administration, an annual programme of hetero-assessments.

2 – The annual programme takes into account the proposals made pursuant to paragraph b) of no. 3 of Article 17, as well as other situations that indicate dissatisfaction by external users and any pertinent proposals revealed under the terms of no. 3 of Article 20.

3 – The annual programme shall include the following elements:

a) Identification of services to be assessed in the relevant year and respective justification;

b) Indication of the grounds governing the selection of external evaluators if this is the case;

c) Time limit for its wording;

d) Selection criteria, in case of the assessment being carried out by external evaluators, and estimated costs.

4 – Should the proposal made according to paragraph 1 be approved by deliberation of the Council of Ministers, the SCI Coordinating Council is entrusted with its implementation, by means of technical support to the selection process of external evaluators.

Article 23

Contracting of external evaluators

1 – The selection and contracting of external evaluators for assessment of services is developed by the secretariat-general of the ministry where the service to be assessed is integrated.

2 – The administrative and financial charges inherent in the hetero-assessment are borne by the secretariat-general as provided for in the preceding paragraph, barring the cases provided for in paragraph 3 of Article 20 supported for the service concerned.

Article 24

Presentation of results

1 – The services to be assessed are informed of the hetero-assessment report project to enable them to deliver their opinion.

2 – The hetero-assessment report must also be submitted to trade union organisations or works council representatives of the staff of any service that so request it.

3 – The SCI Coordinating Council delivers an opinion within a time limit of no more than 30 days after the assessed service delivers its decision on the quality of the hetero-assessment reports and makes any recommendations it deems relevant, highlighting the positive points and those which need to be improved.

4 – The SCI Coordinating Council forwards the opinion referred to in the preceding paragraph to the members of the Government responsible for finance and public administration areas and to the minister to whom the assessed service reports.

Chapter III

Results of assessment

Article 25

Dissemination

1 – Each service divulges the self-assessment with the respective parameters, on its electronic pages.

2 – In the case of the opinion drafted as per paragraph 1 of Article 17 conclude by the disagreement in relation to the score made by the service as to the self-assessment, or by the feasibility failure of performance system indicators, the same must be compulsorily divulged jointly with the elements referred to in the preceding paragraph.

3 – (Repealed).

Article 26

Effects of assessment

1 – The results of service assessments must take effects on:

a) Options of a budgetary nature with an impact on the service;

b) The options and priorities of the following management cycle;

c) The assessment carried out as to the performance of senior managers.

2 – Without prejudice to the provisions set out in the preceding paragraph, *Insufficient Performance* score in the self-assessment process is taken into consideration by the member of the Government responsible for the application of a set of measures that may include the conclusion of a new mission charter, in which the recovery or correction of detected deviations be expressly laid down.

3 – The results of the hetero-assessment undertaken on the grounds provided for in paragraph 1 of Article 20 may take effects referred to in the preceding paragraph.

4 – The consecutive granting of *Insufficient Performance* score or the inability to overcome deviations shown and analysed in the hetero-assessment may justify decisions relating to the pertinence of the service, its mission, powers, organization and activity, without prejudice to checking possible responsibilities.

Article 27

Effects of merit award

(Repealed)

Chapter IV

Coordination of assessment systems

Article 28

Coordinating Council for Assessment of Services

1 – The Coordinating Council for Assessment of Services hereinafter referred to in short as the Council is set up with the purpose of ensuring the coordination and the fostering of cooperation among the various services with competences in matters pertaining to planning, strategy and assessment and promoting the exchange of experiences and disseminating good practices in the assessments area.

2 – The Council is presided over by a member of the Government responsible for the Public Administration area and composed of the directors

– general of services with competence in matters pertaining to planning, strategy and assessment, the inspector-general of Finance, Director-General for Administration and Public Employment and the President of the governing body of the Agency for Administrative Modernization.

3 – It is incumbent upon the Council:

a) To follow-up the process of technical support referred to in Article 13;

b) To propose initiatives with a view to improving the activity of the services referred to in the preceding paragraph in matters relating to the assessment of services;

c) To ensure coherence and quality of methodologies used in all ministries;

d) To foster research and training of services in matters pertaining to performance assessment;

e) To promote dissemination of evaluative national or international experiences, and of assessment systems in Public Administration;

f) To stimulate improvement of quality of performance indicator systems as well as of self-assessment processes;

g) To promote articulation among services with competence in matters pertaining to planning, strategy and assessment and the SCI Coordinating Council;

h) To deliver an opinion on questions submitted to it by the member responsible for the Public Administration area in the scope of other SIADAP subsystems.

4 – The Council may set up working groups accountable to it made up of resources assigned by services the top managers of which participate therein, targeting the development of projects or the follow-up of the dynamics of service assessments.

5 – The Directorate-General for Administration and Public Employment shall provide technical and administrative support necessary for the functioning of the Council.

6 – The operating regulations of the Council, including the rules of participation of other structures or entities is approved by order of the member of the Government as provided for in no. 2.

7 – The regulation referred to in the preceding paragraph must provide for rules relating to the participation of trade union representatives when, at the Council meetings, issues related to SIADAP 1 are dealt with and have impact on the performance assessment of staff or, under the terms of paragraph h) of no. 3 relate to other subsystems.

TITLE III

Performance Assessment Subsystem for Public Administration Managers (SIADAP 2)

Chapter I

General provisions

Article 29

Periodicity

1 – Global performance assessment of top and middle managers is made at the end of the respective limited executive tenures, in accordance with the respective statute, or at the end of the time limit for which they were appointed.

2 – Without prejudice to provisions set out in the preceding paragraph, the performance of top and middle managers shall be the subject of intercalated assessment conducted annually as per the present law.

3 – The period of mid-term monitoring corresponds to the calendar year, presupposing the performance as manager of a period of not less than six following or interpolated months.

4 – The performance assessment of top and middle managers conducted under the terms of the present chapter does not take effects of any kind whatsoever on the respective career of origin.

5 – The performance assessment, with repercussions on the career of origin of public employees fulfilling management positions is undertaken every two years pursuant to paragraph 5 to paragraph 7 of Article 42 and Article 43.

6 – The performance assessment of career integrated workforce performing management functions or with equivalent inherent status in career functional content, when said performance is not made on a limited executive tenure basis, performance assessment is carried out every two years as per the present title, and the provisions set out in paragraphs 4 and 5 are not applicable.

Chapter II

Performance assessment of top managers

Article 30

Assessment Parameters

1 – The performance assessment of top managers is part of the service management cycle and is undertaken and based on the following parameters:

a) «Degree of accomplishment of commitments» set out in the respective charters of mission, having as a basis the measurement indicators fixed for the assessment of results achieved in relation to the effectiveness, efficiency and quality objectives in those charters and in the human, financial and material resources management assigned to the service;

b) “Competencies” of leadership, strategic vision, external representation and management shown.

2 – For the purposes of the provisions set out in subparagraph a) of the preceding number, top managers of grade 2, at the beginning of their limited executive tenure and in the framework of their legal, delegated or sub-delegated competences sign a charter of mission with the top manager. This charter constitutes a management commitment in which, if possible, quantified and scheduled objectives to be attained are explicitly defined. Likewise, the performance indicators applicable to the assessment of results are also defined.

3 – The performance assessment of members of governing bodies of public institutes subject to the Statute of Public Manager is in accordance with the system laid down therein.

Article 31

Mid-term assessment

1 – For the purposes of the mid-term assessment provided for in paragraph 2 of Article 29, the top manager of the service must forward, by 15 April of each year, the following elements to the respective member of the Government:

a) The Activity report integrating the self-assessment of the service as per paragraph 2 of article 15;

b) Summary report explaining the degree of accomplishment of commitments assumed in the charter of mission.

2 – The summary report referred to in subparagraph b) of the preceding paragraph shall include the main options in matters relating to management and the qualification of human resources, financial resources management and the global result of the application of SIADAP 3, application when applicable including expressly the equitable distribution of qualitative scores assigned, in total and by career.

3 – Senior managers of grade 2 must submit to the top manager of the service a summary report explaining the results achieved regarding the commitments assumed in the charter of mission and their progress with regard to preceding years.

4 – (Repealed)

5 – (Repealed)

6 – (Repealed).

7 – Senior Managers charters of mission and the report provided for in subparagraph b) of paragraph 1 follow a model approved by order of the member of the Government responsible for Public Administration.

Article 32

Assessment expression

1 – The performance assessment of senior managers is measured according to success levels achieved in assessment parameters, to verify that global success has been attained or exceeded provided for in a number of areas, with regard to the requirements demanded for the fulfilment of the reflected in those parameters in the compliance with such requirements or in their non-observance.

2 – The annual mid-term monitoring bases the global appraisal at the end of the limited executive tenure and may justify its termination.

3 – (Repealed)

4 – (Repealed)

5 – (Repealed)

6 – (Repealed)

Article 33

Evaluators

1 – The top manager of the service is assessed by the member of Government who granted the charter of mission.

2 – Senior managers of grade 2 are assessed by the top manager who granted the charter of mission.

3 – Assessments of senior managers of grade 2 are confirmed by the competent member of the Government.

Article 34

Effects

1 – The performance assessment of senior managers has effects provided for in the respective statute, namely in matters pertaining to renewal or termination of the respective limited executive tenure.

2 – Non-application of SIADAP on grounds imputable to top managers of services, including members of the governing bodies of public institutes, leads to the termination of their respective functions.

Chapter III

Middle Managers Performance assessment

Article 35

Assessment Parameters

The performance assessment of middle managers is conducted and based on the following parameters:

- a) «Results» achieved in the objectives of the organic unit that he/she runs;
- b) «Competences», integrates leadership ability and technical and behavioural competence suitable to the performance of the position.

Article 36

Assessment

1 – For the purposes set out in the preceding article, middle managers at the beginning of their limited executive tenure and in the scope of their legal competencies negotiate with the respective evaluator the definition of quantified and scheduled objectives to be attained in the course of the fulfilment of functions as well as performance indicators applicable to the assessment of results.

2 – The «Results» parameter is based on not less than three objectives that are negotiated annually with the manager, in case of disagreement the position of the line manager prevails.

3 – The results achieved in each objective are decided by a three-level scale as follows:

- a) «Objective exceeded», which corresponds to a score of 5;
- b) «Objective achieved», which corresponds to a score of 3;
- c) «Objective not achieved», which corresponds to a score of 1.

4 – The final score given to «Results» parameter is the arithmetic average of scores granted to results achieved in all objectives.

5 – The parameter relating to «Competences» is based on previously chosen competences, for each manager, in a number not less than five.

6 – The competences referred to in the preceding paragraph are chosen, by agreement between the evaluator and the public employee being evaluated. The choice of the line manager prevails if there is no agreement, from among the competences listed and approved by order of the member of Government responsible for Public Administration.

7 – The top manager of the service, after the Assessment Coordinating Council has been heard, may establish by order the competences to which the assessment of middle managers are subject, chosen from among those which are laid down in the list referred to in the preceding paragraph.

8 – Each competence is valued by means of a three-level scale under the following terms:

- a) «Competence shown at a high level» to which corresponds a score of 5;
- b) «Competence shown» that corresponds to a score of 3;
- c) «Competence not shown or inexistent» that corresponds to a score of 1.

9 – The final score to be granted in the «Competences» parameter is the arithmetic average of scores given.

10 – For the setting of a final rating a minimum weighting of 75 % is granted to the parameter «Results» and a maximum weighting of 25 % is given to «Competences».

11 – The final rating is the result of the average of scores obtained in the two assessment parameters.

12 – The final parameter scores and final assessment are expressed and rounded up to hundredths and to thousandths whenever possible.

13 – By a duly justified order of the member of the Government responsible for Public Administration, a number of weightings may be set different from those provided for in paragraph 10 according to position specificities or service responsibilities.

Article 36-A

Mid-term monitoring

For the purposes of the mid-term monitoring provided for in paragraph 2 of article 29, for middle managers, a summary report stating the progress of results achieved vis-à-vis the objectives negotiated shall be submitted to the respective senior manager by 15 April of each year..

Article 37

Final assessment expression

1 – The final assessment is expressed in qualitative ratings according to final scores in each parameter, under the following terms:

- a) *Relevant Performance* corresponds to a final assessment of 4 to 5;
- b) *Adequate Performance* corresponds to a final assessment of positive performance from 2 to 3.999;
- c) *Inadequate Performance* corresponds to a final assessment from 1 to 1.999.

2 – (Repealed)

3) - (Repealed)

4- (Repealed)

5 – (Repealed)

Article 38

Evaluators

1 – Middle managers of grade 1 are assessed by the senior manager to whom they directly report.

2 – Middle managers of grade 2 are assessed by the senior manager or middle manager of grade 1 to whom they directly report.

3 – Whenever the number of homogeneous units accountable to the same senior manager so justifies, he/she may delegate the assessment of the respective middle managers to evaluators for this purpose assigned by category or functional position higher than those being assessed.

4 – (Repealed)

5 – (Repealed)

Article 39

Effects

1 – The performance assessment of middle managers has the effects provided for in the respective statute, namely as regards performance bonuses and renewal or non-renewal or termination of the respective limited executive tenure.

2 – (Repealed)

3 – (Repealed)

4 – (Repealed)

5 – (Repealed)

6 – The granting of the rating *Inadequate Performance* constitutes grounds for the termination of the respective limited executive tenure.

7 – (Repealed)

8 – (Repealed)

9 – (Repealed)

10 – (Repealed)

11 – Without prejudice to provisions laid down in the following paragraph, the non application of SIADAP 3 on grounds imputable to the middle manager brings about the termination of the respective limited executive tenure and unjustified, non-observance of guidelines given by the Assessment Coordinating Council shall be taken into account in the respective performance assessment, in the parameter deemed to be most suitable.

12 – The granting of the level of *Inadequate Performance* to staff integrated into a career fulfilling management functions or with equivalent status inherent in the functional content of the career, when such performance is not under a limited executive tenure, as well as the non-application of SIADAP 3 to workforce who are directly assigned to him/her, has the effects provided for in Article 53.

Article 40

Assessment procedure

Provisions laid down in Chapter IV of the present law are applicable with due adaptations to middle managers assessment procedure in all that are not provided for in this title.

TITLE IV

Performance Assessment of Public Administration Staff (SIADAP 3) Subsystem

Chapter I

Structure

Section I

Periodicity and requirements for assessment

Article 41

Periodicity

1 – The performance assessment of public employees is undertaken every two years, without prejudice to provisions laid down in the present law for the assessment to be carried out in models adapted to SIADAP.

2 – The assessment relates to the performance of two preceding calendar years.

Article 42

Functional requirements for assessment

1 – In the case of the public employee who in the preceding calendar year has constituted a legal public employment relationship for less than six months, the performance relating to this period is the subject of joint assessment with that of the following cycle.

2 – In the case of the public employee who in the preceding two years has a legal public employment relationship with duration of at least, one year and the corresponding effective and actual service, irrespective of the service where he/she has performed it, the performance is the subject of assessment as per the present title.

3 – Effective and actual service must be fulfilled in functional contact with the respective evaluator or in a situation that, in spite of not having permitted direct contact for the temporal period referred to in the preceding paragraph, allows for by favourable decision of the Assessment Coordinating Council the carrying out of such assessment.

4 – In the case provided for in paragraph 2, if in the course of the preceding two years and/or in the temporal period of effective and actual

performance of service several evaluators have been followed, the evaluator empowered to assess at the moment of the assessment must collect from the other evaluators all written inputs suitable for an effective and fair assessment.

5 – In case of anyone who, in the preceding two years has had a legal public employment relationship of at least six months but has not the corresponding actually performed service according to what has been defined in the present law or is in a situation provided for in paragraph 3 has not obtained a favourable decision from the Assessment Coordinating Council, the assessment is not carried out pursuant to the present title.

6 – In case provided for in the preceding paragraph for the purposes of the respective career, the last assessment granted under the terms of the present law or of its adaptations, not applying to public employees covered by this measure the percentages provided for in paragraph 1 of article 75.

7 – If in the case provided for in paragraph 5 the holder of a legal public employment relationship has no assessment that is taken into account under the terms of the preceding paragraph or if he/she intends its change, a every two year assessment may be requested, made by the Assessment Coordinating Council, by means of a proposal of an evaluator specifically assigned by the service top manager..

Article 43

Curricular weighting

1 – The assessment provided for in paragraph 7 of the preceding article is translated in the weighting of the curriculum of the holder of the public employment legal relationship, in which, among others the following elements are taken into consideration:

- a) Academic and professional qualifications;
- b) Professional experience and curricular appraisal;
- c) Fulfilment of management positions or other positions or functions of acknowledged public interest or of relevant social interest, namely the activity of trade union leaders.

2 – For the purposes of the curricular weighting, relevant documentation must be handed over that allows for the assigned evaluator to justify the proposal for assessment, and a declaration issued by the entity where functions are or were fulfilled may be attached.

3 – Curricular weighting is rated through an appraisal that complies with the scale of qualitative and quantitative assessment and the rules relating

to the differentiation of performances provided for in the present law.

4 – Curricular weighting and the respective appraisal are established according to previously set criteria by the Assessment Coordinating Council, set out in minutes, that are made public, that ensure a balanced weighting of the curricular elements provided for in paragraph 1 and the consideration of acknowledged public interest or relevant social interest of the fulfilment of positions and functions therein referred to.

5 – The criteria referred to in the preceding paragraph may be uniformly laid down for all services by normative order of the member of the Government responsible for Public Administration.

Article 44

Publicizing

1 – Qualitative ratings and respective quantification when they justify in the year they are granted, a change of a pay step in the career or the granting of performance bonuses are the subject of publicizing, as well as the preceding qualitative ratings, which have been granted and that contribute to such justification.

2 – Without prejudice to provisions laid down in the preceding paragraph and to other cases of publicizing provided for in the present law, the procedures relating to SIADAP 3 are of a classified nature, and the assessment instruments of each public employee must be kept in the respective personal file.

3 – With exception of the individual being evaluated all stakeholders in the assessment procedure as well as those who, as a result of the fulfilment of their functions are aware of same are subject to duty of secrecy.

4 – Access to documentation relating to SIADAP 3 is subject to provisions laid down in the Code of Administrative Procedure and to the legislation relating to the access to administrative documents.

Section II

Methodology for assessment

Article 45

Parameters for assessment

Workforce performance assessment is part of the management cycle of each service and focuses on the following parameters:

a) «Results» achieved in the pursuit of individual objectives in articulation with the objectives of the respective organic unit;

b) «Competences» which are aimed at assessing knowledge, skills and behavioral

capacities suitable to the fulfillment of a function.

Article 46

Results

1 – The parameter «Results» stems from the verification of the degree of accomplishment of previously defined objectives which must be drafted in a clear and accurate way, in accordance with the main results to be achieved, taking into account the objectives of the service and of the organic unit, the proportionality between targeted results and available means and the time in which they are pursued.

2 – The objectives are as follows:

a) Production of goods and activities or service delivery, targeting effective user satisfaction;

b) Quality, orientated towards innovation, improvement of service and meeting users' needs;

c) Efficiency, in the sense of simplification and rationalization of time limits and processual management procedures and in the reduction of operational costs;

d) Improvement and development of individual, technical and behavioral competences of public employees.

3 – Objectives of shared accountability may be set whenever they imply the development of team work or effort converging towards an established goal.

4 – At the beginning of each assessment cycle a minimum of three objectives and a maximum of seven objectives are set for each public employee, who as a rule, are framed in several areas provided for in paragraph 2 and particularly taking into account the public employee's work post.

5 – Performance measurement indicators are previously stipulated to attain results in each objective that compulsorily include the possibility of exceeding objectives.

6- Performance measurement indicators shall not exceed three.

Article 47

Assessment of results attained

1 – Bearing in mind the measurement of the degree of accomplishment of each objective, according to the previously established respective indicators, the assessment of results attained in each objective is rated in three levels:

a) «Objective exceeded», which corresponds to a score of 5;

b) «Objective attained», which corresponds to a score of 3;

c) «Objective not attained», which corresponds to a score of 1.

2 – The final score to be granted to the parameter «Results» is the average arithmetic of scores granted to results achieved in all objectives.

3 – Although with actual and effective performed work, whenever there is impossibility of pursuing some previously set objectives, due to limitations outside the control of the stakeholders and it has not been possible to renegotiate new objectives, the assessment must be made in relation to other objectives which have not been prejudiced for those limitations.

4 – The assessment of results achieved in objectives of shared accountability provided for in paragraph 3 of the preceding article, as a rule, is identical to all public employees involved therein, and by way of justified option of the evaluator, a differentiated assessment may be made according to the contribution of each public employee.

Article 48

Competences

1 – The parameter relating to «Competences» is based on previously competences chosen for each public employee in a number not less than five.

2 – The referred to competences in the preceding paragraph are chosen under the terms of paragraphs 6 and 7 of Article 36.

Article 49

Assessment of competences

1 – The assessment of each competence is rated in three levels:

a) «Competence shown at a high level», which corresponds to a score of 5;

b) «Competence shown», which corresponds to a score of 3;

c) «Competence not shown or inexistent», which corresponds to a score of 1.

2 – The final rating to be granted to the parameter «Competences» is the average score granted to the competences chosen for each public employee.

Article 50

Final assessment

1 – The final assessment is the result of the weighted average of the scores obtained in the two assessment parameters.

2 – For the parameter «Results» a minimum weighting of 60% is granted and a maximum weighting of 40% for the parameter «Competences».

3 – By order of the member of the Government responsible for Public Administration area, different limits may be established from those which are set in the preceding paragraph according to the careers and, by joint order with the supervising member of the Government. Likewise, other different limits may also be set for special careers or according to the specificities of responsibilities of services or of their management.

4 – The final assessment is expressed in qualitative ratings according to final scores in each parameter, under the following terms:

a) *Relevant Performance*, corresponding to a final assessment of 4 to 5;

b) *Adequate Performance*, corresponding to a final assessment of positive performance of 2 to 3.999;

c) *Inadequate Performance*, corresponding to a final assessment of 1 to 1.999.

5 – The provisions laid down in paragraph 12 of article 36 are applicable to the final assessment of public employees.

Article 51

Recognition of excellence

1 – The granting of the qualitative rating of relevant performance shall be the subject of appraisal by the Assessment Coordinating Council, for the purposes of possible recognition of merit meaning Excellent performance, at the initiative of the employee being evaluated or the evaluator.

2 – The initiative provided for in the preceding paragraph shall be accompanied by the characterization, which specifies the respective grounds and analyses performance impact, highlighting inputs relevant to the service.

3 – The recognition of merit provided for in paragraph 1 shall be the subject of publicizing in the service through internal means deemed to be the most suitable.

4 – For the purposes of application of legislation concerning careers and compensation, the maximum assessment therein provided for corresponds to the qualitative rating of *Excellent performance*.

Section III

Effects of assessment

Article 52

Effects

1 – The individual performance assessment has the following effects:

a) Identification of personal and professional capabilities of the public employee and of those who must be developed;

b) Diagnosis of training needs;

c) Identification of competences and professional behaviour which need to be improved;

d) Improvement of the work post and related processes;

e) Change in the compensation pay step in the public employee's career and granting of performance bonuses, under the terms of applicable legislation.

2 – The recognition of Excellent performance for three successive years entitles the public employee alternatively to:

a) (Repealed);

b) A probation period in an organization of a foreign Public Administration or international organization. A report of such a probationary period shall be drawn up and submitted to the top manager;

c) a probation period in another public service, non-governmental organization or in a corporate entity with activity and management methods relevant to Public Administration. Likewise, a report shall be drafted and submitted to the top manager of the service;

d) attendance at training initiatives suitable to the development of professional competences.

3 - The probation periods and training initiatives referred to in the preceding paragraph are deemed for all legal effects, as service actually performed.

4 –(Repealed).

5 – (Repealed).

6 – (Repealed).

Article 53

Rating of Inadequate performance

1 – The granting of qualitative rating of Inadequate Performance must be accompanied by the characterization, specifying the respective grounds, by parameter, so as to enable decisions in order to:

a) Analyse the grounds of insufficiency in performance and identify training needs and a suitable professional development plan to improve the public employee's performance;

b) Justify decisions to make the most of the worker's capacities.

2 – The training needs must be translated in actions to be included in the professional development plan.

Article 54

Public employees' development potential

- 1 – The performance assessment system must facilitate the identification of the workforce evolution and development potential and the diagnosis of the respective training needs. These must be taken into consideration in the annual training plan of each service.
- 2 – The identification of training needs must associate workforce priority needs and the requirements from the work post that is assigned to such workforce, taking into account resources available to this end.

Chapter II

Stakeholders in the assessment procedure

Article 55

Intervening parties

- 1 – In the performance assessment procedure the following parties intervene in the scope of each service:
 - a) The evaluator;
 - b) The employee being evaluated;
 - c) The assessment coordinating council;
 - d) A joint commission;
 - e) The top manager of the service.
- 2 – The absence or impediment of the direct evaluator does not constitute justification for lack of evaluation.

Article 56

Evaluator

- 1 – The assessment is the responsibility of the direct line manager or in his/her absence or impediment, the line manager of the following level. It is incumbent upon the evaluator:
 - a) To negotiate objectives of the person being assessed, in accordance with the objectives and results set for his/her organic unit or in the fulfilment of the respective competences, and measurement performance indicators set, namely the criteria for attaining or exceeding objectives, in the framework of the general guidelines fixed by the Assessment Coordinating Council;
 - b) To review, on a regular basis, with the person being assessed the annual objectives negotiated or adjust them, if necessary, and report to the person being assessed the evolution of his/her performance and improvement possibilities;

c) Negotiate the competences that integrate the second assessment parameter, as per subparagraph b) of article 45 and article 48;

d) Annually assess public employees who report directly to him/her, ensuring the correct application of the assessment integrating principles;

e) Weight up public employees' expectations in the process of identification of the respective development needs;

f) Justify assessments of Relevant Performance and Inadequate Performance, for the purposes provided for in the present law.

2 – The direct line manager must collect and register inputs that he/she deems suitable and necessary for an effective and fair assessment, namely when there are public employees with effective responsibility for the coordination and orientation on the work developed by the persons being assessed.

Article 57

Person being assessed

- 1 – In compliance with the principles set out in the present law, the person being assessed is entitled to:
 - a) Means and conditions be ensured which are necessary to his/her performance in line with the results that he/she has contracted;
 - b) Performance assessment.
- 2 – It is the duty of the person being assessed to undertake the respective self-assessment as a guarantee of active involvement and accountability in the evaluative process and negotiate with the evaluator in the setting of objectives and competences that make up the assessment parameters and respective measurement indicators.
- 3 – Managers of the services are responsible for the application of the assessment system and making it known to persons being assessed in due time, ensuring the observance of its principles and the merit differentiation.
- 4 – The knowledge of the objectives, grounds, content and functioning of the assessment system shall be ensured to persons being assessed.
- 5 – The employee being evaluated is entitled the right to complain, appeal and claim.

Article 58

Assessment coordinating council

1 – An Assessment coordinating council works in close cooperation with the top manager of each service. It is incumbent upon this council:

a) To establish guidelines for an objective and harmonious application of SIADAP 3, taking into consideration the documents that integrate the management cycle referred to in article 8;

b) To lay down general guidelines in matters pertaining to the setting of objectives, choice of competences and measurement indicators, particularly those related to the characterization of exceeding objectives;

c) To set the number of objectives and competences to which the performance assessment is subject. This may be carried out for all service workforce or when it is justifiable, by organic unit or career;

d) To ensure the rigour and the differentiation of performances of SIADAP 3. It is also responsible for validating the assessments of Relevant Performance and Inadequate Performance as well as for recognising Excellent Performance;

e) To deliver an opinion on requests for appraisal of the assessment proposals of middle managers assessed;

f) To fulfil the remaining competences allotted to it by law or regulation.

2 – The assessment coordinating council is presided over by the top service manager and integrates, the person responsible for human resources management and three to five managers assigned by the top manager.

3 – In large sized services, without prejudice to the existence of the assessment coordinating council under the terms of preceding paragraphs, for the purposes of making functioning operational, autonomous sections may be set up presided over by the top service manager, composed of a restricted number of managers, fulfilling the competences provided for in subparagraphs d) and e) of paragraph 1.

4 – In services, which by their organic structure, it is not possible to create the assessment coordinating council as per paragraphs 2 and no.3, its legal competences may be entrusted with an assessment commission to be set up by order of the top manager, made up of public employees with suitable functional responsibility.

5 – The presidency of the assessment coordinating council or of the autonomous sections provided for in paragraph. 3 may be delegated under the terms of the law.

6 – The regulations for the functioning of the assessment coordinating council shall be drawn up by each service taking into account its nature and size.

7 – The composition of the assessment coordinating council is limited to senior managers and the manager responsible for human resources management when the fulfilment of its competences fall upon the performance of middle

managers and, in the case of dealing with the fulfilment of competence referred to in subparagraph e) of paragraph 1, the provisions laid down in paragraph 3 and following of article 69 are applicable with due adaptations.

Article 59

Joint commission

1 – A joint commission with consultative competence works in close cooperation with the top manager of each service to appraise proposals for assessment made known to public employees assessed, before official confirmation.

2 – The joint commission is made up of four members, two representatives of the Administration, assigned by the top manager, a member of the assessment coordinating council, and two public employees' representatives for those elected.

3 – In large-sized services various joint commissions may be set up, in which the representatives of the Public Administration are assigned from among the members of the autonomous sections provided for in paragraph 3 of the preceding article and the representatives of public employees elected by the universes of public employees corresponding to the competence of those autonomous sections.

4 – Four representative members of the Administration are assigned for a four-year period, two full members, one of whom orientates the work of the commission and two alternate members.

5 – The six representative public employee members are elected, for a four-year period, two full members and four alternate members, by way of secret ballot by public employees who make up the universe of public employees of all or part of the service, under the terms of paragraph 3.

6 – The election process for representative worker members shall take place in December and is organized pursuant to an order by the service top manager and is made known on the electronic page of the service; in said order the following data shall be set out:

a) Closing date for indication by public employees of the members of the table or ballot table, referring to expressly that, in the absence of said indication, the same are assigned by the competent manager up to forty eight hours before the holding of the electoral act;

b) Number of members of the table or ballot tables, which must not be higher than five members for each table, including alternate members;

c) Date of the electoral act;

d) Period and place of functioning of ballot tables;

e) Time limit of communication of results to the respective manager;

f) Dispensation of the members of the table from fulfilling their functional duties on the day on which the election takes place. Likewise, the same facilities are granted to the remaining public employees for the period of time strictly indispensable for exercising the right to vote.

7 – The non-participation of workers at the election implies the non-setting up of a joint commission without, however, preventing from pursuing the assessment procedure, and any requests for appraisal are deemed to be irrelevant by this body.

8 – Full members are replaced by alternate members when they have to interrupt the respective mandate or whenever the commission is called upon to deliver its opinion on processes where those members have participated as persons being assessed or evaluators.

9 – When, the interruption of the term of office of at least half of the number of full and alternate members, representatives of the Administration takes place or of those elected in representation of the persons being assessed occurs; the procedures provided for in paragraphs. 4 and 5 may be repeated, if necessary, one time only and within a time limit of five days.

10 – In cases of the preceding paragraph, members assigned or elected to fill vacancies complete the mandate of those who replace, and integrate the commission up to the expiry period of functioning of such a commission.

11 – In situations provided for in paragraph 9, the proven impossibility of repetition of the referred to procedures does not impede the pursuit of the assessment procedure, and any requests for review by the joint commission are deemed to be irrelevant.

Article 60

Top manager of the service

1 – It is incumbent upon the top manager of the service to:

a) Ensure the matching of the performance assessment system to specific service realities;

b) Coordinate and control the annual assessment process in accordance with the principles and rules defined in the present law;

c) Set levels of weighting of assessment parameters, under the terms of the present law;

d) Ensure service compliance with the rules stipulated in the present law in matters pertaining to percentages of performance differentiation;

e) Confirm annual assessments;

f) Decide upon the complaints of those being assessed;

g) Ensure the drawing up of the annual performance assessment report, integrating the activity report of the service;

h) Fulfil the remaining competences allotted as per the present law.

2 – When the top manager does not confirm the assessments granted by the evaluators or by the assessment coordinating council, in case provided for in paragraph 5 of article 69, he/she grants a new qualitative rating and respective quantification with respective justification.

3 – The competence provided for in subparagraph e) of paragraph 1 may be delegated to other senior managers in the service.

Chapter III

Assessment Procedure

Article 61

Phases

The workforce assessment procedure shall include the following phases:

a) Planning of the assessment procedure and definition of objectives and results to be achieved;

b) Carrying out of the self-assessment and the assessment;

c) Harmonization of assessment proposals;

d) Meeting between evaluators and those being evaluated for performance assessment, contracting of objectives and respective indicators and setting of competences;

e) Validation of assessments and recognition of Excellent Performances;

f) Appraisal of the assessment procedure by the joint commission;

g) Official confirmation;

h) Complaint and other objections;

i) Monitoring and revision of objectives.

Article 62

Planning

1 – The planning of the assessment procedure, definition of objectives and setting of results to be achieved abides by the following rules:

a) The procedure is on the initiative and responsibility of the top manager of the service and should be done in accordance with the fundamental guidelines of documents that integrate the management cycle, the competences of each organic unit and the articulated management of activities, centred on transversal architecture of internal production procedures;

b) The definition of objectives and results to be attained by organic units must involve the

respective managers and remaining workforce, ensuring the standardization of priorities and the internal matching of the activity of the service with the results to be achieved, the identification and satisfaction of public interest as well as users' needs;

c) Cascade planning, when carried out, must highlight the inputs of each organic unit to final results envisaged for the service;

d) The definition of guidelines that ensure compliance with the percentages related to performance differentiation.

2 – The planning of objectives and results to be achieved by the service is taken into consideration by the assessment coordinating council to establish guidelines for an objective and harmonious application of the performance assessment system, setting of indicators, in particular those which are related to the attainment or exceeding objectives, and to validate the assessments of Relevant Performance and Inadequate Performance, as well as recognition of Excellent Performance.

3 – In the planning phase the necessary articulations are established in the application of several subsystems that make up the SIADAP, namely targeting the matching of objectives of service, managers and other workforce.

4 – The planning phase must take place in the last trimester of each calendar year.

Article 63

Self-assessment and assessment

1 – The aim of self-assessment is to involve those being evaluated in the assessment procedure and identify opportunities for professional development.

2 – Self-assessment is compulsory and is carried out by filling in a specific form, to be analyzed by the evaluator, if possible jointly with the employee being evaluated, of a preparatory nature to the granting of the assessment; it does not constitute a binding component for performance assessment.

3 – Assessment is undertaken by the evaluator as per the present law, the guidelines made by the assessment coordinating council and according to the parameters and respective performance indicators and submitted to that council for the purposes of harmonization of proposals for the granting the rates of Relevant Performance or Inadequate Performance or of recognition of Excellent Performance.

4 – Self-assessment and assessment must, as a rule, take place in the first fortnight of January.

5 – The self-assessment form can be requested by the evaluator or handed over by the employee being evaluated.

Article 64

Harmonization of proposals for assessment

As a rule, meetings of the assessment coordinating council are held in the second fortnight of January of the following year to that one in which the assessment cycle is completed with a view to analysing proposals for assessment and their harmonisation, so as to ensure compliance with the percentages relating to differentiation of performances setting, if necessary, new guidelines for the evaluators, following those which are provided for in subparagraph d) of paragraphs 1 and 2 of article 62 and initiate the procedure that leads to the validation of Relevant Performances and Inadequate Performances and the recognition of Excellent Performances.

Article 65

Assessment Meeting

1 – During the month of February of the following year of that one which the assessment cycle is completed, and after the harmonisation referred to in the preceding article, a number of meetings with evaluators with each of the respective persons being evaluated is held, to make the assessment known.

2 – In the course of the meeting, evaluator and the employee being evaluated shall analyse jointly the profile of the public employee's evolution, identify his/her expectations of development as well as dealing with further effects provided for in article 52.

3 – The assessment parameters in the course of the meeting and under the terms of the following articles are contracted taking into consideration the objectives set for the respective organic unit.

4 – The assessment meeting is scheduled by the evaluator or requested by the one being evaluated.

5 – In cases where the aforementioned request does not obtain a response within the legal time limits, translated in the scheduling of a meeting, the employee being evaluated may request from the top manager for the referred to scheduling.

6 – In the case of a meeting being not scheduled as per the preceding paragraph, the employee being evaluated may request from the competent member of the Government to lay down the guidelines necessary for the timely compliance with the provisions stipulated in the present law.

7 – The situation provided for in preceding paragraphs is taken into consideration for the assessment purposes of managers involved.

Article 66

Contracting of parameters

1 – At the beginning of each annual assessment period and at the start of the fulfilment of a new position or function, as well as in all circumstances in which it is possible to set objectives to be attained, a meeting is held between the evaluator and the one being evaluated, that is intended to fix and register on the assessment form the objectives and competences to be shown, as well as the respective measurement indicators and criteria of exceeding objectives expected.

2 – The negotiation meeting referred to in the preceding paragraph must be preceded by an analysis meeting of the manager with all persons being evaluated who make up the respective organic unit or team. Such a meeting is compulsory whenever shared objectives exist resulting from the documents integrating the management cycle.

Article 67

Contracting of objectives

Without prejudice of provisions laid down in article 46, the contracting of objectives to be attained is undertaken in accordance with the following rules:

a) The objectives to be attained by each worker shall be defined by the evaluator and the one being evaluated at the beginning of the assessment period, however in the case of non agreement the position of the evaluator prevails;

b) The identification of results of individual improvement and development of the public employee is compulsory in one of the objectives, when results from a diagnosis made in the scope of performance assessment rated as Inadequate Performance;

c) The objectives of improvement and development of the public employee may be of a relational scope, attitudes or obtaining of technical competences and working methods.

Article 68

Contracting of competences

1 – Without prejudice to provisions laid down in article 48, the setting of competences to be assessed is made according to the following rules:

a) The competences to be developed by public employees are defined and listed in specific profiles, resulting from the analysis and qualification of functions corresponding to the respective career, category, functional area or job post, and are materialised in specific models of adaptation to SIADAP 3;

b) The identification of competences to be shown in the annual performance of each public employee is made from among those which are related to the respective career, category, functional area or job post, preferentially by

agreement among the stakeholders in the assessment.

2 – The selection of competences to be assessed is made from among those which are set out in the list to which is referred to the paragraph. 6 of article 36, whenever which is predicted in subparagraph a) of the preceding paragraph is not verified, translated in the regulatory instruments of adaptation of SIADAP.

Article 69

Validations and recognitions

1 – Following the assessment meetings, coordinating council meetings are held with a view to:

a) Validating the proposals for assessment with rates of Relevant Performance and Inadequate Performance;

b) Analysing the impact of performance, namely for purposes of recognition of Excellent Performance.

2 – The recognition of Excellent Performance implies formal declaration of the assessment coordinating council.

3 – In the case of the assessment proposal being not validated, the assessment coordinating council sends back the process to the evaluator accompanied by the justification of non validation, in order that the evaluator, within the stipulated time limit, reformulate the proposal for assessment.

4 – In the case of the evaluator deciding to maintain the previously formulated proposal, he/she must submit adequate reasoning before the assessment coordinating council.

5 – In the case of the assessment coordinating council does not agree with the proposal submitted under the terms of the preceding paragraph, it shall establish the final assessment proposal, that shall be transmitted to the evaluator in order that this one make the employee being evaluated known and forwards said proposal, through official hierarchical channels, for confirmation.

Article 70

Appraisal by the joint commission

1 – The assessed public employee, after being aware of the assessment proposal, which shall be subject to confirmation, may request from the top manager of the service, within the time limit of 10 working days, that his/her process be submitted for appraisal by the joint commission, presenting the justification necessary for such appraisal.

2 – The request shall be accompanied by documentation supporting the grounds of the request for appraisal.

3 – The hearing of the joint commission shall not in any case whatsoever be refused.

4 – The joint commission may request from the evaluator, the employee being evaluated or, if that is the case, from the assessment coordinating council the data that it deems convenient for its further and better clarification, as well as invite evaluator or employee being evaluated to express their position, for a single time, in a hearing, the duration of which shall not exceed thirty minutes.

5 – The appraisal of the joint commission is made within the time limit of ten working days calculated from the date on which has been requested and is expressed through the reasoned report with a proposal for assessment.

6 – The report provided for in the preceding paragraph is subscribed by all members and, in the case of not being reached a consensus, must contain alternative submitted proposals and respective justification.

Article 71

Confirmation of assessments

The confirmation of performance assessments is of the responsibility of the top manager of the service, must be, as a rule, made by 30 April and said confirmation shall be brought to the attention to the employee being evaluated within the time limit of five working days.

Article 72

Complaint

1 – The time limit for lodging a complaint on the confirmation is of 5 working days starting on the date said confirmation became known, the respective decision on the complaint shall be taken within the maximum dead line of 15 working days.

2 – The top manager when deciding on the complaint shall take into account the grounds submitted by the employee being evaluated along with the evaluator, as well as the reports from the joint commission or of the assessment coordinating council on previously submitted requests for appraisal.

Article 73

Other contests

1 – The confirmation act and the decision on the complaint may be the subject of administrative contest, by means of hierarchical or supervising appeal, or judicial contest, under the general terms.

2 – A favourable administrative or judicial decision confers upon the public employee the right to his/her assessment be reviewed or to a new assessment be granted.

3 – Whenever the revision of the assessment shall be not possible, namely by subsequent replacement of the evaluator, the new hierarchic superior or the top manager of the service shall be empowered for that purpose, who shall be responsible for carrying out a new assessment.

Article 74

Monitoring

1 – In the course of the assessment, suitable means to monitor performances are adopted. Likewise, the respective joint analysis between evaluator and the employee being evaluated is undertaken or within the organic unit so as to make feasible:

a) The reformulation of objectives and of results to be attained, in cases of subsequent limitations that prevent the predicted course of the activity;

b) The clarification of aspects that show to be useful to the future assessment act;

c) The participated collection of thoughts on the effective way of performance development, as a justification of final assessment.

2 – The provisions laid down in the preceding paragraph are carried out on evaluator's initiative or at the request of the employee being evaluated.

Article 75

Performance differentiation

1 – Without prejudice of provisions laid down in subparagraph a) of article 27, the differentiation of performances is ensured through the setting of the maximum percentage of 25 % for final qualitative assessments of Relevant Performance and, from among these ones, 5 % of the total number of public employees for the recognition of Excellent Performance.

2 – The percentages provided for in the preceding paragraph fall upon the number of public employees provided for in paragraphs. 2 to.7 of article 42, rounded up, if necessary, and must, as a rule, be distributed pro rata for all careers.

3 – The percentages referred to in paragraphs 1 and 2 shall be brought to the attention to all public employees being evaluated.

4 – The granting of percentages is of the exclusive responsibility of the top manager of the service; he/she is also responsible for ensuring the strict compliance with these percentages.

5 – The number of objectives and competences to be set in the assessment parameters and respective weightings shall be previously laid

down, under the terms of the present law, namely as per subparagraph c) of paragraph 1 of article 58, taking into account the need to ensure a suitable differentiation of performances.

TITLE V

Information system of support to performance management and control actions

Article 76

Management and follow-up of SIADAP 3

1 – The provisions laid down in the present law in matters pertaining to assessment processes and respective supporting instruments does not impede their compliance with in an electronic version and, when appropriate with use of digital signatures.

2 – It is incumbent upon the secretariats-general of each ministry to draw up summary reports showing the way how SIADAP 3 was applied in the scope of the respective services, namely as to the planning phase and in relation to results of final assessments.

3 – The Directorate General for Administration and Public Employment (DGAEP) is responsible for:

a) Following-up and supporting the application of the performance assessment, namely through the production of instruments of normative orientation;

b) Drawing up annual report that shows the way how the SIADAP was applied to the Public Administration.

4 – For the purposes laid down in the preceding paragraph, the DGAEP collects information at services empowered in matters pertaining to planning, strategy and assessment and at secretariats-general.

5 – All the processes of transmission of information in the scope of each ministry and of feeding up relevant data bases shall have an electronic support. In its turn, the statistical processing and liaison to the statistical handling must be gradually made in an automatic way.

6 – The structure and content of the reports referred to in preceding paragraphs shall be the subject of harmonisation by means of an order of the member of the Government responsible for Public Administration area.

Article 77

Publicizing of results

1 – The overall results of the application of SIADAP are annually made known in each

service. It must also contain the number of qualitative rates granted by career.

2 – The overall results of the application of SIADAP are externally publicised by DGAEP, namely on its electronic page.

Article 78

Control actions

The Inspectorate General for Finance conducts audits to assess the way in which services apply performance assessment subsystems.

TITLE VI

Transitional and final provisions

Chapter I

Transitional provisions

Article 79

Electronic page

Information relating to the application of SIADAP is publicised under the terms of the present law, on the service electronic page and in the case of non-existing documents such information is publicised by displaying them in a suitable place of free access in a place publicly announced.

Article 80

Assessment based upon competencies

1 – In exceptional cases, the performance assessment may focus only on the parameter “competencies” provided for in subparagraph b) of article 45 by means of a reasoned decision of the service top manager after the assessment coordinating council being heard and abiding by provisions in following paragraphs.

2 – The assessment to be undertaken under the terms of the preceding paragraph is only acceptable in the case of being cumulatively met the following requirements:

a) If it deals with of public employees for whom, in the recruitment for the respective career, academic qualifications are required at the compulsory schooling level or equivalent;

b) If It deals with public employees fulfilling activities or day-to-day tasks characterized to a large extent as routine work, of a permanent, standardized nature previously established.

3 – (Repealed).

4 – «Competences» are chosen beforehand for each public employee, not less than eight.

5 – In the choice of «Competences» the provisions laid down in paragraphs 6 and 7 of article 36 and article 68 are applied, being however, compulsory a competence that underlines the capacity to carry out and orientate towards results.

6 – Whenever for the fulfilment of his/her functions the public employee is in regular professional contact with other public employees or users, the evaluator must take into account their perception of the performance, as an input to the assessment. This input must be registered in the assessment process and reflected in the assessment of «Competences».

7 – For the assessment of each competence under the present article, provisions laid down in paragraph 1 of article 49 are applicable.

8 – Each competence may be granted diverse weighting so as to highlight the respective importance in the fulfilment of functions and to ensure the performance differentiation.

9 – The final assessment is the simple or weighted arithmetic average given to the competences chosen for each public employee.

10 – The assessment carried out under the terms of the present article shall be subject with due adaptations to the provisions laid down in titles IV and V.

Article 81

Application Strategy

1 – By 30 November of each year, the services initiate or pursue the construction of the QUAR provided for in article 10 and, in the guideline framework set by the respective members of the Government, propose objectives to be pursued in the following year and establish performance indicators and respective sources of checking.

2 – The services that, in different ministries, are competent in matters pertaining to planning, strategy and assessment follow-up and validate under the terms of the present law, the compliance with provisions laid down in the preceding paragraph.

3 – By 15 December of each year, the members of the Government referred to in the paragraph 1 approve the annual objectives of each service.

4 – The SIADAP application strategy relating to performances fulfilled in 2008 abides by the following rules:

a) Actions and decisions provided for in paragraphs 1 and 3 are observed and taken within a time limit of 21 and 30 days respectively after the date of the coming into force and effect of the present law;

b) The charters of mission of senior managers that on the date of the coming into force of the present law still have not received them due to the fact of not being applicable the legislation in force

to such managers, said charters shall be subscribed within the time limit of 30 days after that date.

Article 82

Specific Systems of Assessment

1 – The performance assessment relating to 2008 in services and organisations, as well as in special regime careers and special corps that have a specific performance assessment system that has not been applied yet under the terms of paragraph 3 of article 2 or of article 21 of the Law no 10/2004, of 22 March is carried out in accordance with the respective specific system, until its adaptation as per article 3 and paragraph 2 of article 86.

2 – In the case of the specific systems referred to in the preceding paragraph do not predict the percentages of differentiation of performances stipulated in article 15 of Law no. 10/2004, of 22 March, the qualitative rates and quantifications granted are submitted to the member of the Government concerned for confirmation, targeting the verification of the distribution balance of rates for several performance levels.

Chapter II

Final provisions

Article 83

Extension of the scope of application

The provisions laid down in the present law relating to SIADAP 3, save if the law or adaptation regulation provided for in article 3 otherwise stipulate, are also applicable with due adaptations, to current public employees in their capacity of established civil servant or employees of legal entities that are excluded from its scope of application.

Article 84

Casting Criteria

When for the purposes provided for in the law, be necessary to carry out casting between public employees and managers who have the same final rate in the performance assessment, takes into consideration consecutively the assessment obtained in the parameter of «Results», the last preceding performance assessment, the length of service relevant in the career and in the fulfilment of public functions.

Article 85

Previous assessments and conversion of results

1 – SIADAP shall be used in situations provided for in the law in which it is necessary to take into account the performance assessment or the classification of service. The results of application of several assessment systems, for conversion of quantitative values are also taken into consideration. Any other scales shall be converted pro rata for SIADAP scale and rounded down when appropriate.

2 – In situations provided for in the preceding paragraph in which there has been only the granting of qualitative rating or of quantitative values not subject to percentages of performance differentiation, a curricular weighting is undertaken, as per article 43, by an evaluator assigned by the top manager of the service.

3 – In the case provided for in paragraphs 5 and 6 of article 42 for the purposes of the respective career, the last assessment granted is also taken into account under the terms of:

a) SIADAP approved by Law no. 10/2004, of 22 March;

b) Evaluation systems approved as per paragraph 3 of articles 2 and 21 of the referred to law in the preceding paragraph establishing percentages of differentiation in accordance with the principle of differentiation of performances stipulated in article 15 of same legal text;

c) No. 3 of article 2 of Law no. 15/2006, of 26 April

4 – In the case of those who have not a performance assessment undertaken from 2004 to 2007 inclusive on grounds not imputable to them, namely for relevant legislation being not applied to matters pertaining to performance assessment facing their functional situation, a curricular weighting may be requested, pursuant to article 43, by an evaluator assigned by the top manager of the service.

Article 86

Revision of assessment systems

1 – The assessment systems in force are maintained. These systems were approved under the terms of paragraph 3 of articles 2 and 21 of Law no. 10/2004, of 22 March, up to their revision for adaptation pursuant to the present law, which shall take place by 31 December 2009, under penalty of expiry.

2 – The specific assessment systems not covered by the provisions laid down in the preceding paragraph stand in force until their revision for adaptation to provisions laid down in the present

law, which shall occur by 31 December 2008, under penalty of expiry; their application is subject to rules provided for in article 82.

3 – The lapse of periods provided for in paragraphs 1 and 2 does not affect the application of provisions laid down in the present law in matters pertaining to SIADAP 1 and SIADAP 2 with regard to senior managers and the application of the transitional regime referred to in article 80.

4 – Without prejudice to possible revision under the terms of articles 3, 5 and 6 the following systems are deemed adapted to the corresponding SIADAP subsystem:

a) The performance assessment system of the Assembly of the Republic/Parliament (SIADAR) governed by Resolution of the Assembly of the Republic no. 83/2004, of 29 December;

b) The performance assessment of nursery, primary and secondary public educational establishments, provided for in the Law no. 31/2002, of 20 December;

c) The performance assessment system of teaching staff provided for in the Career Statute of kindergarten, primary and secondary teachers, approved by Decree-Law no. 139-A/90, of 28 April, and changed by Decrees-Law nos. 1/98, of 2 January, and 15/2007, of 19 January;

d) The performance assessment of non-teaching staff of nursery, primary and secondary public educational establishments approved by Regulatory Decree no. 4/2006, of 7th March;

e) Other assessment systems the adaptation of which is recognised by joint order of supervising members of the Government and of those in charge of finance and public administration areas.

Article 87

Regulation

The Government adopts, by order, the instruments necessary to the application of the present law, namely the models of assessment forms in the ambit of SIADAP 2, for middle managers, and of SIADAP 3.

Article 88

Repealing norm

1 – Without prejudice to provisions laid down in the following paragraph the under-mentioned legislation is hereby repealed:

a) Law no. 10/2004, of 22 March;

b) Law no. 15/2006, of 26 April;

c) Regulatory Decree no. 19-A/2004, of 14 May.

2 – The provisions laid down in legal texts referred to in the preceding paragraph are applicable to

performance assessment procedures fulfilled by 31 December 2007 and, under the terms of paragraphs 1 and 2 of Article 86, to performances fulfilled by 31 December of 2009 and 31 December 2008, respectively.

Article 89

Coming into force and effect

The present law comes into force and effect as of the first day following its publication.

Passed on 8 November 2007

The President of the Assembly of the Republic,
Jaime Gama

Promulgated on 10 December 2007

Let it be published.

The President of the Republic, ANÍBAL CAVACO
SILVA

Countersigned on 11 December 2007

The Prime Minister, *José Sócrates Carvalho Pinto
de Sousa*