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Creating Change Together

CIVIL SERVICE PROFESSIONALISATION IN ARMENIA, AZERBAIJAN, GEORGIA, MOLDOVA AND UKRAINE

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Salvador Parrado

2 Rue André Pascal
75775 Paris Cedex 16
France

<mailto:sigmaweb@oecd.org>

Tel: +33 (0) 1 45 24 82 00

Fax: +33 (0) 1 45 24 13 05

www.sigmaweb.org

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EXECUTIVE SUMMARY

This report examines the professionalism of the civil service in five countries in the immediate eastern neighbourhood of the European Union – Armenia, Azerbaijan, Georgia, Moldova and Ukraine. For the purposes of the study, the narrow scope of public service is applied, covering the administrative bodies that are included in the scope of the civil service law at the level of central state administration.

The analysis is based on a framework that takes into account the set of principles of public administration in the public service and in human resources management (HRM), which was developed by SIGMA to monitor progress in EU candidate and potential candidate countries. The report uses primary and secondary sources. One primary source is a survey conducted on the basis of a self-assessment questionnaire sent to three stakeholders in each country (see the questionnaire in Annex II). Secondary sources include national civil service primary and secondary legislation, SIGMA reports and reports of other international organisations on various topics related to the civil service in the countries concerned, and relevant academic research. The questionnaire was filled by all central civil service units, only 20% of the EU Delegations (Georgia) and 20% of the NGOs (Ukraine). The survey was carried out between 4 June and 7 July 2014.

The scope of the civil service

The size of the civil service varies considerably among these five countries. There is a considerable contrast between countries with a civil service representing less than 3% of total public sector employment (Armenia and Azerbaijan) and those where the civil service constitutes more than half of public sector employment (Georgia). In comparative terms, there is a deficit of civil servants in some of the examined systems.

Most countries have a problem in identifying discretionary appointments at the top as civil servants. The only exception is Moldova, which has started in 2014 to implement merit-based recruitment for senior civil servants. The country with the largest extent of discretionary appointments is Azerbaijan (four levels as well as concrete political appointments). The scope of the civil service is in general too narrow and political appointees may exert discretionary power without much restriction.

The definition of civil servant in these systems does not help to distinguish this group that requires special protection from discretionary appointments and support staff. In the absence of a clear definition, the government could assign a position to a civil servant or a political appointee in the upper part, or to a civil servant or support staff, for whom the labour code (which grants less protection) should be applied.

Finally, from a horizontal perspective, some areas of the public sector are not protected by the civil service law in these countries: local officials in Ukraine, some staff of the administrative bodies in the Ministry of Interior in Moldova or other areas of the state administration in Armenia.

The institutional set-up for consistent and effective human resource management practices

The location of the civil service central unit ranges from the institutional independence of the Armenian Civil Service Council (with an advisory seat in the Council of Ministers) to the direct subordination to the President (Azerbaijan), or to the Prime Minister (recently) in Georgia. The weakest institutional position corresponds in theory to civil service central unit of Moldova, which is a division of the State Chancellery.

The institutional position of the civil service unit is not sufficient to assess its capacity to coordinate the implementation of consistent and effective human resource management practices. For instance, in Moldova the head of the division of the State Chancellery has more capacity than its counterparts from other countries to take active part in the drafting of legislation, in decision-making and in drafting main human resource strategies. Moreover, most central units, except for the Armenian one, have a low number of staff as to be able to monitor HRM practices. This is a key challenge especially for the application of merit-based criteria in recruitment and in other processes.

Merit based recruitment and career of civil servants

The use of merit as the basis for recruitment differs among the eastern neighbourhood countries. In Georgia and Ukraine, country authorities have reported that only up to half of civil servants are selected based on merit. Moldova and Armenia are the countries where merit-based recruitment is more deeply rooted in the system. However, this self-reported position masks the fact that a) many positions are occupied through promotion or other instruments, such as the reserve list, without competition for the particular position; and b) positions at some levels of the organisation are labelled as civil service positions but appointment is discretionary. In addition to this, some countries still face problems in the application of a truly merit-based recruitment system. As indication of this, the average number of candidates and the percentage of vacancies covered by external competition are low. Finally, there are problems in some countries when considering the composition of the competition commission (especially when it is dominated by staff from the public authorities of the vacancy like in Georgia, Moldova and Ukraine) or when shortlisting candidates, since the head of the appointing authority is not obliged to select the first candidate on the shortlist, and no justification is required for such a decision (Armenia, Azerbaijan).

Objectivity of termination of civil service

Dismissals still take place in some countries after reorganisation and abolition of an administrative body (Armenia, Georgia). In some countries, dismissed civil servants are placed on a reserve list (Armenia only after reorganisation, Azerbaijan, Georgia, Moldova – although diminishing –, and Ukraine, although not legal). Also, ‘voluntary’ dismissals have been used intensively in Georgia after a change of government.

Fair and transparent remuneration system

The salary system in the eastern neighbourhood countries for similar positions in different administrative bodies is in general unfair, because the countries lack an appropriate classification system that helps to assess the “value” of a particular position in several dimensions according to its tasks, responsibility and impact.

Furthermore, some remuneration systems lack transparency in the use of bonuses. Heads of administrative bodies exercise considerable discretion in this regard, trying to compensate low salary levels. A final issue is the low competitiveness of civil service salaries compared to those in the private sector.

Professional development of civil servants: training and performance appraisal

Training has not been a high priority in most of the eastern neighbourhood countries. The legislation varies among the countries and it can be very scarce with regard to training. A common problem regarding training in the region is that it is not strategically planned and it does not benefit from a sound needs assessment system. The only exceptions are Azerbaijan and Moldova. Moreover, the civil service central units play a variable but limited role in the planning of training, which in some cases means

gathering the requests from individual authorities. Finally, performance appraisal is hardly used to recommend training to individual civil servants.

All countries have a performance appraisal system, except for Georgia. While Ukraine has a system, it is not highly developed. Azerbaijan was starting to implement performance appraisal at the time of writing. Armenia, Georgia and Ukraine also have an attestation system, which works like an on-the-job competition but only to certify that the civil servant has the knowledge to perform his/her functions in a particular position. The use of attestation and performance appraisal at the same time confuses the purpose of a real appraisal of the achievement of results.

The link between performance appraisal and other HRM processes (training, promotion and bonuses, especially) is still weak in the countries of the region. In Moldova, performance appraisal is used for promotion and training needs assessment. However, since there are insufficient financial resources to promote everyone, the system may create some frustration among civil servants. The inflation of appraisal grades is also an issue since the system does not discriminate good from bad performers.

Implementation of disciplinary procedures

All eastern neighbourhood countries have legislation on disciplinary sanctions. A majority of the countries still require a better legislative technique to regulate this issue so that cases of misconduct are matched with appropriate disciplinary sanctions.

Promotion of integrity and prevention of corruption

Legislation and policies are in place to promote integrity and prevent corruption in the civil service in all of the Eastern neighbourhood countries. The legislation normally covers all of the imaginable areas where integrity is at stake: e.g. income declaration; receipt of gifts; incompatibility of performing two paid positions; and after leaving the civil service, working in a private sector organisation connected to the area in which the civil servant had supervisory powers. Whistle-blower protection is also in place in most of the countries except Azerbaijan.

These measures do not work in practice. The perception of society is that corruption is still very high according to the TI Corruption Perception Index in all of the countries in the region except Georgia. Apart from other issues, a common problem in all these countries is that the monitoring and enforcement capacity in a central unit is insufficient to enforce the legislation.

The civil service policy and legal framework is based on administrative law principles

Some administrative law principles are explicitly mentioned in the civil service laws of eastern neighbourhood countries, but most countries do not mention all of the principles. The adoption of these principles has not been put into practice in some HRM processes. Transparency and openness are lacking in most of the countries in the management of recruitment, promotion, dismissal and the payment of bonuses. Predictability is absent in the payment of bonuses. Since bonuses in some countries constitute a considerable part of the salaries and managers grant bonuses in a discretionary way, civil servants cannot predict the rewards that they are going to receive in the future, as some variable rewards depend on subjective, non-objective criteria.

Main recommendations

Several recommendations can be applied to all eastern neighbourhood countries.

1. The scope of the civil service requires some amendments. It is recommended to establish a homogeneous regime for all positions that involve the exercise of public powers conferred by public law and that have responsibility for safeguarding the general interests of the state or other public

bodies (i.e. the horizontal scope) and to clearly determine the upper and lower dividing lines among political appointees, public servants and support staff (i.e. the vertical scope).

2. Civil servants need to be clearly distinguished from political appointees, i.e. political positions should be excluded from the scope of the civil service. In some systems, the number of upper levels within the scope of the civil service requiring civil service protection should be expanded.

3. A senior civil service should be established in a majority of the countries in order to ensure sustainability, coherence and professionalism of the civil service as well as to avoid its fragmentation and politicisation.

4. The role of the civil service central units should be sufficiently equipped with the necessary resources and instruments in order to take part in the design and monitoring homogeneous standards on the main HRM processes across the civil service apart from all the functions that the legislation bestow on these units. A better balance between an excessive independence of HRM units in individual administrative bodies and a strong centralisation of the civil service central unit is needed.

5. Competition should be introduced in promotions. Recruitment processes still require protection against discretionary practices in some countries.

6. A principle, not a rule, should establish that the composition of any administrative body in the civil service is to be gender balanced, and the application of under-represented gender group for higher-level positions should be encouraged. Positive, legally binding discrimination should be avoided.

7. A plan to secure financial resources for increasing the competitiveness of civil service salaries is required. Efficiency measures are probably needed for the implementation of this plan, which may affect civil service size, so that savings can be used for the payroll.

8. The proportion of the variable (bonuses and allowances) part of the salary should be changed. It should not rise above the level of 20% of total remuneration so as to ensure that monetary rewards are predictable. Discretion when granting bonuses should be reduced.

9. The fairness of the system should be enhanced by improving the job classification system and by reducing the discretion of agency heads in the assignment of positions to particular levels of civil servants.

10. All of the countries need to implement a performance appraisal system that is at least linked to the assessment of training, development needs and promotions, if internal open competition is not used.

11. Consideration should be given to abolishing the attestation system so that the real purpose of performance appraisal is not affected by an instrument of little use.

12. In general, a better legislative technique is required for disciplinary sanctions so that managers can easily use them. The scale of misconducts and sanctions in particular has to be worked out to ensure proportionality between the misconduct and the respective sanction.

13. Countries need to make more efforts to implement further (or even adopt) a code of ethics by disseminating it not only civil servants but also among civilians. In this regard, training and awareness raising should be incorporated into a core strategy.

14. More attention should be given to monitoring and enforcement by adopting a risk-based approach. This approach implies the strengthening of enforcement mechanisms in the areas where the risk of unethical practices has a greater impact and where the probability that unethical behaviour will occur is higher.

INTRODUCTION

This report examines the professionalism of the civil services of five countries in the immediate eastern neighbourhood of the European Union – Armenia, Azerbaijan, Georgia, Moldova and Ukraine. The EU, under the European Neighbourhood Policy, has supported reforms in these countries since 2009, mainly in the areas of good governance, the rule of law and fundamental freedoms, and sustainable economic and social development. The focus of this study is the establishment of accountable and effective civil service systems, which is one of the building blocks for the implementation of reforms in these areas.

EU Member States have, to a high degree, autonomy in the organisation of their civil services and administrative legal frameworks because there is no *acquis communautaire* setting the standards for national public administration and civil service systems. A wide consensus has nevertheless emerged concerning the key components of good governance in the EU, including the concept of “Good Administration”¹, which responds to the expectation and requirement of a balanced approach to safeguarding the public interest while respecting the rights and interests of citizens. Good Administration is at the service of the community and promotes social trust in the executive power, including the civil service. It thus contributes to political stability and fosters economic development and social wealth. In contrast, a malfunctioning administration is an obstacle to productive investment and a healthy business climate and risks leading to the resistance and protest of citizens against the state and, in the worst case scenario, to a failing state.

Armenia, Azerbaijan, Georgia, Moldova and Ukraine are neither accession nor pre-accession countries of the EU, but as one of the key objectives of the European Neighbourhood Policy is the implementation of public administration reform², these neighbouring countries need to establish civil service systems that are legally well-designed and managed. Each system should be professionalised on the basis of national strategies so as to ensure the capability of the government to safeguard the overall interests of the state, provide better public services, and foster competitiveness and growth, thereby ensuring democratic governance.

In 2014 the EU signed Association Agreements with Georgia, Moldova and Ukraine, each of which provides for a “Deep and Comprehensive Free Trade Area”. This free trade provision means significantly deeper political and economic ties between the signatories, and it thus emphasises the importance of having a professional and accountable civil service in place to enable the implementation of the Association Agreement.

The main objective of this study is to analyse civil service professionalisation in Armenia, Azerbaijan, Georgia, Moldova and Ukraine. The analysis is based on a framework that takes into account the set of principles of public administration in the public service and in human resources management (HRM), which was developed by SIGMA to monitor progress in EU candidate and potential candidate countries. The use of this framework means that the “baseline” set for the eastern neighbourhood countries has been set relatively high, but it nevertheless enables the identification, on the one hand, of common

¹ Article 41 of the Charter of Fundamental Rights of the European Union (2000/C 364/01)

² European Commission and European External Action Service (27 March 2014), “Implementation of the European Neighbourhood Policy in 2013 – Regional report: Eastern Partnership”

challenges for the entire region and, on the other, country-specific challenges in comparison with a coherent set of minimum requirements for a functioning public administration³.

Against this background, the report is divided into three parts. It first explains the context and methodology of the study. Second, the report provides a comparative analysis of civil service professionalism in Armenia, Azerbaijan, Georgia, Moldova and Ukraine by identifying the common strengths and weaknesses in civil service systems and proposing recommendations for sustainable civil service reforms in the region. Third, it provides five individual country reports, in accordance with the main principles of the civil service and human resources management, identifying country-specific challenges and proposing priorities for action to ensure the further professionalisation of each country's civil service.

³ See SIGMA (2014), *The Principles of Public Administration*, <http://www.sigmaweb.org/publications/Principles-Public-Administration-Nov2014.pdf>; and

SIGMA (1999), *European Principles for Public Administration*, SIGMA Papers no. 27, http://www.oecd-ilibrary.org/governance/european-principles-for-public-administration_5kml60zwd7h-en.

1. CONTEXT AND METHODOLOGICAL FRAMEWORK

The countries in the EU's eastern neighbourhood started to develop their national public administrations at the beginning of the 1990s, after declaring their independence from the Soviet Union. The oldest civil service law in the region is therefore only 21 years old (Ukraine) and the most recent law is six years old (Moldova). In the period between these two laws, Georgia (1997), Azerbaijan (2000) and Armenia (2001) launched their civil service legislation. The laws are young in institutional terms, and it is clear that all of the systems are still struggling with the establishment of a well-functioning civil service system.

The development of the legal framework and the institutional set-up for the civil service and human resources management is dependent on the overall governance system of the countries – Azerbaijan has a presidential system, Armenia and Ukraine semi-presidential systems, and Georgia and Moldova parliamentary systems. This aspect will be taken into consideration when analysing the civil service systems.

For the purposes of the study, the narrow scope of public service is applied, covering the administrative bodies that are included in the scope of the civil service law at the level of central state administration. The study will not cover institutions at the sub-national level of the administration, the special types of civil service, elected and politically appointed officials, and support and ancillary personnel in administrative bodies.

The report uses primary and secondary sources. One primary source is a survey conducted on the basis of a self-assessment questionnaire sent to three stakeholders in each country (see the questionnaire in Annex II). Secondary sources include national civil service primary and secondary legislation, SIGMA reports and reports of other international organisations on various topics related to the civil service in the countries concerned, and relevant academic research.

The survey is not meant to be representative. Designed as a self-evaluation tool, it therefore plays a different role than that of a representative survey. Self-evaluation questionnaires are common in the area of quality management. In that area, the self-assessment exercise is linked to an "excellence model", such as EFQM (European Foundation Quality Management), CAF (Common Assessment Framework), or the Malcolm Baldrige National Quality Award. The excellence model serves as a tool to help managers to check the organisation's management "health" according to a systematic scoring device. In quality management, a final score normally results from the self-assessment. If the organisation wishes to have a comparison from an independent viewpoint, managers normally apply for a quality award or a certification process. External assessors then compare the scores. A similar philosophy has been applied for this study, but without using an overall scoring system and without sending reviewers to the country, mainly due to resource limitations.

The process used for the survey was as follows. The questionnaire was divided into 12 sections, which resembled the structure of the principles of public administration in the area of public service and human resources management that was used by SIGMA in 2014 to analyse progress in this area in EU candidate and potential candidate countries. The questions focused on normative statements reflected in the principles. Country authorities were asked to give descriptions of the system in terms of the way it operated in practice, not only with regard to the requirements prescribed by law. In addition, if empirical information was not available, countries were then asked to rate the answer to a particular question on a five-point scale. For instance, a typical scale question was the following: If a general code of ethics exists, to what proportion of civil servants is it adequately applied (i.e. a code of ethics has been adopted by the institution and it is enforced, as civil servants obey it)? In the absence of data, an estimate was requested. The scaled answers were: 1) no one (or hardly anyone); 2) a low proportion (between no one and a quarter of all civil servants); 3) a medium proportion (between a quarter and a half of all civil

servants); 4) a high proportion (between a half and three quarters of all civil servants); 5) a very high proportion (more than three quarters of all civil servants). In addition to providing those answers, country authorities were asked to complete a list with “hard”, objective indicators over the last three years.

The questionnaire was sent to three respondents in each country: the official representative of the government in charge of managing and co-ordinating the civil service, a representative of the EU Delegation to the country, and a representative of civil society with expertise in human resources management in the public sector. The response rate was lower than expected among non-officials. While 100% of the civil service central units of the countries replied, only 20% of the EU Delegations (Georgia) and 20% of the NGOs (Ukraine) replied to the survey’s questionnaire. The survey was carried out between 4 June and 7 July 2014.

This self-assessment can be seen as a pilot exercise in which assessors have not been sent to the countries concerned. The normal role of assessors is to challenge country authorities in their statements and in their scale scores. Instead of using this approach, this report compares the findings of previous SIGMA peer reviews in the area of civil service (carried out full-scale only in Moldova in 2011), the views of external experts (only partly for Georgia and Ukraine), and reports from other international and academic sources with the self-assessments of the country authorities and with their own objective indicators.

This version of the report does not take account of the fact-checking reviews by the country authorities. It offers a preliminary view of the external assessment by using the triangular sources mentioned above.

Compared to previous SIGMA assessments and reviews, this report is more limited, as it has not been supported by on-site visits to the countries. Nevertheless, it offers a good opportunity to try a new methodology, which on-site visits could complement in the future. In contrast with previous assessments and reviews, this report provides less detail and focuses rather on the broad features of the civil service systems in the five countries.

In summary, when reading the report some caveats have to be borne in mind. First, the empirical fieldwork does not pretend to be based on a representative sample. Since the results of this exercise are basically aimed at helping the countries to find their position on the roadmap towards civil service professionalisation, with parameters that are comparable to those of their European counterparts, it is hoped that honest answers from the various stakeholders will help in this process. Second, the assessment of each system in a more nuanced perspective could have resulted from the solicitation of views from line ministries and other administrative bodies that implement the civil service primary and secondary legislation in practice. However, resource constraints did not allow this option. Finally, this report does not replicate or replace a full-scale review or assessment in which experts spend some time in the country interviewing the various stakeholders on a specific topic such as the civil service. This survey is a “proxy” instrument (to use computing language), which serves the purpose of establishing an approximate benchmark as well as a common vocabulary related to the strengths and weaknesses of a particular system and suggesting some solutions for overcoming any shortcomings.

Regarding the written style and structure, the report has the following features. First, countries are referred to without using the term “Republic”. Second, the reference of the legislation has normally been reduced to the number and year (148/2010), except for very common laws, such as the Civil Service Law and the Anti-Corruption Law. Finally, each section of the comparative chapter and the country-specific chapter starts with a paragraph describing the principle of civil service and human resources management. This paragraph is therefore repeated, for ease of reference, in the same section of each chapter. The only principle that is not separately covered in this report, although it was included in the questionnaire, relates to the senior civil service, since only one country (Moldova) has established a separate senior civil service. At the time of writing (October 2014), Moldova has recruited fewer than 10 persons for this service.

2. COUNTRIES OF THE EASTERN EUROPEAN NEIGHBOURHOOD (EEN) IN A COMPARATIVE PERSPECTIVE

2.1. Scope of the civil service

Principle: The scope of public service is adequate, clearly defined and applied in practice.

- There is a clear legal basis (i.e. law on civil service, laws on constitutional bodies, laws on special types of civil service) establishing the horizontal and vertical scope of the public service.
- The horizontal scope contains at least the positions with public authority to exercise powers conferred by public law and with responsibility for safeguarding the general interests of the state or other public bodies in the following institutions:
 - ministries and administrative bodies reporting directly to the Government, the Prime Minister or ministers, i.e. the civil service strictly speaking;
 - administrations of the Parliament, the President and the Prime Minister;
 - other administrative bodies at the level of central administration, if they are included in the scope of public service in terms of the public/civil service law;
 - constitutional and other independent bodies reporting to the Parliament.
- The vertical scope clearly determines the upper and lower division line between political appointees, public servants and support staff.
- Public servants are distinguished from political appointees, i.e. political positions are not included in the scope of public service.
- The scope of public service is applied in practice as established in the legal framework.

The size of the civil service and its relative weight in public sector employment help to understand the context in which professionalisation is introduced. There is a considerable contrast between countries with a civil service representing less than 3% of total public sector employment (Armenia and Azerbaijan) and those where the civil service constitutes more than half of public sector employment (Georgia) [see Table 1]. Likewise, there is a considerable difference between countries with a reduced public sector (Georgia, 5% of total employment), which is close to that of countries like Japan, Korea or Greece (OECD 2013) and those with a large public sector, such as Azerbaijan (25.9% of total employment) and Moldova (26%), which is comparable to the public sectors of Sweden (26.0%), Denmark (29.9%) and Norway (30.5%).

Table 1. Size of the civil service in Eastern European Neighbourhood (EEN) countries (2013)

	ARMENIA		AZERBAIJAN *		GEORGIA		MOLDOVA		UKRAINE	
	N	%	N	%	N	%	N	%	N	%
Civil Service	6 803	2.9	29 500	2.5	46 073	53.5	23 903	7.6	335 270	12.3
Public sector employment	238 000		1 169 400		86 030		316 500		2 716 200	
Public sector employment	238 000	20.3	1 169 400	25.9	86 030	5	316 500	26	2 716 200	13.3
Total employment	1 172 800		4 521 200		1 712 100		1 235 800		20 404 100	

* All levels of government are considered.

Armenia = http://www.armstat.am/file/article/armenia_13_4.pdf for public sector employees. All levels of government are considered.

Georgia: <http://csb.gov.ge/en/reform-in-civil-service>. The statistics do not reflect data from the following agencies: Ministry of Internal Affairs; Ministry of Defence; educational, religious and cultural legal entities of public law.

Moldova: Only civil servants at central level are considered.

In principle, the size of the civil service does not tell much about the professionalisation of the civil service. However, a more detailed assessment should evaluate whether a small civil service implies that some public servants lack the special protection they should enjoy and whether a large civil service means that support staff have extra protection whereas the labour code would suffice to regulate their contracts. The quality of the scope of the civil service lies in its vertical and horizontal dimensions, as indicated above in the text of the principle.

With regard to the vertical dimension, most countries have a problem in identifying discretionary appointments at the top as civil servants. The only exception is Moldova, which has started in 2014 to implement merit-based recruitment for senior civil servants. Once it is fully enforced, in Moldova there will be only one level of discretionary appointment between the minister and the highest civil servant. This set-up closely resembles the British conception of the civil service. Other countries offer a detailed list of discretionary appointments, bringing the number of politically appointed levels close to those of countries such as France or even the United States. It is difficult to establish a rule that clearly defines in a prescriptive way the border between political appointments and senior civil servants. The country with the largest extent of discretionary appointments is Azerbaijan (four levels as well as concrete political appointments). The scope of the civil service in Azerbaijan is too narrow, and political appointees may exert discretionary power without much restriction. The other EEN countries have by and large two levels of discretionary appointments.

It is more relevant to determine an adequate definition of a civil service position (e.g. to exercise powers conferred by public law and with responsibility for safeguarding the general interests of the state or other public bodies) in order to establish a vertical differentiation that distinguishes those positions requiring special civil service protection from the others. This definition is highly problematic in all countries. The definition does not help to distinguish the group requiring special protection. The differentiation is difficult in the upper and the lower parts of the civil service. In the upper part, it is not easy to ascertain the dividing line between responsiveness to political appointees and service in the general interest. In the absence of a clear definition, the government could assign a position, for instance in Georgia, to a civil servant, a political appointee or a free-lancer. The same could apply, with different labels, to the rest of the countries. In the lower part, in the absence of a clear definition (and a clear process), the same positions may be assigned to support staff for whom the labour code is applied, which grants less protection to public servants. Therefore, the civil service systems in all five countries

need to have a better definition of the civil service and a process to grant protection to particular positions.

The horizontal scope of the civil service also presents some common problems in all countries. First, some countries do not extend the protection of civil service status (either by law or by the capacity to act as an umbrella and a subsidiary law informing specific legislation) to local officials (for instance, Ukraine), to other special services like the staff working in the administrative bodies of the Ministry of Interior (Moldova, for example, where civil servants with special status have more privileges than civil servants with general status, including salary), or to other areas of the state administration (for instance, Armenia).

Second, the horizontal scope divides the civil service into “silos” and gives the impression that civil servants “belong” to a particular administrative body. The traditional organisational design of “silo” ministries accompany “silo” groups of civil servants. In European administrative systems, a civil servant defends the interests of the state (German, French or Spanish system), or of the government of the day by implying political partisan neutrality (United Kingdom), or of the Constitution (Italy). In this context, in European public administrations a civil servant is an instrument of the state and not of a particular administrative body. Countries like France, the Netherlands and the United Kingdom strive to form a group of civil servants who are flexible and transferable among positions in the various public authorities. The notions of transferability, mobility and the sense of belonging to the state are not well developed in the eastern neighbourhood countries.

Third, the legal technique used to define the vertical scope and the horizontal scope entails the inclusion in the civil service law of a list of all of the organisations applying civil service rules and of all positions for which a political appointment can be exerted. The full list of organisations and positions is common in a majority of the five countries studied. This list is not very practical whenever a restructuring of an organisation occurs or a new agency is created. In this sense, it is better to designate the broad category (e.g. legal independent entity, independent authority, agency or quasi-autonomous body) envisaged for the civil service and the hierarchical level at which discretionary appointments are permitted. The legal document creating a particular quasi-independent authority would then stipulate whether civil service rules are fully applied or only in a subsidiary way. Furthermore, the hierarchical levels of positions would determine whether recruitment is based on merit or is subject to discretionary appointment.

Recommendations

1. The scope of the civil service requires some amendments. It is recommended to establish a homogeneous regime for all positions that involve the exercise of public powers conferred by public law and that have responsibility for safeguarding the general interests of the state or other public bodies (i.e. the horizontal scope) and to clearly determine the upper and lower dividing lines among political appointees, public servants and support staff (i.e. the vertical scope).
2. Civil servants need to be clearly distinguished from political appointees, i.e. political positions should be excluded from the scope of the civil service. In some systems, the number of upper levels within the scope of the civil service requiring civil service protection should be expanded.
3. In some countries, some parts of the administration benefit from special legislation and do not apply the merit-based criteria foreseen in the civil service law. Efforts should be made to ensure that the civil service legislation serves as a framework law for the whole civil service.

2.2. Institutional set-up for consistent and effective human resources management practices

Principle: The institutional set-up enables consistent and effective human resource management (HRM) practices across the public service.

- Political responsibility for the public service is clearly established.
- A central co-ordination unit, sufficiently empowered and capable of leading, supporting and monitoring the implementation of the values, policy and legal framework of the public service is in place.
- A human resource management information system (HRMIS) to support the strategic workforce planning, management and monitoring of HRM practices in the public service is in place, including correct and complete data at the level of the entire public service, organization and individual public servant required by the legislation and enabling statistical information at a given date. The HRMIS interacts electronically with other national databases to avoid duplication of data gathering.
- Professional and consistent HRM services are ensured across the public service by sufficient capacity to manage the workforce and implement the public service legislation.
- Independent oversight of the public service is ensured.

The co-ordination capacity of the civil service central unit depends on its institutionalised place in the system. The variation is considerable in the countries studied, although most central units are placed in an influential position. Their location ranges from the institutional independence of the Armenian Civil Service Council (with an advisory seat in the Council of Ministers) to the direct subordination of the Council to the President (Azerbaijan) or to the Prime Minister (recently in Georgia). The weakest institutional position corresponds in theory to the civil service central unit of Moldova, which is a division of the State Chancellery.

More relevant than the institutional location is the real capacity of the central unit to influence decision-making on civil service matters. For instance, the Armenian civil service plays a minor role in policy making, and its autonomy is not institutionalised. A new President may not grant such independence to the Council. Closeness to the Georgian President did not convey any special advantages to the Civil Service Bureau, unlike in Azerbaijan, where direct reporting to the President enhances the role of the Council. In Moldova, where the location of the central unit is very much determined by the influence of the State Chancellery, the Division for Central Public Administration Reform and HRM exerts considerable influence on the system. A relatively permanent team in the division has built a steady network of HRM units in line ministries and other administrative bodies to implement the Civil Service Law. The head of the division takes an active part in the drafting of legislation, decision making and elaboration of main strategies. The institutional location therefore helps to exert influence, but other relevant elements are involved.

Another issue in the specialised HRM literature concerns the HRM staff ratio, which is defined as the number of HRM staff divided by the total headcount. The ratio of one HRM specialist to a full-time equivalent (FTE) refers to the number of regular FTE employees that each HRM specialist employee (also FTE) supports in the organisation. A common target for a particular organisation is 1:100 (one HRM specialist employee per 100 FTE employees).

The data in Table 2 show that only Armenia comes close to the 1:100 ratio, while the other countries lie well below that ratio. In that sense, according to the HRM literature Armenia would be considered to be more efficient, but further analysis has to complement this assertion. Furthermore, the ratio does not really replicate the research in the literature, which focuses on individual organisations. In order to determine a proper ratio, it is necessary to add all of the HRM specialists in the civil service central unit and in public authorities and then work out the ratio by considering the total number of civil servants. This ratio is only a proxy indicator.

Table 2. Ratio of staff in civil service central unit to total number of civil servants (2013)

	ARMENIA	AZERBAIJAN	GEORGIA	MOLDOVA	UKRAINE
Civil Service	6 803	29 500	46 073	23 903	335 270
Civil Service Central Unit	62	30	32	9	112
Number of Civil Service					
Central Unit staff members	9	1	0.6	0.4	0.3
per 1 000 civil servants					
Ratio per 100 civil servants	0.91	0.1	0.06	0.04	0.03

Source: Country authorities

This target might be meaningless without understanding the issues of size, national settings of institutions, and the role of the HRM function within the organisation. Some authors say that a smaller unit implies greater efficiency. However, authors like Brewster et al. (2006) argue that a downsized HRM unit does not necessarily lead to greater administrative efficiency. More research on the issue is required before applying this ratio without further tests. HRM functions should be further automatised, line managers should have greater HRM responsibilities, and administrative HRM processes (not strategic processes) should be outsourced. According to the report of the Labour British Government, *Putting the Frontline First – Smarter Government* (2009), the discussion on the HRM ratio makes sense when performance parameters are also taken into account. Data on the performance results of the civil services in the eastern neighbourhood countries is difficult to obtain, and as a result this information is only an approximation of their capacity to co-ordinate the system.

In the absence of precise performance information on the results achieved by HRM units (and not just a description of their tasks in the law), it is necessary to rely on the self-reported capacity of the civil service central unit to exercise its functions as established in the civil service law. As would be expected, the Armenian authorities consider that they now have the capacity to co-ordinate all of the functions as established in the Civil Service Law. The other countries studied consider that they have attained the level of three-quarter capacity (see Table 3 below), although Ukraine has reported that the situation has deteriorated in the last three years.

Table 3. Overall capacity of the civil service central unit to exercise its functions as established in the civil service law. Please estimate if data (self-reported) is not available.

	1	2	3	4	5	Trend
	Central unit is weak and cannot fulfil its role	Central unit has the capacity to adequately co-ordinate up to of its main functions as established in the civil service law				
		A quarter	Half	Three quarters	All	
Armenia						→
Azerbaijan						↑
Georgia						↑
Moldova						↑
Ukraine						↓

Source: Self-assessment reports of country authorities

However, the self-assessment report can be misleading, as the nature of the tasks carried out by each civil service central unit is not the same. It is therefore more relevant to enquire about the real tasks of each unit. Unfortunately, there is not enough information to assess this aspect, although there are some indications as to where the main problems can be found.

The civil service central units have difficulties in acting strategically and in monitoring properly the most relevant HRM processes, especially those linked to the application of merit criteria. In addition, a common critique is that these central units do not participate in determining the size of the workforce

corresponding to a particular ministry. They are deprived of an important tool that has an impact on other HRM processes. In some cases, taking part directly in recruitment (as in Azerbaijan) leaves little room for strategic planning. In most cases, the share of competencies between the central unit and the HRM units of the various administrative bodies requires further improvement, and in some cases the HRM units of administrative bodies have considerable independence and they do not coordinate with the Civil Service Central Unit (for instance, in Ukraine). Finally, the central unit could be involved as an independent actor in the recruitment of top positions, but this is not common.

Recommendations

1. The role of the civil service central units should be enhanced, and they should be empowered to participate in developing civil service policy, primary and secondary legislation; setting and monitoring homogeneous HRM standards across the civil service; co-ordinating strategic workforce planning and merit-based recruitment in the civil service; maintaining and co-ordinating the usage of the civil service HRMIS; providing guidance and assistance on implementation of civil service legislation; and reporting regularly on the state of affairs of the civil service to its oversight body and to citizens.
2. The civil service central units (with the exception of the Armenian Civil Service Council) need to be sufficiently equipped with the necessary resources and instruments in order to exercise the above functions. A better balance between an excessive independence of HRM units in individual administrative bodies and a strong centralisation of the civil service central unit is needed.

2.3. Merit-based recruitment and careers of civil servants

Principle: Recruitment is based on merit in all its phases.

- The recruitment and selection process in public service, either external or internal and regardless of the category/class of public servants, is clearly based on merit, equal opportunity and open competition. The public/civil service law should clearly establish that any form of recruitment and selection not based on merit is considered legally invalid.
- The general eligibility criteria for applying for public service positions and general provisions ensuring the quality of the recruitment are established in the primary legislation.
- The detailed regulations of recruitment and selection, including specific requirements for entering each category/class, job descriptions, competency profiles, selection methods, scoring system and composition of selection committees, are covered mainly by secondary legislation.
- The recruitment and selection committees include persons with expertise and experience in assessing different sets of skills and competences of candidates for public service positions, with no political interference.
- Open competitions for entering the public service are publicly announced nationwide to ensure transparency and attract as many candidates as possible.
- Candidates who are not appointed have the right to appeal unfair recruitment decisions.

Principle: Mobility, promotion and demotion of public servants are objective, transparent and based on merit.

- The mobility of public servants (secondment, temporary or mandatory transfer) is encouraged, established in legislation, based on objective and transparent criteria, and applied in practice.
- The functional promotion of public servants (on-the-job, horizontal and vertical promotion) is established in the legislation, based on the merit principle and objective and transparent criteria, and applied in practice.
- The demotion of public servants (transfer to a position with a lower rank/class) is established in the legislation, based on objective and transparent criteria, and applied in practice.

The use of merit as the basis for recruitment differs among the eastern neighbourhood countries. In Georgia and Ukraine, country authorities have reported that only up to half of all civil servants are selected based on merit. Moldova and Armenia are the countries where merit-based recruitment is more deeply rooted in the system. This is remarkable for Moldova, since it has the youngest civil service law. However, this self-reported position masks the fact that a) many positions are occupied through promotion or other instruments, such as the reserve list, without competition for the particular position; and b) positions at some levels of the organisation are labelled as civil service positions but appointment is discretionary. A more strict assessment of the use of merit in practice would reduce the position of some countries in the scale provided below in Table 4, because in those countries there is external competition but internal competition is not (or very rarely) applied (see below) or too many layers of positions are subject to discretionary appointment.

Table 4. To what extent are civil servants really employed on merit and in open competition?

	1	2	3	4	5
	Hardly anyone	Up to a quarter	Up to half	Up to three quarters	More than three quarters
Armenia					*
Azerbaijan				*	
Georgia					
Moldova					**
Ukraine			*		

Source: Self-assessment reports of country authorities

* Senior civil servants are given a wrong label in the legislation, as they are selected by means of discretionary appointments.

** Senior civil servants are being recruited on the basis of merit at the time of writing, but this recruitment has affected only a minor portion so far.

A change of government is still a concern in some of the countries in the region. For instance, in Ukraine up to a half of civil service vacancies were not filled on the basis of merit (up to a quarter in Azerbaijan) [see Table 5].

Table 5. After the last change of government, what proportion of civil service vacancies were not filled on the basis of merit?

	1	2	3	4	5
	Hardly anyone	Up to a quarter	Up to half	Up to three quarters	More than three quarters
Armenia					
Azerbaijan					
Georgia					
Moldova	*				
Ukraine					

Source: Self-assessment reports of country authorities

* 2011 – 8.7%; 2012 – 4.8%; 2013 – 3.9%

Some problems shared by the countries concern the organisation of open competitions. First, the average number of candidates per vacancy was relatively low (fewer than six) in three countries in 2013, while only Georgia had a fairly average number of candidates (53) per vacancy (see Table 6 below). Without further research, it is difficult to understand the significance of the low number of candidates per vacancy. However, it is believed that a system with a low number reflects relatively little trust in the use of merit-based criteria in the competition. An alternative explanation would be that the economic context (crisis or growth) or the low attractiveness of the salary in the public sector could play a role. The crisis could have been significant in Georgia with its high number of candidates, while the low attractiveness of the salary could have been a reason for the low number of candidates in other countries, but it is also reasonable to think that distrust in the system was relevant.

Second, as mentioned above, the percentage of vacancies that are covered by external competition is low (less than 50 per cent in all of the countries except Georgia – see Table 6). The rest of the vacancies are filled through promotions of civil servants or by means of various instruments that avoid competition in general. In Azerbaijan and Ukraine, country authorities reported that 33% and 53.6% of vacancies respectively were filled by means of internal open competition. In the other countries, internal competition does not exist. The case of Georgia requires further analysis since several reports by independent organisations have criticised the use of acting officials (who have not taken part in an open competition to enter the civil service) as an instrument to first fill vacancies temporarily and later, when forced to run a competition, the advantage is given to the acting official.

Table 6. Average number of candidates per vacant position in the civil service at central level and percentage of vacancies filled by means of external competition (2013)

	Average	% of vacancies filled by means of external competition
Armenia	5.4*	5.6*
Azerbaijan	4.2	31**
Georgia	53	100
Moldova	2.7	45.4
Ukraine	-	46.4

Source: Self-assessment reports of country authorities

*Junior positions are not included. With regard to the percentage of vacancies filled by means of external competition (5.6%), the percentage of external merit-based recruitment is higher (71.9%).

** 33% of vacancies were filled through internal competition.

Third, the shortlisting of candidates becomes an issue of concern in some countries since the head of the appointing authority is not obliged to select the first candidate on the shortlist, and no justification is required for such a decision (Armenia, Azerbaijan).

Finally, the composition of the competition commission still needs some reform in most of the countries. The most adequate balance among insiders, outsiders, general experts and experts in the particular field of the vacancy to be filled, as well as HRM experts, is not always found. In some cases (Georgia, Moldova and Ukraine), it is worrying that insiders dominate the commission, as this situation offers considerable advantage to the head of the commission.

An additional aspect that characterises a professional civil service is the equal treatment of the main relevant groups in the recruitment and career development of civil servants. In particular, all administrative bodies should ensure protection against discrimination with regard to the applicants to the public service as well as those employed. In particular, issues concerning religious and ethnic communities and gender balance are common topics on the equality agenda.

The situation regarding the recruitment of women to the civil service is very similar in three of the eastern neighbourhood countries. According to the 2013 Global Gender Gap, Armenia, Azerbaijan and Georgia have the largest gender gap and rank above 85 out of a total score of 136. The smallest gap is found in Moldova (ranking 52 out of 136). The smallest gap corresponds with a higher score (0.703), being 1 the highest possible score.

Table 7. Rank and country score in the 2013 Global Gender Gap

	Rank	Score
Armenia	94	0.663
Azerbaijan	99	0.658
Georgia	86	0.675
Moldova	52	0.703
Ukraine	64	0.693

Source: http://www3.weforum.org/docs/WEF_GenderGap_Report_2013.pdf: 136 countries are assessed.

The presence of women in the civil service has to be understood in that context. Some countries, such as Armenia and Georgia, have launched projects to mainstream gender in the public sector, but the number of women in the civil service is still lower than that of men in all of the countries except Ukraine (three quarters of the civil servants are women) and Armenia (no data available). The largest number of women in the senior civil service is Moldova (see Table 8 below), but it is unclear if this connected with a relative better score in the Gender Gap Index. Higher representation of women is not achieved through the mainstreaming policies (for instance Georgia). This dimension requires further analysis.

Table 8. Percentage of women in the civil service and in senior positions

	% of women in the civil service	% of women in senior positions
Azerbaijan	27.7	27.5 *
Georgia	45	23.1
Moldova	40.1	33.3
Ukraine	75.2	24.8

* At third classification level.

**This percentage includes civil servants at central level and local government officials.

Recommendations

1. Internal competition for promotion should be introduced, and rules should be established that oblige an administrative body to organise an external competition for a vacancy if the number of internal candidates is insufficient.
2. The protection of the recruitment process against discretionary practices needs to be strengthened, with special attention being paid to the composition of the competition commission and the role of managers in the administrative body in which the vacant position is located.
3. A clarification has to be made as to which positions are considered as senior civil service positions, and the provision on discretionary appointment to these positions should be abolished. Consideration needs to be given to the issue of whether a senior civil service, with recruitment based on merit, would better protect the general interest and provide better responsiveness to political appointees than civil servants would do.
4. A principle, not a rule, should establish that the composition of any administrative body in the civil service is to be gender balanced, and the application of under-represented gender group for higher-level positions should be encouraged. Positive, legally binding discrimination should be avoided.

2.4. Objectivity of the termination of civil service

Principle: Objective criteria for termination of public service are explicitly regulated in law and followed in practice.

- Termination of employment in public service is only admissible in cases explicitly provided for and under the procedural provisions established in the law. These provisions are applied in practice.
- Public servants have the right to appeal unfair dismissal.

Two main issues concern dismissals. On the one hand, in some countries (Armenia, Georgia) the reorganisation of an administrative body (with a reduction of staff) and the abolition of certain positions lead to dismissals of civil servants. In a number of countries, civil servants who have been dismissed are placed on a reserve list – Armenia (but only after a reorganisation), Azerbaijan, Georgia, Moldova (although this practice is considerably diminishing), and Ukraine (although not legal). Since these reorganisations normally take place after a change of government, they can be used for the dismissal of unwanted civil servants.

On the other hand, “voluntary” dismissals or “requests” for the signature by civil servants of letters of resignation is an instrument used by the Government in Georgia. The number of voluntary resignations after a change of government is unusually high.

Civil servants have normally the right to appeal against unfair dismissal, but country authorities do not have data on the number of appeals and on the proportion of appeals in favour of the appellant.

Recommendation

The legislation should be more protective of civil servants in the case of dismissal and establish that termination of employment is only admissible in cases explicitly provided for in the primary legislation and therefore uniform across the whole civil service.

2.5. Fair and transparent remuneration system

Principle: Remuneration system of public servants is fair and transparent and applied in practice.

- The principles of remuneration, including the salary classification based on the job classification system, the complete list of variable elements of salary and the relation between the fixed and variable salary, are established in law to ensure the coherence, fairness and transparency of the whole public service. The detailed remuneration regulations are established in secondary legislation. The remuneration provisions are applied in practice.
- Allowances and benefits in addition to the salary (e.g. family, rent, education, language allowance, benefits in case of sickness, maternity or work accident) are established in law to ensure the coherence of the whole public service and applied in practice.
- Managerial discretion in assigning different elements of salary, allowances and benefits to individual public servants is limited to ensure fairness, transparency and consistency of the total pay.
- The remuneration system of public servants provides reasonable conditions for recruiting, motivating and retaining public servants with the required competencies.

The salary system in the eastern neighbourhood countries for similar positions in different administrative bodies is in general unfair, and it lacks transparency in the use of bonuses. Salaries in the civil service are low compared to private sector salaries of equivalent positions.

A first problem is the lack of an appropriate classification system in all countries that would help to assess the “value” of a particular position in several dimensions according to its tasks, responsibilities

and impact. In general, job descriptions do not guarantee homogeneity across the civil service when they are assigned to particular groups and sub-groups. In some countries, such as Georgia, the classification system is at the discretion of the head of the administrative body. In Moldova, the Single Classifier and the new Law on Salaries are not well aligned.

A second issue of considerable concern is the low competitiveness of civil service salaries compared to those in the private sector. Only three countries (Armenia, Georgia and Moldova) have reported that the competitiveness of the average salary has improved slightly (see Table 9). Moldova has improved its relative position due to a law adopted recently.

Some countries have already approved a new salary law (Moldova, 2012) or are striving to approve a new law that would improve the salary level of civil servants (Ukraine has embedded respective provisions in the new civil service law). The problem with these laws is that their financing is not secured.

Table 9. In the last four years, the transparency level of the remuneration system has ... and the level of competitiveness in relation to the private sector has ...

	1	2	3	4	5
	Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably
Transparency					
Armenia				■	
Azerbaijan			■		
Georgia					■
Moldova			■		
Ukraine					
Competitiveness					
Armenia				■	
Azerbaijan			■		
Georgia				■	
Moldova					
Ukraine		■			

Source: Self-assessment reports of country authorities

A third problem in some countries is the complete lack of transparency in granting bonuses because the heads of administrative bodies exercise considerable discretion in this regard. For instance, Ukraine has more than 14 different allowances as well as discretionary granting of bonuses. Bonuses are used to compensate low salary levels, but their impact in terms of the lack of transparency is considerable in some countries, as these bonuses can represent a high proportion of the final remuneration (between 70% and 80% in Ukraine).

The self-reported level of transparency has improved slightly or considerably in Armenia, Georgia and Moldova, but it has not changed in Azerbaijan (country authorities consider it to be high) and Ukraine (see Table 9). In spite of this situation, there is ample room for improvement in this area since bonuses can constitute a considerable proportion of the whole remuneration package. The self-assessments are normally very positive because country authorities consider as a transparent element the formality of posting on Internet the salary scales of civil servants. However, the problem of transparency is apparent in the variable part of the salary, for which not much clear information is provided on how this part is granted. For instance, bonuses are not based on a clear appraisal of the achievement of performance results.

Recommendations

1. A plan to secure financial resources for increasing the competitiveness of civil service salaries is required. Efficiency measures are probably needed for the implementation of this plan, which may affect civil service size, so that savings can be used for the payroll. Since the civil service is only a portion of public sector employment, this measure has to take into account a wider context.
2. The proportion of the variable part of the salary (bonuses and allowances) should be changed. It should not rise above the level of 20% of total remuneration so as to ensure that monetary rewards are predictable. This measure would also oblige some countries to reduce considerably the number of allowances they grant. A change in the salary system would enhance the predictability of the remuneration of civil servants.
3. The fairness of the system should be enhanced by improving the job classification system and by reducing the discretion of agency heads in the assignment of positions to particular levels of civil servants. In addition, the civil service central unit and the ministry of finance need to be involved in the classification of new positions.

2.6. Professional development of civil servants: training and performance appraisal

Principle: The professional development of public servants is ensured, including regular training and fair performance appraisal.

- Professional training is recognised as a right and duty of public servants, established in law and applied in practice.
- Preparations of the strategic training needs assessment and annual/bi-annual training plan(s) are transparent and inclusive processes, co-ordinated or supported by the central co-ordination unit for public service and/or public service training institution.
- Strategic annual or bi-annual training plan(s) of public servants (for different categories, including senior managerial positions) are adopted, implemented, monitored and evaluated.
- Sufficient resources are allocated for training public servants.
- The principles of performance appraisal are established in law to ensure the coherence of the whole public service. The detailed provisions are established in secondary legislation. The performance appraisal of public servants is carried out regularly.
- Public servants have the right to appeal unfair performance appraisal decisions.

In general, training has not been a high priority in most of the eastern neighbourhood countries. It is difficult to assess how much training civil servants receive and how much training they need. The legislation varies among the countries, and it can be very scarce with regard to training. Civil servants in some countries do not have the right (and duty) to receive training, for instance. Sometimes the duty to receive training is too generic or too narrowly presented in the legislation (reference is made to the number of hours of training in Moldova and Georgia) to serve the purpose of compelling civil servants to obtain some training. In some countries, the legislation only mentions training related to short-term or long-term leave for the purpose of pursuing education.

A common problem regarding training in the region is that it is not strategically planned and it does not benefit from a sound needs assessment system. The only exceptions are Azerbaijan and Moldova. In Moldova, the State Chancellery makes considerable efforts to carry out needs assessment in a systematic way. It therefore makes sense that Moldova's self-assessment on the use of needs assessment shows

considerable improvement, while in other countries the situation, although improved, does not reflect the changes that are required (see Table 10).

Table 10. In the last four years, the quality (i.e. training is linked to the needs of the civil service) of training has...

	1	2	3	4	5
	Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably
Armenia					
Azerbaijan					
Georgia					
Moldova					
Ukraine					

Source: Self-assessment reports of country authorities

A second issue is that the civil service central units play a variable but limited role in the planning of training, which in some cases means gathering the requests from individual authorities. The leverage of individual authorities in determining training is considerable and goes beyond their area of expertise in some cases. The final planning document does not necessarily constitute a training strategy for the civil service.

A third concern is that performance appraisal is hardly used to recommend training to individual civil servants. As a result, training also does not satisfy the needs of civil servants for further development. The attestation (different from performance appraisal but related) in Ukraine leads in some cases to the recommendation of training by the attestation commission, but this recommendation is clearly insufficient.

Finally, other development tools to increase the competencies of civil servants have been incorporated in legislation in some countries (Moldova and Ukraine), but they have only been implemented in Moldova.

All countries have a performance appraisal system, except for Georgia. While Ukraine has a system, it is not highly developed. Azerbaijan was starting to implement performance appraisal at the time of writing. Moldova has a consolidated performance appraisal in place. In this country, the system is gaining support from supervisors and civil servants, and it is already being used as a management tool. Perhaps one of the main problems to be resolved is the inflation of scores in the performance appraisal, which also inflates the proportion of civil servants qualifying for a promotion.

Armenia, Georgia and Ukraine also have an attestation system, which works like an on-the-job competition but only to certify that the civil servant has the knowledge and capability to perform his/her functions in a particular position. This system was devised as a special measure to be used during a transition period when many public sector employees were converted into civil servants following the adoption of the civil service law. Once that certification was obtained, the attestation did not make much sense. The use of attestation and performance appraisal at the same time confuses the purpose of a real appraisal of the achievement of results.

Table 11. For what proportion of civil servants is the performance appraisal implemented (i.e. it is objectively applied and has consequences for civil servants)?

	1	2	3	4	5	Trend
	It does not exist /Hardly anyone	Low - Up to a quarter	Medium - Up to half	High - Up to three quarters	Very High - More than three quarters	
Armenia						↑
Azerbaijan				*		↑
Georgia						→
Moldova						↑
Ukraine						→

Source: Self-assessment reports of country authorities

* In the phase of implementation

The link between performance appraisal and other HRM processes (in particular training, promotion and bonuses) is still weak in the countries of the region. In Moldova, performance appraisal is used for promotion and training needs assessment. However, since there are insufficient financial resources to promote everyone, the system may create some frustration among civil servants.

Recommendations

1. All of the countries need to implement a performance appraisal system that is at least linked to the assessment of training, development needs and promotions, if internal open competition is not used. Internal competition is preferred to the use of performance appraisal results alone for filling vacancies. However, performance appraisal could be used for on-the-job promotions (i.e. salary steps). Since all of these countries have a bonus system, they should increasingly take into account performance appraisal results for granting bonuses.
2. Consideration should be given to abolishing the attestation system so that the real purpose of performance appraisal is not affected by an instrument of little use.
3. All of the countries should set some limits to the proportion of high scores that civil servants can obtain so that the appraisal exercise discriminates between good and bad performers.
4. Performance appraisal should be the cornerstone for identifying training and development needs at individual and agency levels. If the system concentrates on these two aspects, training plans at the aggregate level would improve considerably.

2.7. Implementation of disciplinary procedures

Principle: Disciplinary procedures of public servants, with right of appeal, are consistently applied.

- The main principles of the disciplinary procedure (including the presumption of innocence, proportionality between disciplinary sanction and violation of official duties, right to receive legal assistance, right to appeal, right to be heard during the appeal) and the main procedural steps (including initiation of the procedure, impartial investigation of facts, hearing of the public servant concerned, bodies involved in initiation of the procedure, decision and review) are established in law to ensure consistency across the public service and are applied accordingly in practice.
- A catalogue of disciplinary sanctions is established to ensure proportionality between the misconduct and respective sanction.
- The right of the public servant to appeal against unfair disciplinary sanctions is established and implemented to ensure that the decisions are legally predictable, impartial and free from political interference.

All eastern neighbourhood countries have legislation on disciplinary sanctions. A majority of the countries still require a better legislative technique to regulate this issue so that cases of misconduct are

matched with appropriate disciplinary sanctions. In some countries, Georgia for instance, cases of misconduct are very general and sanctions are very detailed. In addition, in some countries the process of the disciplinary sanction is not very clear.

In general, the number of disciplinary sanctions is not very high (hard data could not be obtained). However, some country authorities (for instance, Moldova) consider that the process could be used more intensively. In other countries, such as Ukraine, a substitute for applying disciplinary sanctions to penalise civil servants is the withholding of bonuses by supervisors. As this action is more discretionary, it could limit the rights of civil servants by introducing unpredictability.

In countries like Armenia and Ukraine, disciplinary sanctions cannot be applied if more than six months have passed since the date on which the violation occurred. This period is too short for many ordinary cases and in particular for corruption-related violations. Corruption may be concealed for a long period of time, and for many of these cases complex information has to be gathered.

Recommendations

1. In general, a better legislative technique is required for disciplinary sanctions so that managers can easily use them. The scale of misconducts and sanctions in particular has to be worked out to ensure proportionality between the misconduct and the respective sanction.
2. Furthermore, the law needs to introduce deadlines that are longer than six months to enable the investigation of misconduct.

2.8. Promotion of integrity and prevention of corruption

Principle: Measures for promoting integrity and preventing corruption in the public service are in place and applied.

- Effective and adequate legal provisions and institutional arrangements and tools exist to promote integrity and prevent corruption in the public service, and are applied in practice.
- Corrupt behaviour of public servants is criminalised in the Penal Code.

Legislation and policies are in place to promote integrity and prevent corruption in the civil service in all of the eastern neighbourhood countries. The legislation normally covers all of the imaginable areas where integrity is at stake: e.g. income declaration; receipt of gifts; incompatibility of performing two paid positions; and after leaving the civil service, working in a private sector organisation connected to the area in which the civil servant had supervisory powers. Whistle-blower protection is also in place in most of the countries except Azerbaijan.

A common problem in the countries is that monitoring and enforcement capacities in the civil service central unit are weak. Responsibilities are sometimes distributed between the central unit and an anti-corruption agency. When the civil service central unit has to deal with integrity issues (for instance, in Azerbaijan), it is questionable whether the unit has the resources to put in place an effective enforcement mechanism.

Some countries, such as Armenia and Georgia, lack a code of ethics. Others (Azerbaijan and Ukraine) have adopted a code of ethics that covers up to three quarters of all institutions, which signifies that individual administrative bodies have enforced the code and trained staff on its implications.

Table 12. If there is a general code of ethics, for what proportion of civil servants is it adequately implemented (i.e. there is a code of ethics adopted by the institution and it is enforced with civil servants obeying it)?

	1	2	3	4	5
	It does not exist /Hardly anyone	Low - Up to a quarter	Medium - Up to half	High - Up to three quarters	Very High - More than three quarters
Armenia					
Azerbaijan					
Georgia					
Moldova					
Ukraine					

Source: Self-assessment reports of country authorities

According to the self-assessment reports of public authorities, the promotion of integrity and the prevention of corruption have improved slightly or considerably in four countries (see Table 13).

Table 13. In the last four years, the application of the measures for promoting integrity and preventing corruption has...

	1	2	3	4	5
	Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably
Armenia					
Azerbaijan					
Georgia					
Moldova					
Ukraine					

Source: Self-assessment reports of country authorities

However, the perception of society is that corruption is still very high in all of the countries in the region except for Georgia (see Table 14). Georgia has achieved in only a few years' time a dramatic improvement in society's perception of the prevention of corruption, and it even ranks ahead of some EU member states.

Table 14. Corruption Perception Index from Transparency International (2013)

	Ranking out of 177 countries	Score
Armenia	94	36
Azerbaijan	127	28
Georgia	55	49
Moldova	102	35
Ukraine	144	25

Source: Transparency International
(0 = highly corrupt and 100 = highly clean)

Recommendations

The following recommendations target not only civil service central units but also separate agencies dedicated to the fight against corruption.

1. Countries need to make more efforts to implement further (or even adopt) a code of ethics by disseminating it not only to civil servants but also among civilians. In this regard, training and awareness raising should be incorporated into a core strategy.
2. More attention should be given to monitoring and enforcement by adopting a risk-based approach. This approach implies the strengthening of enforcement mechanisms in the areas

where the risk of unethical practices has a greater impact and where the probability that unethical behaviour will occur is higher.

2.9. Civil service policy and legal framework based on administrative law principles

Principle: Policy and legal frameworks for a professional and coherent public service, based on administrative law principles, are established and applied in practice.

- There are defined policies in the framework of the relevant strategies (e.g. government programme, PAR strategy) for public service development, with clear and coherent measures in place to support its implementation.
- Primary and secondary public/civil service legislation is in line with the administrative law principles: reliability and predictability (legal certainty); openness and transparency; accountability; efficiency and effectiveness.
- The general provisions of the public/civil service law are applicable to the special types of public service (e.g. police, prison, defence, foreign service) and staff of the constitutional bodies, or the general provisions and principles of the laws of the special types of public service and constitutional bodies are principally similar to the general provisions of the public/civil service law.
- The public/civil service law establishes all general provisions relevant to the employment relations of public servants and management of public service and the secondary legislation establishes all procedural provisions, ensuring that coherent standards are applied across the public service, including: scope and principles; classification; recruitment and selection, incl. of senior civil servants; rights and obligations; integrity system; remuneration; professional development, incl. performance appraisal, training, mobility and promotion; disciplinary procedures; termination of employment; management and central co-ordination of the civil service).
- The degree of regulation in the primary and secondary legislation is adequately balanced to allow flexibility and ensure stability of the public service.
- Public service policies and primary and secondary legislation are applied in practice.

Some administrative law principles are explicitly mentioned in the civil service laws of eastern neighbourhood countries, but most countries do not mention all of the principles.

The adoption of these principles has not been put into practice in some HRM practices. Country authorities consider that the explicit inclusion of European administrative law principles in the law – or the indication that those principles are included somewhere in the law – guarantees the implementation of these principles. This is unfortunately not the case unless the civil service central unit is ready to challenge public authorities in the application of the civil service law. At least two principles are absent from some HRM processes: openness/transparency and predictability. Further research is required with regard to other principles.

As mentioned above, transparency and openness are lacking in most of the countries in the management of recruitment, promotions, dismissals and the payment of bonuses. Some countries have adopted transparent measures for recruitment (for instance, the installation of video cameras in examination rooms) or have demanded the publication of data on corrupt cases or on salary issues. These measures are welcomed, but more efforts need to be made to ensure that all HRM processes grant equal opportunities to persons with a legitimate aspiration to be recruited, promoted or rewarded. Likewise, the transparency of dismissals should be further strengthened. This effort depends not only on the level of detail of the legislation but also on the way in which some instruments are used (agency restructuring or abolition and “requests” for individual letters of resignation after a change of government).

Predictability is absent in the payment of bonuses. Since bonuses constitute a considerable part of the salaries and managers grant bonuses in a discretionary way, civil servants cannot predict the rewards that they are going to receive in the future, as some variable rewards depend on subjective, non-objective criteria.

Recommendation

Relevant European administrative law principles should be introduced in the civil service laws, but in addition:

- a) ... the civil service central unit should place more emphasis on challenging individual administrative bodies that are not carrying out HRM practices in line with the principles. A continuous challenge of the principles is the only way to make sure that the principles will have a chance to be applied. For this purpose, the central unit needs to have more resources (see above).
- b) ... legislation should be amended in those cases where a principle is impossible to apply without legal support (for instance, by introducing merit in promotion).

3. ARMENIA

3.1. Scope of the civil service

Principle: The scope of public service is adequate, clearly defined and applied in practice.

Several pieces of legislation regulate the various aspects of the civil service. The Civil Service Law (2001) regulates the civil service, and the Public Service Law (2011) is a framework law for all public servants, including civil servants and with a focus on integrity issues. In addition, the Law on Remuneration of Civil Servants and the labour legislation, which is applicable for employment issues that are not regulated by the civil service legislation, complement the main legislative framework.

The horizontal scope of the civil service is narrow. The Civil Service Law deals with the staff positions in the Presidency, in ministries and other bodies integrated into the executive branch of the central government, in regional offices (*Marzpetarans*), and in other state bodies established by law, such as the Civil Service Council and the Central Electoral Commission. Other services (e.g. police, tax administration, customs, foreign service and other special services) are covered by separate legislation, which also covers the staff in the legislative and judicial branches as well as local staff. The system is highly fragmented, and the special services resist the adoption of common legislation.

The Civil Service Law and the Public Service Law are meant to inspire the legislation of other special groups, although unsuccessfully so far. The Public Service Law was meant to be a general framework for all those serving in the non-entrepreneurial public sector in state and self-governing bodies. The Law focuses only on particular aspects of a professional public service, such as the integrity framework, but it leaves other dimensions open. Therefore, this legislation does not apply the more strict regulation of the Civil Service Law to other special services.

The exhaustive enumeration of the institutions that are entitled to have staff with civil servant status (Article 4, Civil Service Law) reflects another dysfunctionality (SIGMA, 2010). The underlying idea of the enumeration is that civil servants belong to a particular institution and not to the State. This idea accentuates the fragmentation of the civil service, with potential negative consequences when restructuring or abolishing agencies. The State does not need to display any loyalty to a particular employee. Furthermore, transfers and rotations of civil servants among public authorities to enrich their personal development as well as achieve better co-ordination are more difficult. Moreover, there is no single public authority monitoring the implementation of the Public Service Law.

With regard to the horizontal scope, the number of civil servants is comparatively small. The civil service is comprised of 6 803 civil servants, which represents only 2.8% of the 238 000 public sector employees. Public sector employment represents 20.3% of the total 1.2 million private and public sector employees⁴. The fact that positions in special services are not covered by the Civil Service Law calls into question the professionalisation of part of the public sector employment, for which the principles of the civil service should apply according to European standards.

The vertical scope of the civil service, i.e. the differentiation between discretionary and merit-based appointments, is clear in the legislation. From the point of view of the vertical differentiation, the

⁴ <http://www.armstat.am/en/?nid=81&id=1509> offers data from 2010 to 2012 on total public and private sector employment and employment in the whole public sector.

legislation distinguishes three main groups: 1) persons occupying political positions; 2) persons occupying discretionary positions; and 3) persons occupying professional positions. Article 4 of the Public Service Law offers an exhaustive list of political positions and positions for which a discretionary appointment applies (the positions of deputy ministers, assistants and advisors of ministers, the president, the prime minister, regional governors, and their deputies, assistants and advisors). However, the Law does not regulate this type of staff.

The differentiation between civil servants and support staff is also clear in the law. Professional positions refer to three groups: 1) State service (civil service, parliamentary staff, and special services, such as the military forces, diplomatic service, national security and police forces, tax and customs administration); 2) community service; and 3) civil work in both state and local self-government bodies. The last two groups are subject respectively to separate regulation: the Law on Community Service (2005) for core staff of local self-governments and the Labour Code for civil workers.

This relatively clear vertical differentiation in the law has not been present in practice at the lower levels. In its 2010 assessment, SIGMA reported that the law did not really clarify how to assign civil servant positions, governed by public law and exercising public authority in the public interest, from technical support positions, subject to labour law.

Moreover, previous SIGMA assessment reports (2010, 2009) questioned the far-reaching coverage of the discretionary positions listed in the legislation, especially some positions with administrative functions (heads and deputy heads of public administration bodies attached to the Government or in ministries). It is difficult to reach an agreement on the threshold between political appointees and civil servants. Comparatively, there is considerable variation between the United States (with many levels occupied by several hundreds of political appointees) and the United Kingdom (with barely 100 political executive appointees). Therefore, it is difficult to assess the professionalisation versus the politicisation in the Armenian civil service. It is more relevant to have a list of criteria for assigning positions to either competitive or discretionary recruitment. Armenia has a list of discretionary positions, but the criteria for granting discretionary appointment to those positions are not clear.

In summary, the legislation lays down the horizontal and vertical scope of the civil service. The horizontal reach is limited, and the principles of a professional civil service do not inspire other areas of the public sector. The system is highly fragmented, with special groups and related specific legislation. This situation exacerbates the notion of a civil servant as the “property” of a particular agency and not of the State. The vertical legal scope is clear, with a full list of discretionary positions included in the legislation. However, the process of declaring that a particular position requires special civil service protection is less clear. In the absence of a clear legal process, similar positions may be assigned to support staff, for whom the Labour Code applies. The Code grants less protection than civil service protection.

3.2. Institutional set-up for consistent and effective human resources management practices

Principle: The institutional set-up enables consistent and effective human resource management (HRM) practices across the public service.

The Armenian Civil Service Council in charge of ensuring homogeneous practices across the civil service has a strong institutional position. The Civil Service Law (article 37) regulates the Council, which is a permanent state body composed of seven councillors, appointed by the President upon nomination by the Prime Minister. The independence of the Council is ensured by a separate budget and by a concise list of justifications for removing Council members. The chair of the Council performs an advisory role in the meetings of the Government. The Council enjoys full organisational and budgetary autonomy, and its decisions are subject to only judicial review and control.

In addition, the Council is relatively well staffed to carry out its tasks. Besides the seven councillors, the Council has two assistants, two advisors and 51 civil servants. The Council has nine persons per 1 000 civil servants, which is a high ratio between HR specialists at central level and the rest of the civil service.

The main functions of the Civil Service Council also empower it to co-ordinate the management of the civil service, as the Council is in charge of implementing civil service public policies; drafting primary legislation (in co-operation with the bodies of the civil service system); developing secondary legislation and guidelines on various civil service practices; monitoring the enforcement of civil service legislation, with the capacity to take decisions against other public authorities in civil service matters; carrying out the methodological management and supervision of the personnel management of the respective bodies; submitting recommendations on civil service issues during the reorganisation and abolition of a public authority; dealing with appeals on civil service matters; agreeing on the application of disciplinary sanctions; and playing a major role in adopting and monitoring of compliance with the Code of Ethics.

Two important functions are missing from the above list (SIGMA, 2013, 2010). First, the Council does not take part in workforce planning, in spite of its management of the personnel registry (see below). Second, the Council is not empowered to co-ordinate the management of top-level civil servants.

Furthermore, at least two elements diminish the theoretical strength of the Council. First, the President has imposed and ensured the independence of the Council, but this autonomy may not be ensured by a next president. Second, the advisory capacity of the Council does not suffice. The Government decides on many issues in which the Council cannot interfere. Perhaps less independence and a larger role in policy-making would be a better combination for the Council. In the end, the Council works more as a merit protection board and less as a policy maker and manager of the system.

A network of HR units completes the management of the civil service. Each state administration, except for the HR offices of the President and the Prime Minister, has a chief of staff who is a civil servant. This network co-operates with the Council on technical issues. Given the number of processes, the HR units feel overburdened with technical management issues, leaving little room for a conceptual approach to human resources management (SIGMA, 2010).

The HRM information system hardly contributes to the management of the civil service because it does not have enough relevant information, and this information is underutilised. The amount of information, collected on paper every three years, is considerable. Typical information on a civil servant covers his/her position, basis and date of appointment, classification grade and step, birthdate and place of birth, gender, social security card number, educational data, knowledge of a foreign language, military situation, attestation data, training data, awards, disciplinary sanctions, violations of the Code of Ethics, length of service, inclusion on the reserve list and other social data. However, the Council was able to answer only 36.7% of the performance indicators attached to the survey. These indicators, which are customarily used in other European systems, are relevant to the management of the civil service.

The HR information system is not fully used. First, information from the personnel registry is not shared with other public authorities due to the secret nature of the registry. There are some exceptions concerning the sharing of data, but they are insufficient for the purpose of better co-ordination in the management of the civil service. Second, the data is only used for sending reports on the Council's activities to Parliament or to other bodies upon request and for contributing to sociological studies.

In summary, the Civil Service Council has the features of a strong actor in the co-ordination of the civil service, but in practice its strength is diminished. Those features include a) institutional independence, with advisory presence in the Government sessions; b) autonomy in managing its budget, regulating and supervising; c) a reasonable number of staff; and d) a wide array of functions. The main weaknesses of the Council are a) its sole focus on the civil service, leaving outside its scope a large number of public servants; b) its minor role in policy making; and c) the lack of institutionalisation of its independence.

3.3. Merit-based recruitment of civil servants

Principle: Recruitment is based on merit in all its phases.

Merit-based recruitment applies to positions that are filled by means of a competitive procedure. However, most positions are not open to competition. At least three kinds of vacancies do not require a competitive procedure: vacancies resulting from an agency's reorganisation, those belonging to the category of an "out-of-competition procedure", and those concerning junior positions. First, in the case of an agency's reorganisation, the direct appointment to the vacancy is determined from among the civil servants whose positions have been affected by the restructuring. Unlike other systems, a reorganisation does not aim to bring the term of office of a civil servant to an end in a discretionary manner. Furthermore, the Law establishes priorities for appointment.

Second, a vacancy involving an "out-of-competition procedure" is also exempted from competition. This kind of vacancy works in practice as an internal promotion, but without competition (Civil Service Law, article 12.2). This process privileges civil servants from the respective institution as long as they meet the criteria for filling the vacancy. This internal promotion could be acceptable if there were competition under some conditions. For instance, if there were at least three candidates for a vacancy, the promotion could be internal, but otherwise it should be external. In any case, the number of "out-of-competition procedure" is generally low.

Third, for junior positions, a person holding an adequate certificate can fill a vacancy without competition. The candidate can receive this certificate after passing a test organised by the Civil Service Council every three months on its premises. All citizens meeting the general criteria for access to the civil service can obtain this certificate, which has a one-year validity. The test is based mainly on knowledge of the Constitution, of civil service legislation, Armenian language, general knowledge about Armenia, world culture, spiritual values and theoretical knowledge on computer. There are no rules concerning the requirement to advertise the vacancy or follow any additional competitive selection procedure. A public authority may therefore hire on short notice a junior civil servant, but the process is not very transparent and the candidate may not have the specific required skills for the post.

According to SIGMA (2010), newly created positions are filled through competition procedures, for the remaining positions the non-competitive procedure was the rule. In the past, evidence has shown that the use of the non-competitive procedure has increased through the years. A report of Ameria (2010) indicates the relevance of this problem. In Armenia, there are short-term reserves (when a civil servant is dismissed because an agency has been abolished) and long-term reserves (a citizen passes a "certification" test issued by the Civil Service Commission). A member of the reserve can work in a position for which competition is not required. The number of specialists on the reserve list increased from 24.7% in 2003 (209 reservists out of 844 competition winners) to 54.8% in 2008 (539 out of 984) [see Table 15 below]. This use of reserves increases the pool from which to choose, but the transparency of the process is reduced (see Ameria 2010).

Table 15. Number of specialists included in long-term and short-term reserves

Year	Short-term staff reserve	Long-term staff reserve
2003	10	209
2004	100	243
2005	119	359
2006	106	423
2007	92	517
2008	267	539
2009 (until end July)	49	394

Source: Ameria 2010, adapted

However, the appointment of staff reserves in out-of-competition positions (internal promotions) has not been widespread in Armenia, according to Ameria (2010). The Ameria report speculates that the priority for those appointments has been given to civil servants. These officials already have work experience in the system, and the out-of-competition process represents an internal promotion for them. Reserve staff are more often employed in temporary positions (Ameria 2010).

For the remaining vacancies, a different actor is responsible for the competition for higher, chief and leading positions on the civil service roster. For higher and chief positions, the Civil Service Council organises the competition. For leading positions, the body in which the vacant position exists organises the competition, with the methodological support of the Civil Service Council.

The Civil Service Council manages the process together with the body holding the vacancy. The Council establishes the recruitment procedure and oversees its application. It also organises and conducts the competitions for the chief and highest positions in the civil service; participates in the recruitment of leading positions; certifies junior civil servants; monitors the whole recruitment process; and provides other bodies with the relevant methodology. Furthermore, the Civil Service Council can intervene in the cases concerning the violation of the merit-based principle. After the competition results are published, the candidates or the Competition Commission members can appeal the results to the Civil Service Council.

For truly competitive positions, the selection process starts with the notification of a vacancy to the Council. This notification is issued separately for each vacancy. This procedure is in itself inefficient and burdensome. The Council or the body concerned announces the vacancy, no later than one month before the competition is held, in the press (with a print-run of at least 3 000 copies) and in other mass media as well as on the official website of the Council.

The Competition Commission is created randomly, no sooner than 24 hours before each competition is held. This procedure, which has the obvious purpose of avoiding contacts and leakages between commission members and candidates, demonstrates the considerable distrust with regard to the adherence of the potential Commission members to the principle of meritocracy. The composition of the Competition Commission is as follows: one third of the members are representatives of the Civil Service Council; another third represents the body announcing the vacancy; and the last third is made up of experts from scientific and academic institutions with a specialisation that is relevant to the vacancy. NGO representatives can participate in the competition procedure as observers. In its 2010 assessment, SIGMA expressed concern that a majority of outsiders who were members of the Commission could impose unwelcome candidates on the institution announcing the vacancy. However, a majority of insiders could be in favour of a preferred candidate, as is customary in some systems.

The competition proceeds in two phases: the examination and the interview. The multiple-choice examination focuses on the legal knowledge of the Constitution, the civil service and the field of competences of the body announcing the vacancy. The examination can also assess the ability of the candidates to exercise the functions of the vacant position. The candidates who pass the examination, i.e. the majority of candidates, then proceed to the interview, which assesses professional knowledge,

competences, practical abilities and managerial skills. According to SIGMA (2010), the extent to which the interview focuses on these areas is unclear.

The Competition Commission prepares a shortlist of three candidates, in order of competence, and sends it to the appointing authority. This official has to appoint one of the three shortlisted candidates within three working days of receiving the notification. As in this procedure there is no obligation to appoint the first shortlisted candidate, the competitive nature of the process is weakened. The selection of the designated candidate does not have to be substantiated. The selected candidate is appointed for a probationary period of six months, in accordance with the provisions of the labour legislation. The civil servant obtains a fixed-term contract after the probationary period.

For the highest positions in the civil service, the rules for recruitment, dismissal and career development are almost the same as those for the rest of the civil service, but with some minor differences. One difference is that an out-of-competition appointment is not allowed for “civil service positions not included in the structural unit”. Such positions are, for example, those of the chief of staff and the deputy chief of staff. The vacancy of the senior (highest) civil servant is therefore to be filled either by means of competition or without competition (except for the chief and the deputy chief of staff). Another difference is that the staff of the Civil Service Council carry out the preparatory work for the competition and manage the process. For the position of the chief of staff, the selection of the designated candidate has to be substantiated to the official body (the Government) or the appointing authority.

In summary, the recruitment of civil servants is in principle based on merit, but the scope and the practice are less transparent than advocated. First, for many positions a competitive procedure does not apply. These positions are filled temporarily by either “internal” civil servants or by persons placed on a reserve list (the long-term reserve list requires a certificate, which is issued after the citizen, who is not a civil servant, has passed a competitive examination). Therefore, a competition is required to enter the civil service but no competition is required to fill some vacancies. Second, the competitive procedure has some flaws. The main flaw is that the appointing authority may select any of the three shortlisted candidates, i.e. he/she is not required to select the first candidate on the shortlist, who really won the competition.

3.4. Equal treatment of civil servants

Principle: There is equal treatment in the public service.

In Armenia, only article 11 of the Civil Service Law really deals with equality issues, as it establishes that the right to occupy a civil service position applies regardless of nationality, race, gender, creed, political or other convictions, social origin, property or other status.

In 2011 the Government launched the “Gender Policy Strategic Action Plan for 2011-2015”. This plan had two basic objectives with regard to the civil service: a) to include a gender knowledge component in the curricula of educational institutions providing for the professional development of civil servants; and b) to organise special courses, seminars and discussions on gender issues as well as sharing of experiences in this area among civic leaders, politicians and civil servants.

In Armenia, according to the International Labour Organisation (ILO, 2011), the majority of women are involved in an economic activity outside the home. Between 2003 and 2008, the number of economically active women rose from 55% to 65%, while the employment of men fell from 81% to 80% during the same period. The latter reduced proportion can be partially explained by the emigration of men looking for a job outside Armenia.

The high presence of women in the labour market is not reflected by their presence and relevance at the apex of the public sector. Women remain significantly under-represented in leadership positions. In 2011

two out of 18 Government ministers and three out of 51 deputy ministers were women. In the civil service, the Ameria (2010) report states that the highest (sub-group 1) and the chief positions (sub-groups 1 to 3) are held by men. The proportion of women is higher in leading and junior positions. In particular, women outnumber men among middle-level public servants in the education sector, where 83% were women in 2011 (ILO, 2011).

In long-term reserve positions, the proportion of women has been higher and has grown over the years in comparison with the proportion of men on the staff list for these positions. In 2003, there were 209 long-term staff reserve positions, and 53.6% of them were held by women; in 2008, 68.3%. According to Ameria (2010), several factors can explain this high proportion of women, such as greater interest in the public service among women since these positions can be more compatible with family life. The preference for appointing men rather than women and the higher level of emigration of men have left more women heading the households in Armenia.

In summary, a government-wide plan to mainstream gender in the public sector is in place. However, results do not yet show a balance of women and men in higher-ranking positions in the civil service. Women outnumber men on the reserve lists and in a number of fields of public administration.

3.5. Objectivity of the termination of civil service

Principle: Objective criteria for termination of public service are explicitly regulated in law and followed in practice.

The Civil Service Law (article 15.1) sets down permanent tenure (non-removability) as the default situation for civil servants. Newly recruited staff is subject to a six-month probationary period. The only exception to tenure concerns the position of the chief of staff, for whom the term of office is limited to four years, according to article 34.3. This term of office is renewable for periods of four years. In Armenia, the reasons for dismissing civil servants have to be clearly aligned with the Civil Service Law, which has continually expanded, since its adoption, the possible reasons for dismissal.

Unlike other systems, the reorganisation of an administrative body rarely leads to the dismissal of a senior civil servant, contrary to the abolition of the body. If the reorganisation is accompanied by a reduction in the number of positions, priority rights take into account personal circumstances (e.g. pregnancy leave, leave for taking care of an underage child, and mandatory military service) as well as service features (e.g. position in the higher civil service or a longer stay in the civil service).

Some dismissals are nevertheless due to reorganisation. The main reasons for dismissal subsequent to a reorganisation are changes in the number of staff, structural changes, and refusal of the civil servant to occupy a new position envisaged by the roster. In those cases and when abolishing a public authority, the legislation enables civil servants to register on the short-term reserve list, thereby preserving for a period of six months the length of service and remuneration.

In summary, the default position of the civil service is tenure. Many situations may lead to dismissal, although most of them are voluntary resignations. A potential worry for unjustified dismissal stems from the reorganisation and abolition of agencies. In principle, the reorganisation of an agency should lead to the reappointment of a civil servant or to his/her inclusion on the short-term reserve list. The abolition of an agency can lead to dismissal. Current practice is the use of reappointment or registration on the reserve list, but the legislation should be more protective of the civil servant, as was already recommended by SIGMA in its 2010 assessment report.

3.6. Mobility, promotion and demotion of civil servants

Principle: Mobility, promotion and demotion of public servants are objective, transparent and based on merit.

In the Armenian civil service, some processes to enable mobility are in place. The process of filling vacancies in the “out-of-competition procedure” is a process of promotion without using merit-based criteria. Article 20 of the Civil Service Law provides another example of mobility in connection with secondment. For instance, seconded diplomats can hold civil service positions upon the approval of the Civil Service Council. Normally these appointments are made only with respect to the civil service positions in the foreign relations department of the Presidency and the Government. The Civil Service Law does not provide for the compulsory transfer of civil servants from one administrative body to another. Finally, on-the-job promotion is also possible since each civil servant can move up one grade without a change in position no sooner than three years after acquiring the grade corresponding to that position.

In summary, some of the classical instruments to allow mobility are utilised in the Armenian civil service, but not to a great extent. Furthermore, promotion is not based on merit practices.

3.7. Fair and transparent remuneration system

Principle: Remuneration system of public servants is fair and transparent and applied in practice.

In Armenia, the legislation on the classification system is very detailed. According to this legislation, the civil service comprises four main classification groups: the highest, chief, leading and junior positions. The highest group comprises two subgroups and the chief, leading and junior groups each have three subgroups. The grades assigned to civil servants reflect these groups and subgroups (article 8 of the Civil Service Law).

The Civil Service Council approves the general description of each group, but it does not guarantee homogeneity across public authorities when assigning job descriptions to particular groups and subgroups. Job descriptions (“passports” of civil service positions) include the following main features: level of responsibility, authority to take decisions, external contacts and representation, complexity of issues to be dealt with, creativity, knowledge and skills (article 7). The job descriptions include additional information regarding the requested education level and the required amount of work experience (article 10).

According to SIGMA (2010), the classification system is not based on a systematic job evaluation. The purpose of a job evaluation is to weigh the intrinsic value of a job, taking into account the expertise required, the degree of autonomy and initiative, the importance of the final contribution of the job to the overall results, and its ranking in relation to other jobs. Instead of this systematic assessment provided by the job description, in Armenia the classification of a post depends largely on the responsible minister. The terminology used for three out of four classification groups, “highest, leading and chief civil servants”, is an indication of the title inflation for positions, which perhaps is intended to compensate for the low level of civil service remuneration. Khachiyani (2011) reported, based on a representative sample of 128 civil servants interviewed, that there was a problem of position inflation in the Armenian civil service, as the job carried out did not match and had less value than the job described in the position passport. The classification system is therefore one of the first obstacles to a fair remuneration system.

The Civil Service Law contains only a provision on the right of every civil servant to a payment that is adequate to his/her work, without discrimination. The Law on Remuneration of Persons Occupying Public Positions regulates the remuneration of civil servants, judiciary staff and state servants in the

National Assembly. This narrow application may trigger some inconsistencies in the public sector. In any case, most of the remuneration systems of other groups of public servants also apply the measures described in detail below (basic salary and coefficients for various components).

The calculation of the remuneration of civil servants is based on a common amount (i.e. basic salary), which is multiplied by a coefficient that is set for each position group (grade), sub-group (class) and level (i.e. step, reflecting years of service in the relevant group and sub-group).

Public servants (except for military position-holders and officials working in the penitentiary and in rescue services) can receive an allowance in a lump sum in the following cases: marriage, damages resulting from a disaster, long-term illness of the public servant or a member of his/her family; and death of a member of the public servant's family. If the public servant dies, a lump sum allowance can be paid to his/her family.

The semester reports and appraisals of the direct supervisor concerning a civil servant constitute the basis for granting bonuses. The appointing official approves the amount of the bonus. A public servant cannot receive a bonus if the semester appraisal was negative. In addition, the direct supervisor (or official with equivalent powers) can grant a special bonus equivalent to one month of the job rate, but three times a year at the most. In order to pay these bonuses, 10% of the annual salary budget is reserved (SIGMA, 2010). Only civil servants can receive such bonuses, while non-civil servants can only receive bonuses taken from the savings resulting from unfilled vacancies and other unspent payroll items. Since there are no precise criteria for granting bonuses and the appointing official is given a high degree of discretion in this matter, this approach is not transparent.

Bonuses and various levels of basic pay explain the inequalities of salaries among state bodies of the same nature in the past. In 2011 the mean monthly wage of civil servants in the Public Service Regulatory Commission was AMD 231 104 (EUR 446), an amount that was almost double the mean wage in the National Commission of Radio and Television (AMD 115 552 – EUR 223). In the same year, the mean wage in the Ministry of Finance was AMD 150 432 (EUR 290), which was almost double the mean wage in the Ministry of Diaspora (AMD 82 400 – EUR 159) (Saryan 2011). In July 2014, the Law on Remuneration of Public Servants entered into force. The salary amount has changed compared to the past, but at the time of writing there are no data to assess whether the situation has changed.

Civil servants have other privileges that do not exist in the private sector, but these privileges do not offset the low salaries. Public servants (except for military position-holders and officials working in the penitentiary and in rescue services) have several privileges. First, the salary is maintained during the periods of attestation, training and competition for a vacancy. Second, the salary of the most recent position is maintained (with some conditions) for civil servants in the short-term reserve. Third, extra vacation pay is given in addition to the regular salary for the month of vacation. Fourth, the Government sometimes covers the cost of lodging, uniforms, transportation, and similar expenses. Finally, the state finances monthly payments of mortgages, tuition fees and recreation for persons occupying an official position and/or for close members of their family.

Private and public sector pensions are almost the same. However, pensions differ for staff in military positions in the defence of national executive bodies, national security and police; officials working in the penitentiary and rescue services; staff in the Office of the Prosecutor; and judicial servants.

In summary, the remuneration system in Armenia requires further reform, as it does not achieve its purpose in several ways. First, the classification system is very detailed in the legislation, but it does not ensure that similar positions in different public authorities are similarly classified. Second, the distribution between basic salary, allowances and bonuses is clear in the legislation, while the discretion exerted when awarding bonuses is relatively high and non-transparent. Third, the remuneration in the public sector is not sufficiently competitive with the private sector as to attract and retain highly qualified candidates. The fringe benefits in the public sector do not counterbalance the low salaries.

3.8. Professional development of civil servants: training and performance appraisal

Principle: The professional development of public servants is ensured, including regular training and fair performance appraisal.

Training

The Civil Service Law and the Civil Service Council Decision 546/2006 regulate training. The Civil Service Council plans, implements and monitors the professional development of civil servants. Moreover, according to the legislation, the Council and the HR units of each public authority are responsible for carrying out training needs assessment. All of these institutions contribute their recommendations with regard to the training plan. At the end of each year, the public authorities submit their training requests for the following year to the Civil Service Council, which finalises the training plan.

In practice, the training plan does not result from a needs assessment, and a real evaluation of the plan and its effectiveness has not been undertaken (Ameria 2010). The plan is rather an amalgamation of the various and disparate interests of all of the public authorities that submit requests. Civil servants choose the type of training they want to receive. They consult with their supervisors, but the role that managers play is unclear.

These annual plans require the training of one third of the civil servants in each public authority. This training obligation is normally fulfilled every year, according to the country authorities. Furthermore, according to the legislation, this obligation comprises mandatory training (implemented at least once every three years) and non-mandatory training (determined by the civil servant or the HR manager of the authority). Most training is carried out through lectures, as practical training is not as common. Finally, the Public Administration Academy organises induction courses, which last two weeks (72 hours) for those persons who are entering the civil service.

The most recently available data from the last decade shows that approximately one third of civil servants receive training, as mandated by law (see Table 16 below). The statistics relate to the number of persons who attended a training course, but these statistics do not reflect how many times a civil servant received training during that period or how many hours of training were received each time.

Table 16. Total number of trained civil servants (2003-2009)

Year	Number of civil servants trained	Number of civil servants who did not pass the training
2003	2 232	52
2004	2 213	80
2005	1 226	59
2006	1 758	27
2007	2 259	126
2008	2 114	113
2009	1 513	59
Total	13 315	516

Source: Ameria, 2010

In general, training is financed by the State, which has a limited budget. It is therefore difficult to attract the best trainers and to ensure a diversity of teaching methods. In comparative analysis, the training expenditure of Armenia in 2007 was far lower than in countries like Albania, Croatia or Montenegro (Ameria, 2010). In addition, training fees are paid by public authorities that wish to train their employees.

In summary, as in many other systems, Armenian civil servants have the right (and duty) to improve their professional knowledge and skills. Public authorities are obliged to make training programmes available to civil servants. The legislation indicates the path to be followed regarding needs assessments and annual plans. In practice, however, needs assessments are not properly carried out. As training is

mandatory, one third of civil servants are trained, but rather in the courses of their choice, with some agreement on the part of the supervisor. Finally, the budget for training is low, and it is therefore difficult to attract the best trainers.

Performance appraisal and attestation

Two separate systems coexist simultaneously in the Armenian civil service: performance appraisal and attestation. Although they seem to be similar, they have been conceived for different purposes.

All civil service position-holders have to be appraised. Performance appraisal is conducted twice a year by the direct supervisor. When appraising the performance of the head of staff, the direct supervisor must take into account the opinion of the official responsible for that unit. During the performance appraisal, the following aspects are assessed: the results of the work, the terms and quality of the final submission of activities, and managerial skills.

Neither promotion nor training is really affected by the results of the performance appraisal. First, the performance appraisal has generally no consequence on the promotion of a civil servant. However, the appointing authority may take into account performance appraisal results when appointing a civil servant to a higher position. Second, although training needs can be identified by means of the performance appraisal, this function is not systematically fulfilled.

However, performance appraisal is used for the bonus system. A civil servant cannot receive a bonus if his/her performance appraisal result was lower than 75% in the previous two semesters. Furthermore, the appointing authority can suspend for a year the regular salary increase of the civil servant if the appraisal results of the last two semesters were lower than the indicators established by the Government and if a disciplinary sanction was not applied. Poor performance appraisal results can also entail the dismissal of a civil servant, but this action requires the approval of the Civil Service Council.

Both supervisors and civil servants accept the performance appraisal, and it is applied to all civil servants. In some public authorities, a performance appraisal is not carried out. In those bodies, the civil servants report every six months on the evolution of their work.

In case of disagreement, the civil servant can appeal against the performance appraisal report to the superior of his/her direct supervisor. The superior can either approve the appeal and change the appraisal or reject it, leaving the appraisal unchanged. The Civil Service Council can be engaged as a second instance of appeal.

The Civil Service Law (article 40) and the Civil Service Council Decision 19/2002 regulate the attestation procedure. The attestation system was introduced when the civil service was created. The system aims to assess the compliance of a civil servant with the professional skills and capacities of his/her position, as established in the position passport. In principle, the attestation is connected with neither the performance appraisal nor the remuneration system.

The attestation system, which is run in parallel to performance appraisal, is mandatory for civil servants. The Civil Service Council manages the procedure for the highest and chief positions, and public authorities attest to the compliance of civil servants in leading and junior positions working in their respective bodies. According to the Civil Service Law, each year one third of the civil servants in each public authority should be subject to the procedure. Legal provisions stipulate that each civil servant is to undergo the mandatory attestation procedure once every three years. Extraordinary attestations can be carried out at least once a year.

The process comprises two main stages and includes a preliminary documentary attestation for civil servants in the highest subgroups. The remaining civil servants can be attested by means of a test and an interview. After a documentary assessment, the Attestation Commission may either confirm the civil servant in the position or decide to set up an examination and interview. After this stage, the Attestation

Commission may confirm the civil servant in the position (without conditions or with the condition of undertaking training), or it may decide to not confirm the civil servant in the position.

The attestation assessment process is similar to the competition process. Attestation committees perform a “quasi-competition” that applies the same methodology as applied in a competition. The tests are very similar to those used for competition purposes (Ameria, 2010). This repetitious exercise does not offer any benefit in assessing the suitability of the civil servant for a position. Attestations are normally linked to promotion and to the training system, but it is not clear that this link is uniformly applied in Armenia. This apparent “dysfunctionality” is due to the decision, when the Civil Service Law was adopted, to automatically convert state employees into civil servants. The authorities wanted to ensure that the civil servant’s knowledge and skills complied with the requirements established in the position passport (job description).

After several rounds of attestation, this issue seems to have been resolved, although with some problems. According to the latest available data, in the period between 2003 and 2008, 95.2% of the attested civil servants were confirmed in their positions, while 4.8% were dismissed because they did not have the knowledge required for the positions that they were holding (Ameria, 2010). At the time of writing, the attestation system has been put in question and is to be abolished from January 1, 2017, according to the Law on Supplements and Amendments to the Law on “Civil Service” from June 2014.

In summary, in Armenia there is a certain overlap and confusion between performance appraisal and attestation. Attestation is a certificate that had a function in the transition from the old system to the Civil Service Law system. It has served as a substitute for an “on-the-job” competition. Once most of the civil servants who entered the civil service before the implementation of the Civil Service Law have been attested, the system will no longer be necessary. Performance appraisal is also practiced, although there is not much information available concerning the appraisal results. In any case, performance appraisal is not yet linked to promotion and training, but it does have a connection to the payment of bonuses.

3.9. Promotion of integrity and prevention of corruption

Principle: Measures for promoting integrity and preventing corruption in the public service are in place and applied.

In Armenia, the promotion of integrity and the prevention of corruption are carried out through various pieces of legislation and anti-corruption plans. The Civil Service Law, the Public Service Law and the Law on Conflict of Interest and Corruption in the Civil Service regulate issues that are relevant to ethical behaviour. At the time of writing, a draft code of ethics for the civil service has been prepared but has not yet been adopted. The Civil Service Law only briefly mentions ethics in article 23, where it establishes that one of the duties of a civil servant is to obey the ethics rules applying to him/her. However, the Public Service Law (2011) provides a more extensive regulation on the matter.

The Public Service Law establishes that the rules of ethics (expanded through various amendments) are to ensure the proper behaviour of public servants, in particular by avoiding a conflict between public and private interests. Article 28 offers a non-exhaustive description of ethical behaviour expected from public servants. The enforcement of this behaviour is being pursued by ethics commissions, which have been established in the respective bodies. However, in practice there are no clear criteria to assess the ethical behaviour of a public servant. Furthermore, training on ethical issues is still insufficient, according to the country authorities interviewed.

The legislation regulates most of the typical aspects of behaviour that may breach the integrity of a civil servant. First, the legislation stipulates incompatibilities regarding the position of a civil servant. During the year following a civil servant’s release from a position, he/she cannot work with or become an employee of an organisation over which he/she exercised immediate supervision during the last year of his/her tenure (article 23). Second, the civil servant is not entitled to exercise any other payable job,

except for scientific, pedagogical and creative work, or work stemming from the status of an electoral commission member in cases envisaged by the Electoral Code. Third, there are also other restrictions related to participation in the management and holding shares of a commercial organisation. Finally, the legislation forbids the receipt of gifts (money or services) in relation to the delivery of a service (article 23).

In spite of the expansion of integrity regulation in the legislation, the launch of anti-corruption strategies, the continuous updating of anti-corruption plans, and the provisions of whistle-blowing protection in the Public Service Law (2011) and in Government Decision 1816/2011, the level of corruption remains high. The 2009 Transparency International Corruption (CPI) score of Armenia dropped from position 114 to position 120. In 2013 (the data is not comparable with previous years), Armenia occupied position 94, with a score of 36 (on a scale of 0 = highly corrupt and 100 = highly clean).

In summary, legislation and policies are in place to promote integrity and prevent corruption in the civil service. However, the perception of corruption is high in Armenia, according to Transparency International. Monitoring and weak enforcement are failing to promote integrity.

3.10. Implementation of disciplinary procedures

Principle: Disciplinary procedures of public servants, with right of appeal, are consistently applied.

The Armenian legislation stipulates in a comprehensive manner the types of disciplinary sanctions applicable to civil servants as well as the grounds and periods of application of these sanctions.

The disciplinary process starts with a violation committed by a civil servant, normally for having performed official duties without good reason, abused his/her official powers, or violated the internal working disciplinary rules. Before attributing a disciplinary sanction, the responsible official must demand a written explanation from the civil servant who committed the violation.

The civil servant can appeal to the Civil Service Council. In that event, the Council conducts an impartial investigation, during which the civil servant is also heard. If the civil servant is still not satisfied, he/she can appeal against this decision in the court. Furthermore, if there was no official investigation, the civil servant can appeal against the disciplinary sanction in the court and refer to the media so as to inform the public of his/her viewpoint.

The disciplinary process has triggered some criticism in previous SIGMA assessments. In 2010, SIGMA reported that the legislation neither sets out the principles of the procedure nor provides a precise definition of disciplinary violations, without differentiating between minor and major violations.

Another limitation of the disciplinary process was criticised in SIGMA's 2010 assessment. Disciplinary sanctions cannot be applied if more than six months have passed from the date on which the disciplinary violation was committed. This period is too short for many ordinary cases and especially for corruption-related violations. Corruption may be concealed for a long period of time, and many of the cases require the gathering of complex information. This time limitation should therefore be amended.

In summary, disciplinary sanctions in Armenia are regulated in the legislation, but some gaps should be amended in future reforms. Those gaps refer to both the substantive ways of defining violations and sanctions and the procedural time for investigating violations.

3.11. Civil service policy and legal framework based on administrative law principles

Principle: Policy and legal frameworks for a professional and coherent public service, based on administrative law principles, are established and applied in practice.

The Public Service Law (2011, article 6) mentions 13 principles, which are valuable in themselves but do not reflect explicitly the above-mentioned principles. In general, the Public Service Law does not clearly reflect the need to deliver effective and impartial services to citizens and to give account in a transparent way of any collective or individual decision made by public servants. The country authority's response to the survey states that the above-mentioned principles inspired the 13 principles of article 6 and that for the most part those principles are applied.

Some of the principles are clearly not applied in practice, however. For instance, openness and transparency are not fully applied in recruitment since there are three groups of positions for which open competition based on merit is not required: positions resulting from agency reorganisation, positions subject to the "out-of-competition procedure", and junior positions. In addition, the payment of bonuses is not transparent, as the appointing official is allowed a high degree of discretion in this matter.

In summary, in Armenia the civil service legislation does not explicitly incorporate European administrative law principles, and some practices in human resources management processes the principles of openness and transparency are not fully applied.

3.12 Specific recommendations

1. The legislation should include provisions that enhance the idea that civil servants are servants of the State and not of particular agencies. An incentive to rotation and mobility among public agencies would foster this idea too.
2. A process to assign civil service positions should be regulated in primary and secondary legislation. This process should help to avoid the discretion of managers when assigning positions.
3. Merit-based practices should be applied to internal competition and to those processes in which staff from the reserve list can be used.
4. Higher transparency should be introduced into the recruitment process. In addition to cameras for the exams, clearer criteria are needed when placing a candidate on the shortlist. If the first candidate is not selected, justifications should be provided.
5. After the abolition of an agency, the current practice is to reappoint civil servants or to place them in the reserve list. In these cases, the legislation should be more protective of the civil servant.
6. Efforts should be put into enforcing the classification system with appropriate fixes in order to ensure that similar positions in different public authorities are similarly classified.
7. Criteria have to be regulated and enforced to guarantee that the granting of bonuses is transparent and non-discretionary.
8. A plan to secure financial resources for increasing the competitiveness of civil service salaries is required. Efficiency measures are probably needed for the implementation of this plan, which may affect civil service size, so that savings can be used for the payroll. The wider context of public sector employment has to be taken into account in this plan.
9. Training requires an organizational and individual needs assessment. Institutions should carry out more systematic needs assessment of their staff and this should be integrated in wider plans in order to benefit from economies of scale.

10. Consideration should be given to abolishing the attestation system so that the real purpose of performance appraisal is not affected by an instrument of little use. The primary purpose of performance appraisal should be the identification of training needs and its use for promotion and bonuses (if bonuses are granted at all).
11. The promotion of integrity requires centralized monitoring mechanisms that are not currently in place.

4. AZERBAIJAN

4.1. Scope of the civil service

Principle: The scope of public service is adequate, clearly defined and applied in practice.

The Constitution and the Civil Service Law (2000) regulate the civil service in Azerbaijan and set the horizontal and vertical scope. From a horizontal perspective, the Civil Service Law applies to the executive, legislative and judicial branches of government and at the local level. In the executive branch, the civil service covers administrative bodies reporting to the President, the presidential administration and other central administration entities (ministries, agencies, collegial bodies, councils and commissions, among others). Furthermore, it includes civil servants serving in Parliament and in the judicial administration (constitutional, supreme, appeals, general and specialised courts). Finally, the law also applies to civil servants of local executive power entities.

The wide horizontal scope of the law and a centralised recruitment process for some categories of civil servants help to build a more cohesive state civil service than an approach that identified a civil servant with a particular agency would provide.

In addition, with regard to the horizontal scope, the number of civil servants is comparatively small. It comprised 29 500 civil servants in 2013, which represented only 2.5% of the 1.2 million public sector employees. Public sector employment represents 25.9% of a total of 4.5 million private and public sector employees⁵.

The Constitution (article 109) already distinguishes between political appointees and civil servants. The President of the Republic appoints the heads of the central apparatus (ministries, collegial bodies, services, agencies and commission, among others) and of local executive entities. While the Civil Service Law regulates the civil service, other laws regulate political appointees.

Discretionary appointments at the top of the civil service are nevertheless far-reaching. Merit-based recruitment applies to a small group of civil servants (5th-7th classifications of administrative positions). Positions within the supreme grade and in the 1st-4th classifications (2 878 public servants, 9.6% of civil servants in 2013) are not recruited through open competition, but by means of interviews and direct promotion. Merit then does not apply to civil servants occupying the highest levels.

In summary, the horizontal scope of the civil service in Azerbaijan is broad, but the vertical scope is too narrow. Civil servants work in the government, the parliament and the judiciary. However, the vertical differentiation is misleading. While the legislation establishes a clear line between presidential appointments and civil servants, the percentage of discretionary appointments at the top (9.6%) is relatively high. Therefore, the overall scope of the civil service is narrow.

⁵ <http://www.stat.gov.az/source/labour/indexen.php>

4.2. Institutional set-up for consistent and effective human resources management practices

Principle: The institutional set-up enables consistent and effective human resource management (HRM) practices across the public service.

The Civil Service Commission has in theory the functional and institutional features for co-ordinating the management of the civil service. The President appoints the Chairman of the Commission, establishing a direct accountability line. The steering capacity of the civil service by the Civil Service Commission is also visible throughout the various functions that the Commission exercises: implementing programmes for the improvement of the civil service; overseeing the enforcement of civil service legislation in state institutions; preparing, approving and monitoring competition rules and guidelines for competitive recruitment; assessing training needs; developing the training strategy and co-ordinating professional training in state institutions; elaborating proposals on ethical behaviour in the civil service; proposing the abolition of state authorities' resolutions that violate civil service legislation; publishing annual reports on the civil service; and processing complaints on violations of the Code of Ethics. One missing function is the Commission's involvement in civil service work force planning, in spite of the fact that it manages the personnel registry.

However, the staffing resources of the Commission are insufficient to cope with the workload and carry out strategic functions. The Commission has 45 staff members (some positions are still vacant due to the lack of office space), which amounts to 1.5 staff members per 1 000 civil servants. The Commission co-operates with HR units of state bodies in drafting legislation, policies, strategies, and general civil service standards. However, since the Commission is involved in the competition commissions, which entails a considerable workload, its capacity and time to be involved in more strategic issues are rather limited. The staff size of the Commission is not adequate to perform all of the legislated duties (Reed, 2010). For instance, two persons out of three in the Legal Department of the Council are in charge of all ethical matters, which include regulation, training, public awareness and reporting (apart from other legal tasks). Clearly, this number of staff is not sufficient for an administration with a high number of ethical issues and a civil service of more than 28 000 persons (Hoppe, 2012). In 2013, the department issued 390 disciplinary sanctions for violations of the Code of Ethics. The official response to the survey is that the Commission is able to co-ordinate up to three quarters of its main legal functions. This capacity has relatively improved in the last four years.

The registry, managed by the Civil Service Commission, collects information on civil servants directly and indirectly through the databases of other state authorities. The registry, established by the presidential Decree 420/2006, includes information on civil servants, such as personal data, educational qualifications, professional experience and job career in the civil service. Data on performance assessment or remuneration is absent, however. The registry therefore provides a wealth of information for managing the civil service.

The registry is helpful in order to take decisions in some management processes, at least in up to half of the main human resources management (HRM) processes, according to the official answer to the survey. For instance, the personnel registry is used, among other things, to monitor illegal recruitment into the civil service, premature assignment to the next professional grade, and other violations. State bodies can benefit from the information available in the registry for the management of their staff.

In summary, the Civil Service Commission is placed in an institutional position directly under the President, which grants the institution considerable influence on the system. This influence is also supported by a considerable number of tasks, from which only the involvement of the Commission in work force planning is missing. However, the staff size of the Commission and the volume of work to be carried out suggest that the Commission cannot exert this influence to its full potential. The time available to act strategically is considerably reduced since the Commission takes part directly in the

recruiting process for vacancies at particular levels (see below). The personnel registry is used for management issues, but there is room to enhance its potential.

4.3. Merit-based recruitment of civil servants

Principle: Recruitment is based on merit in all its phases.

In Azerbaijan, merit-based recruitment is restricted to a particular group of civil servants, since another group with civil servant status is recruited by means of a discretionary appointment. In that group of positions between the supreme grade and the 4th classification, the civil servants are not recruited through open competition based on merit. Recruitment to these positions takes place through interviews and direct promotion. The list of appointees in the supreme grades and the 1st to 4th classifications is relatively long. In these four levels, there are 2 838 staff, which represents 9.6% of the entire civil service.

The second group of civil servants is recruited competitively through a highly transparent process. In the 5th through 7th classifications of administrative positions (sector heads and experts of the central administration, heads and deputy heads of the local branches of these bodies at the central executive authority levels – ministry, committee, commission, agency and service), civil servants are recruited through open competition. To fill vacancies in these positions, the competition is centrally organised by the Civil Service Commission.

The announcement of a vacancy has a wide coverage so that citizens are given ample time to apply online, and the Commission makes extra efforts to announce the vacancies in particular “niches”. The job description provides in detail the main purpose and functions of the position, and it indicates the requirements for holding the position. Based on the stipulated requirements, each state body develops the terms for holding individual positions. Vacant positions, with the explicit information of the job description, are announced in the mass media, on the Commission website and in social networks. During the validity period of the announcement, the competition is promoted through several events organised with the participation of final-year university students in the capital and in the regions. The competition announcements, as well as the Commission’s website, provide information on the competition, interview procedures, and the regulating legislation. The deadline of the competition is typically 30 days after the announcement of the vacancy; 20 days’ notice is given in preparation for general interviews and 15 days for the internal interview process. Citizens can submit their applications for the vacant position online. The draft Public Service Code, not approved at the time of writing, has stipulated shorter deadlines than the mentioned above.

The competition consists of two stages, which are recorded for transparency purposes: the examination and the interview. The examination verifies general knowledge about Azerbaijan, knowledge of the legislation, information technology skills, and capacity for logical thinking. The website of the Commission has test examination programmes reflecting the topics and the literature used for creating the examination databases. Test examinations are provided, using special software that randomly selects questions from a database right at the beginning of the examination and assigns various questions to candidates depending on the level of competition of the vacant position. The examinations are recorded on video, attended by observers, and can be viewed in live-stream format. The results are published on the Commission’s website upon completion of the examination.

The interview, which is also recorded with the permission of the candidate, constitutes the second stage of the competition, which helps to evaluate the personal characteristics of a candidate, his/her knowledge as required for the vacant position, as well as skills and capabilities. Civil servants holding administrative positions in the state body that announced the vacancy or in any other state body have the right to participate in internal interviews and are exempted from completing the examination. The interview commission includes representatives of the Civil Service Commission, the state body announcing the vacancy, and independent experts from various fields (scientific fields, educational institutions and civil society). The results of the interview are posted on the Commission’s website on the

day of the interview. All of these measures enhance the transparency of competitions, but for only a small proportion of positions.

The appointment is not necessarily awarded to the first shortlisted candidate. The interview commission sends to the appointing authority the names of candidates who successfully passed the interview. The head of the state body selects and appoints one of the shortlisted candidates to the vacant position for a year-long probationary period. Since the first shortlisted candidate is not necessarily selected, the competitiveness of the process is weakened.

The candidates who successfully passed the interview and were not awarded the appointment are placed on the reserve list for two years. The candidates submitted by the Commission to the head of relevant state body for appointment to the vacant position, but not appointed to that position, shall be kept as a reserve staff by the Commission and the state body for a period of two years. During this period, if similar vacant positions (with relevant service functions and terms for holding the position) are available in that state body, the candidates shall be appointed to similar positions by their consent. If during that period, similar vacant positions in other state agencies are available, the Commission shall submit the candidate name to the head of the relevant state authority to hold the similar vacant positions by their consent. It is not clear whether this process is based on merit and to what extent the reserve list is established in ranking order.

An Appeal Commission reviews and investigates complaints concerning the examination and interview results. In 2013 the percentage of appeals in favour of the appellant was 12.2% for complaints regarding the examination results, and 23.7% for complaints concerning the results of the rest of the competition. These figures indicate that the appeal mechanism is a legitimate instrument for recruitment.

However, since positions above the 5th classification are not based clearly on merit, the general impression is that recruitment into the civil service does not follow transparent competitive procedures. Recruitments to vacant positions coinciding with the highest second classifications of administrative positions shall be carried out by direct appointment. Recruitment to civil service for vacant positions of the third and fourth categories of Administrative positions shall be carried out through an interview. In the focus group sessions organised by Weinmann (2013), citizens shared their concerns with regard to civil servants. They believed that there was not much control over the ethical conduct of civil servants. They also considered that personal connections were relevant to promotion, and they voiced little trust in the use of merit in recruitment since some vacancies were filled informally.

In summary, between half and three quarters of civil servants are employed on the basis of merit and open competition. This proportion represents only the civil servants in the 5th through 7th classifications of administrative positions. For this group, the process is very open and transparent in a comparative perspective, but there is a minor concern that the option of not selecting the first shortlisted candidate may weaken the merit basis of the system. For this group, the average number of candidates per vacant position is 4.2, which is not very high, and the percentage of vacant positions filled by means of external competition is 31%, which is also not very high. Since the supreme grade and classifications 1-4 are not selected by merit, there is considerable room for strengthening the role of meritocracy in the civil service system in Azerbaijan.

4.4. Equal treatment of civil servants

Principle: There is equal treatment in the public service.

The equality principle is applied to the rights of civil servants (article 4.1.9 of the Civil Service Law) and to the recruitment into the civil service (article 27.1). Recruitment is to be carried out regardless of race, nationality, religion, language, sex, social origin, property status, place of residence, religious beliefs, or membership in social and other organisations. A more general equality clause, without mentioning special demographic features, is also applied to promotion (articles 19 and 27.2).

The share of female employment has grown from 7 350 to 8 244 (27.7% of the total civil service) in the period from 2005 to 2013⁶. Although the proportion of females in the civil service is still low, a growing presence of women in high-level posts (supreme grade and 1st-4th classifications) can be witnessed. It rose from 142 in 2005 to 304 in 2013 (326 in 2012), which represented 27.5% of these positions in 2013, which was similar to their share in the entire civil service.

In summary, an equality principle is incorporated into the legislation. With regard to gender equality, the presence of women in the civil service is increasing, but still at a very low pace. Women do not even represent one third of the entire civil service force.

4.5. Objectivity of the termination of civil service

Principle: Objective criteria for termination of public service are explicitly regulated in law and followed in practice.

The Civil Service Law (article 33) establishes the basis for the termination of civil service.

The abolition of a state body or its reorganisation cannot serve as grounds for the dismissal of civil servants. In accordance with article 21.1.6, in the event of the liquidation of a state body or staff reduction, redundant civil servants have a priority right to reappointment to a position with the corresponding salary and profession of the position that they had occupied in the previous state body. If they are not reappointed, they are then included on the staff reserve list. The detailed regulation of this article is set down in the presidential Decree 464/2011. The procedure covers both political appointees (referred to as senior civil servants in Azerbaijan) and civil servants.

In practice, there have not been any cases of dismissal of civil servants, including senior civil servants, subsequent to the change of management of the state body. Finally, the Civil Service Law (article 25) establishes that the application of disciplinary measures in the form of dismissal may be appealed to a supreme state body.

In summary, civil servants are generally given tenure after the probationary period. The Civil Service Law lists the situations leading to dismissal, although some of the situations are rather a description of voluntary resignation. The reorganisation or abolition of agencies leads to the reappointment of a civil servant or his/her inclusion on the short-term reserve list. In any case, the legislation should be more protective of the civil servant.

4.6. Mobility, promotion and demotion of civil servants

Principle: Mobility, promotion and demotion of public servants are objective, transparent and based on merit.

In the civil service system of Azerbaijan, the promotion of civil servants in the fifth-seventh categories is performed according to merit-based criteria. Promotion is carried out through upgrading, competition or interview (internal and general). The competition or interview assesses the knowledge, professional capacity and logical thinking of candidates with reference to a particular state body and vacancy. Also, during the interview (only valid for a person holding a civil servant position), the following issues are taken into consideration: specialisation level, attestation results, performance evaluation results, and additional education corresponding to the requirements of the relevant position. However, promotions above category fifth is not performed through merit.

⁶ <http://www.stat.gov.az/source/labour/indexen.php>

The practice of horizontal mobility is not regulated in detail in the legislation. This horizontal mobility (rotation) can be performed upon the mutual consent of the heads of the relevant state bodies. The legislation does not stipulate any criteria that are applicable to rotation. In practice, the basis for rotation is the knowledge of a civil servant with reference to the new position as well as his/her skills and experience. Rotation is not a compulsory measure. Temporary rotation for upgrading the skills of civil servants is very rarely carried out.

Some reforms are underway to change the practice of mobility. In the future, it is expected that performance appraisal, which has been enforced since May 2014, will help with decision making concerning promotions, inscription on the reserve staff list for senior positions or transfer to similar positions, and demotions. On the other hand, the draft of a civil service code includes provisions for further improvement of recruitment, promotion, rotation, demotion and dismissal of civil servants. The code also includes a provision on the recruitment (promotion) to a higher classification for administrative positions (3rd and 4th classifications), which are in fact discretionary appointments, only by means of internal interview or general competition.

In summary, promotion is performed in the civil service of Azerbaijan, but for the most part it is non-competitive. Horizontal mobility is also practiced, but has undergone little regulation. A reform is underway to improve the openness and competitiveness of promotion through the use of the results of the performance appraisal (recently enforced) and through the mandate of the future civil service code.

4.7. Fair and transparent remuneration system

Principle: Remuneration system of public servants is fair and transparent and applied in practice.

The remuneration of civil servants is regulated in a single legal document, the presidential Order 2934/2008. The salary is determined in accordance with the classification of the position held by a civil servant (senior, junior) and his/her occupation/job title (consultant, senior consultant, head consultant, section chief, department head, head of the administration). Based on the presidential Order, there is to be no difference between civil servants with similar responsibilities who hold positions in different state bodies. Weinmann (2013) reports that in focus group sessions the civil servants did not consider that this goal had been achieved.

State remuneration consists of salary, allowances and bonuses. The most common allowances are related to the professional grade, years of service, vacation, and compulsory medical insurance for the civil servant and his/her family members. Besides, in some state bodies (tax, customs, internal affairs, migration service, "ASAN" service (an agency which provides a variety of services like one-stop shop) and others) a percentage of the official fees (between 25% and 30%) is added to the salaries of the civil servants employed by that body.

Bonuses are discretionarily granted. The Civil Service Law (article 24) and the presidential Decree 774/2002 set out the collective and individual types of bonuses based on the performance of civil servants. The collective bonus, paid to a state body, can be received in cases of timely and qualitative performance of basic duties or timely performance of important state tasks as well as on the occasion of a national holiday or other significant event. The head of the state body that employs a civil servant issues the individual bonuses. Bonuses are financed by additional funds provided for in the annual state budget. These funds are threefold the size of the monthly wage fund (except for the allowances added to the official, basic salary), as designated for civil servants in state bodies. The formalised part of the remuneration system is highly transparent and precisely regulated by the relevant legislation.

The salaries received in the public sector are not competitive with the salaries of equivalent positions in the private sector; only the public sector pension is competitive. Based on wage tables applying to all

ministries, the average monthly salary of officials was AZN 181 (EUR 181) in 2005 and rose to AZN 446 (EUR 446) in 2012⁷. A SIGMA (2013a) document shows the comparison between salaries in the civil service and those in the private sector (see Table 17 below). For five positions advertised in the civil service, the equivalent posts in the private sector would offer monthly salaries between 1.7 and 3.5 times higher.

Table 17. Comparison of salaries between positions in the public and private sectors (an illustration)

Vacant position in the civil service	Monthly (gross) salary in AZN	Vacant position in the private sector (minimum wage offered)	Monthly (gross) salary in AZN	Difference
State Town Building and Architecture Committee (Chief Consultant, Finance and Accounting Department)	430	1- AZINKA (Chief Accountant)	1 500	3.5
State Social Protection Foundation (Consultant-Lawyer, Baku Department on Co-operation with Corporations)	182	2- Nurgun Holding (Lawyer)	500	2.7
Civil Service Commission (Head of the Accounting and Economical Sector)	465	3- ABC Telecom (Office Manager)	800	1.7
Ministry of Finance (Consultant-Accountant, Yardimli Regional Finance Department)	177	4- "MOL BULAK BOKT" MMC (Credit Specialist)	300	1.7
Jalilabad Local Court (Consultant-Software Specialist)	177	5- ABC Telecom (Help-desk Specialist)	500	2.8

Source: SIGMA 2013a

* 1 AZN is equivalent to 1 EUR

For the public sector - www.csc.gov.az; for the private sector - 1) <http://www.azerweb.com/en/job.php?id=11421>; 2) <http://boss.az/vacancies/55384>; 3) <http://boss.az/vacancies/56102>; 4) http://jobsearch.az/vacancies9326_en.html; 5) <http://boss.az/vacancies/54940>

According to the country authorities, civil servants are entitled to a pension, and this is not still the case in the private sector. A private pension system is expected to be launched in the coming years.

In summary, the remuneration system in Azerbaijan is still not fair since similar positions in different public sector organisations are differently remunerated, and the implementation of the job classification system does not offset this. Some areas of the salary system are transparent, but they do not offset other less transparent areas like granting rewards: collective or individual. The lack of transparency may be linked to a very low salary level, which does not bear well the comparison with the private sector. The only competitive advantage of the reward package in the civil service is the existence of a pension (there is a plan to introduce a pension scheme in the private sector any time soon though).

4.8. Professional development of civil servants: training and performance appraisal

Principle: The professional development of public servants is ensured, including regular training and fair performance appraisal.

⁷ See <http://www.stat.gov.az/indexen.php>

Training

Civil servants in Azerbaijan are entitled to be educated, receive relevant training, and take educational leave at the State's expense (Civil Service Law, article 19). Article 22 describes in detail the circumstances in which civil servants may receive additional training. However, the legislation does not specify any duty of the civil servant with regard to training, i.e. the frequency and amount of training a civil servant should undertake.

One of the main functions of the Civil Service Commission is the training and professional development of civil servants. This function comprises an analysis of the state of affairs, preparation of proposals, delivery of training in certain areas, and involvement in the provision of additional educational activities. The Commission usually runs courses on management, ethical behaviour rules, and anti-corruption and civil service legislation, both in the capital and in the regions. The state agencies meet their own needs for training, and some have their own training centres. The State Administration Academy also organises advanced vocational training for civil servants.

Each state body has its own criteria for carrying out needs assessment. In addition, the Commission conducts surveys, takes into consideration the most topical issues for the civil service, and tailors courses to meet the specific requests of state bodies. It is expected that performance appraisal (launched in 2014) will help in assessing training needs.

The Commission is working on the creation of a specialised training centre, under its supervision and with the co-operation of the EU, GIZ (*Gesellschaft für Internationale Zusammenarbeit* – German Co-operation Agency) and UNDP (United Nations Development Programme). The aims of the centre are to provide more systematic, planned and professional courses for civil servants, to develop a training strategy, and to further improve the legislation on additional education.

Training and professional development do not receive high scores in the opinion of civil servants in Azerbaijan, as reported by SIGMA (2013a). More than one third of the respondents to the job satisfaction survey carried out for the report indicated that their superior was not interested or only partially interested in their professional development. This figure may partly explain the low level of participation of civil servants in training. Only 16.8% of the employees participate regularly in training activities; 31.7% take turns with their colleagues, and 51.5% have been involved in training in a limited way.

In summary, the Civil Service Commission identify training needs and prepare a strategy for training civil servants. Legislation is in place and training courses are provided, but there is room for improvement in the area of needs assessment, the link between performance appraisal and training, and a more overarching training strategy. The establishment of a training centre under the supervision of the Civil Service Commission is a good step forward that the government is taking at the moment

Performance appraisal

The Civil Service Law (article 30) and the Commission's Decision 12/2014 regulate performance appraisal. According to this regulation, the performance of civil servants is to be appraised at the end of each calendar year for those who have served more than six months in a position.

The direct supervisor carries out the performance appraisal of a civil servant. The supervisor drafts a report on the performance of the civil servant and submits it to the relevant unit head for approval. Once the civil servant has been appraised, the supervisor holds a discussion with the appraisee about the latter's activities, training needs and individual plans for professional development. No influence or pressure should be exerted on the civil servant when expressing his/her ideas during the interview. The civil servant has the duty to convey his/her opinion on the performance appraisal, and this opinion is to be included in the performance appraisal form.

The direct supervisor sets tasks (associated to targets), which consist of activities to be executed by a civil servant within a year. The performance of civil servants is evaluated based on professional knowledge; attitude to official duties; ability to analyse, solve problems and make decisions; creativity and initiative; work discipline; work experience and sharing of work experience; teamwork ability; and other criteria. These formal criteria assess performance, whereas the appraisal exercise refers to knowledge, abilities and competencies rather than actual performance. In that sense, the appraisal could be considered to be closer to a kind of attestation.

Performance appraisal results are expected to be used for promotion, inscription on the reserve staff list for holding a senior position, rewards, definition of training needs, appointment to another similar position, and demotion. For instance, if a civil servant receives an outstanding appraisal grade for two consecutive years and an appropriate vacant position is open, the civil servant can be promoted by the head of the unit. There is a detailed regulation for promotion in the case of good performance for four consecutive years or for further development if the grade is satisfactory. Unsatisfactory performance for two consecutive years may lead to demotion.

In theory, during the appraisal period the direct supervisor oversees the performance of a civil servant on a daily basis, providing orientation and recommendations. The manager should analyse the performance of his/her subordinates quarterly, take notes based on that analysis, hold meetings with the civil servants to examine the quarterly results, discuss strength and weaknesses, and determine the steps to be taken in the following quarters to overcome any weaknesses. The system is a bit onerous to carry out in practice.

It is expected that between half and three quarters of all civil servants will be subject to performance appraisal at the end of 2014. The regulation on performance appraisal applies to civil servants holding administrative positions in the 3rd through 7th classifications.

In summary, the appraisal system in Azerbaijan is still in its infancy. Since the “Rules on Performance Appraisal of Civil Servants” were approved in February 2014 and enforced in May 2014, no practical experience is available yet on how the system works. The system offers positive elements of dialogue between the supervisor and the appraisee, which give them an opportunity to focus on improving performance. The two disadvantages of the system are the rather low relevance of performance in the assessment and the workload implied by the conduct of quarterly assessments.

4.9. Promotion of integrity and prevention of corruption

Principle: Measures for promoting integrity and preventing corruption in the public service are in place and applied.

Several documents and pieces of legislation and an increase in resources show the activity of the Government in promoting ethical behaviour. The norms for fighting corruption are based on legislation dating back to 2000, such as the Civil Service Law (which does not cover law enforcement officials, National Bank officials, regional and local administration and other authorities), the Law on Rules of Ethical Conduct of Civil Servants (2007), and the Law on Combating Corruption (2004), as well as on the National Anti-Corruption Action Plan 2012-2015. Furthermore, a Commission on Combating Corruption was established in 2004. The number of staff in the Anti-Corruption Department, a specialised anti-corruption law enforcement agency, has risen to 145 employees, including prosecutors, investigators, detectives and specialists, and the department is vested with powers to enforce special investigations (information provided by the Anti-Corruption Department to the OECD in October 2013).

The Law on the Ethical Conduct Rules of Civil Servants, adopted in 2007, regulates the guidelines, principles and enforcement mechanisms on the ethical behaviour of civil servants as well as the legal mechanisms for its enforcement. In accordance with this law, all central executive bodies have adopted legal acts to internally regulate ethics.

The head of each public authority and the State Civil Service Commission carry out the monitoring of ethical conduct rules (presidential Decree 247/2005). In addition, the Commission receives complaints and information on violations of the provisions of the Code of Ethics. As a follow-up to these complaints, the Commission makes recommendations to other relevant agencies if legal violations have been identified. Finally, the Commission analyses public opinion on the ethical behaviour of civil servants and launches awareness campaigns.

Awareness campaigns among civil servants have been launched through booklets, and a book entitled *Ethics in the Civil Service* has been distributed to citizens and civil servants. In addition, the National Anti-Corruption Action Plan 2012-2015, approved by presidential Decree 2421/2012, mandates the Commission to provide regular courses on ethical behaviour in state bodies. The Commission delivers annual courses on ethical behaviour to young recruits into the civil service and to civil servants. It also organises train-the-trainer courses on ethical behaviour in central and local executive bodies.

Other legislative measures promote ethical behaviour in the public sector. These measures include a regime concerning incompatibilities, refusal of gifts and declaration of financial information. Incompatibilities are also subject to the Civil Service Law (article 20.1). Civil servants may exercise scientific, creative and pedagogical activities, with the permission of the head of the state body. Otherwise, a civil servant cannot be involved in any paid activity (unless temporary replacement in a state body is foreseen in the legislation) when holding an elected or appointed position.

In spite of these efforts, corruption is probably one of the most important problems in the civil service. Some small improvements have been made in the last four years (OECD, 2013). In the Corruption Perception Index (CPI) of Transparency International in 2013, Azerbaijan ranked 143rd out of 177 countries and in the Freedom House survey "Nations in Transit", the Azerbaijan score, representing the level of corruption, rose from 6.25 in 2003 to 6.5 in 2012 (with 7 as the highest point on the scale). In the Global Corruption Barometer (also from Transparency International), a survey shows that 52% of the persons interviewed considered that the level of corruption in the country had increased during the three previous years. In the 12 months prior to the survey, 47% of the population had paid a bribe.

According to the focus group sessions with civil servants (Weinmann, 2013), the salaries are not sufficient to meet the minimum standards of living (as discussed above). The low salary levels constitute an important factor inducing non-ethical practices. A cross-impact analysis carried out by the same author shows that the most critical factor for reforming the civil service is the fight against corruption.

The violation of the Code of Ethics of Civil Servants is subject to disciplinary sanctions. The number of sanctions applied decreased from 679 in 2011 to 390 in 2013. These figures show that the Code has some effectiveness in the fight against corruption, although there is still a great deal of work to do.

In summary, some progress has been made in the promotion of integrity at the legislative level, but much remains to be done in terms of implementation. More than three quarters of civil servants work in an institution that has not adopted a code of ethics. Some improvement has been shown in the implementation of integrity measures in the last four years, for instance the issuance of disciplinary sanctions. Still, there is some room for improvement regarding enforcement mechanisms. This improvement is being carried out in the legislation and is included in the draft civil service code (discussed above). However, the measures in place have not changed the perception of corruption reported by Transparency International. The draft Civil Service Code establishes the mechanism for redress of complaints on breach of the ethical conduct rules by civil servants as well as other provisions of complaints on violation of the ethical conduct rules, rules for their grievances, issues for conducting hearings on breach of the ethical conduct rules have been reflected.

4.10. Implementation of disciplinary procedures

Principle: Disciplinary procedures of public servants, with right of appeal, are consistently applied.

The disciplinary process may be used in the case of inadequate or total failure of a civil servant to execute the duties of his/her position and in the case of failure to adhere to the restrictions laid down by the Civil Service Law and other legislation.

The investigation is to be carried out under the supervision of the head of the state body concerned, who may appoint a service inspection if required. The civil servant has to present a written explanation (Civil Service Law, article 25). The refusal of the civil servant to present a written explanation does not obstruct the application of a disciplinary action.

The dismissal of a civil servant can be applied in the case of unacceptable or regular infringements in the performance of duties or non-observance of liabilities set by the legislation (Civil Service Law, article 25). In article 20 the law provides a list of unacceptable or regular infringements leading to disciplinary action, and the guidelines for appealing against the disciplinary measures applied to civil servants in state bodies are contained in presidential Order 571/2001.

In summary, in Azerbaijan the disciplinary process includes possible violations and sanctions. Without an independent review of the system, it is difficult to assess the adequacy of this disciplinary process. The draft civil service code envisages an improvement in the application of disciplinary measures and in the appeal investigation procedure.

4.11. Civil service policy and legal framework based on administrative law principles

Principle: Policy and legal frameworks for a professional and coherent public service, based on administrative law principles, are established and applied in practice.

The Civil Service Law (article 4) establishes the principles that are to inspire the management and the work of the civil service. The article combines a set of principles of general application (accountability), specific principles restricted to a process (transparency of recruitment), and operating procedures (rotation of civil servants).

Some of the above-mentioned European principles are included in article 4, but others are not. For instance, reliability and predictability principles are explicitly absent, although the fact that functions, jurisdiction, decisions and authority of state bodies are based on legal acts is clearly inspired by those principles. Openness and transparency are explicitly mentioned with regard to recruitment. The article also prescribes accountability for civil servants and state bodies. Finally, efficiency and effectiveness are concepts that have been included in the "Draft Strategy for Azerbaijan 2020: Vision for the Future" (SIGMA, 2013a), but they are not explicitly mentioned in the Civil Service Law.

Furthermore, some HRM practices are not fully transparent, or only for categories fifth to seventh. Recruitment to positions in the 1st-4th classifications are discretionary (interviews are foreseen for third and fourth categories), although those positions are referred to as civil servant positions. Moreover, promotion is not subject to competition. Finally, bonuses are not transparent since the authorised managers have considerable discretion in granting them.

In summary, some of the main principles are explicitly included in the legislation, but others are absent. Some HRM practices are not transparent.

4.12. Specific recommendations

1. The scope of the civil service should be expanded. Merit-based recruitment should be applied to 1- 2th classification and the foreseen interviews for categories third and fourth categories should materialize.
2. The Civil Service Commission should delegate some of the micro-management practices in recruitment by sharing it with the HR units of the public authorities. At the same time, the Civil Service Commission should take up a more active role in strategic planning and monitoring main HRM processes. This relocation and expansion of functions should be accompanied of an increase of staff.
3. The current reform underway that uses the results of performance appraisal as a basis to grant promotions should be further encouraged.
4. Efforts should be put into enforcing the classification system with appropriate fixes in order to ensure that similar positions in different public authorities are similarly classified.
5. A plan to secure financial resources for increasing the competitiveness of civil service salaries is required. Efficiency measures are probably needed for the implementation of this plan, which may affect civil service size, so that savings can be used for the payroll. The wider context of public sector employment has to be taken into account in this plan.
6. The set-up of a centralised Training Centre is further encouraged but it should be accompanied of mechanisms to enhance competency need assessments at the organizational and individual level.

5. GEORGIA

5.1. Scope of the civil service

Principle: The scope of public service is adequate, clearly defined and applied in practice.

The Civil Service Law of Georgia (1997, but several times amended) regulates the civil service and sets out its vertical and horizontal scope, but the vertical perspective is especially unclear, as the legislation presents problems of definition (USAID, 2014; SIGMA, 2013b; SIGMA, 2014). The law defines a civil servant as a person who “serves in a remunerated position in a state or local self-government agency” (article 4). Political appointees, civil servants and staff under a labour contract all have the label of civil servant (article 5), which is contrary to European practice, where political appointees and other discretionary appointments are subject to separate legislation. Furthermore, a state political official and a free-lance (temporary) employee (article 8) can perform civil service functions (even those of the head of an administrative unit).

A person in any budgeted position can exercise functions of the civil service, ranging from partisan advice of political advisers, concierge functions or state authority functions. Therefore, any government, through the annual budgetary law for instance, can at any given time arbitrarily define and change the size of the positions that are to belong to any of the four categories mentioned in article 5 of the Civil Service Law (types of servants). A definition of a civil service position based on the defence of general interests or the exercise of authority does not exist, which makes the work of the courts more difficult.

From the horizontal perspective, the civil service regime applies to the executive, legislative and judicial branches of government. The civil service comprises staff working in the Presidency, the Prime Minister’s Office, ministries, and some designated institutions (article 2 of the law) and local authorities. However, it is unclear whether the civil servant serves the purposes of a particular public sector agency (article 4) or those of the State. The loyalty of civil servants to the State [article 13 a)] does not suffice to ensure that these civil servants are not owned by a particular agency. This distinction also has implications for the voluntary and compulsory mobility of civil servants among different state and local self-government units.

The official figure for the civil service is 46 073 civil servants, which constitutes 53.5% of total public sector employment⁸ and 5% of total employment. However, the statistics on public sector employment do not include the ministries of Internal Affairs and Defence or educational and religious legal entities of public law. In the absence of those numbers, the number of civil servants is high compared to other countries of the region.

In summary, the main objection to the vertical perspective of the civil service is that the vague definition of a civil servant allows the government to change arbitrarily the assignment of a particular position to a civil servant, a political appointee or a free-lancer. From a horizontal perspective, it is necessary to link the definition of a civil servant to the whole State and not only to a specific public authority.

⁸ <http://csb.gov.ge/en/reform-in-civil-service>

5.2. Institutional set-up for consistent and effective human resources management practices

Principle: The institutional set-up enables consistent and effective human resource management (HRM) practices across the public service.

The Civil Service Bureau, as a legal entity of public law, is in charge of co-ordinating the management of the civil service. Its role has benefited from the recent constitutional change to a parliamentary system, since the Bureau now has to report directly to the Prime Minister. At the time of writing, some changes in its structure and staffing were on the way to strengthening its capacity.

The capacity of the Bureau has not been strong enough to co-ordinate the system for several reasons. First, the responsibilities bestowed on the Bureau are not very important. According to the legislation, its responsibilities cover two broad areas: co-ordination of civil service management and recording of information on the assets of civil servants, with a view to preserving the integrity of the system. The Bureau does not have any real influence, however. The civil service reform concept (developed with foreign aid in 2014) enhances the centralisation of the system under the authority of the Civil Service Bureau, but this reform has not been implemented. With the recent constitutional change, the Bureau has been granted a larger role in civil service recruitment and has acquired the function of co-ordinating the internship process in the civil service. However, according to the EU Delegation, the current authority and functions of the Civil Service Bureau are insufficient to serve the purposes of a reformed civil service and especially to ensure that civil service values, such as integrity, impartiality and professional merit, are properly implemented.

At the time of writing, the Bureau did not have any powers to draft civil service legislation or develop civil service policies. This function is bestowed on the Civil Service Council, an advisory body that is designated in the Civil Service Law (article 128) to elaborate unified state policy concerning the civil service, co-ordinate activities related to the civil service, and prepare decisions on other civil service issues, as determined by law. However, the Council has not been implemented as envisaged in the legislation (USAID, 2014; IDFI, 2014), and the existence of these two entities blurs the Government's responsibility for the civil service. The split of functions between policy making and advice (Civil Service Council) and co-ordination of the implementation of policies (Civil Service Bureau) is artificial in practice.

The other broad task of the Civil Service Bureau, which is the collection of information on the assets of state officials, is not performed properly, as the Bureau would require a system to monitor the quality of asset declarations. The Bureau does not possess inspection mechanisms to check the validity of the information provided and to identify potential gaps. Some international observers (USAID, 2014) maintain that responsibilities related to integrity should be managed by another independent entity. However, this proposal cannot be sustained, since in many countries entities that are equivalent to the Bureau are in charge of asset declarations and the like, as this information is recorded in the personnel registry.

Although the current capacity of the Civil Service Bureau is judged in a different way by country authorities (rather high) and the EU Delegation (rather weak and insufficient), both agree that recent changes (placing the Bureau under the authority of the Prime Minister) have enhanced its role. The number of staff in the Bureau is low. With only 32 staff members, the ratio of Bureau staff per 1 000 civil servants is 0.69. The EU Delegation considers that the Bureau would require additional resources if it were to perform a more centralised role. One instrument for this strengthening would be the personnel registry, which is non-existent at the time of writing.

In summary, the capacity of the Civil Service Bureau to co-ordinate the management of the civil service has been weak due to the lack of policy-making capacity, its placement under the authority of the President, the absence of functions normally performed by such an entity in other countries, the low number of staff to perform the assigned functions, and the absence of a personnel registry that would allow decisions to be based on evidence. The placement of the Civil Service Bureau under the authority

of the Prime Minister following the constitutional change towards a parliamentary regime is an important step towards enhancing the role of the Bureau.

5.3. Merit-based recruitment of civil servants

Principle: Recruitment is based on merit in all its phases.

The Civil Service Law does not make a clear distinction between “senior” and other civil servants. Some provisions refer to ranks (article 69): a) chief civil position; b) leading civil position; c) senior civil position; and d) junior civil position. Each civil servant is assigned a class (there are three per rank) so that his/her professional skills are in line with the requirements of the position. These distinctions, however, do not support a differentiated recruitment or career path for “senior” positions and the others. The law establishes the list of appointments without competition (article 30). In principle, only civil servants [article 5 b)] are selected through a competition procedure.

The recruitment process is open and competitive in principle, but there are some problems, as examined below. All civil service vacancies are advertised on the website of the Civil Service Bureau. Since June 2014, the Civil Service Bureau is responsible for verifying the compatibility between the qualification requirements for a particular vacancy and the law. If there are deviations, the employer agency has to substantiate them. Applications are submitted exclusively online. A permanent Selection and Certification Commission of the institution manages the competition procedure. The number of members and the composition of this commission are established by the chair according to the needs of the particular competition (article 11). Representatives of civil servants’ unions, independent experts and human resources managers may be members of the commission.

The recruitment process presents some problems. First, the process is not adequately regulated, which causes practices to differ even within the same institution in the various competition rounds. On the one hand, requirements and information related to vacancies for similar positions differ among institutions, undermining the uniformity of selection procedures. On the other hand, for instance if there are several applications, the Selection Commission assesses previously the quality of the candidate and his/her adequacy for the position, without following clear and uniform guidelines. In this phase, a candidate may be withdrawn from the competition. According to USAID (2014), it is difficult to justify the withdrawal from a competition of a person who complies with the professional requirements of a particular position simply because another candidate has a longer work record.

Second, the chair of the commission and its members are most of the time high-ranking officials of the same agency. This feature poses three problems: a) the lack of an independent voice in the recruitment process, with the result that the will of the head of the commission may be imposed in the recruitment for a particular vacancy; b) a time constraint on the participation of commission members, which often renders it difficult for them to be closely involved in the process of selection together with the implementation of their key duties; and c) commission members may not have a sufficient knowledge or experience of competition procedures and the organisation of competitions. In addition, the chairman of the institution has broad discretion in the appointment of the heads and deputy heads of appeal committees (IFDI), which may reduce the trust of candidates in the appeal system (IDFI, 2014).

Finally, the announcement of a competition only on a website and the requirement to complete the application within 10 days have been criticised by international organisations (USAID, 2014; SIGMA, 2013b) and other independent sources (IFDI, 2014⁹). These two aspects of the recruitment process reduce the possibility of citizens to apply for a vacancy, since the penetration rate of Internet in the country is still very low.

⁹ https://idfi.ge/en/civil_service_recruitment_17072014

Since June 2014, some provisions have been made concerning the composition of selection committees, and the Civil Service Bureau has been given the task of offering tools and methods to guide selection committees in the recruitment process. According to some independent sources of the Institute for Development of Freedom of Information (IDFI, 2014)¹⁰, civil service recruitment procedures have significantly improved. This think tank nevertheless advocates further changes (practical measures are offered on its website).

In general, SIGMA (2013b) found that some elements were imprecisely regulated in the civil service legislation: a) vacancies open to external and internal competition; b) standard procedural steps for assessing candidates; c) standard components of examination methods; d) mixture of expertise and independent assessment in the Competition Commission; and e) criteria for elaborating a shortlist in ranking order and justification in the event that the highest-ranked candidate is not selected.

Meritocracy is not always observed when recruiting civil servants, especially after a change of government. For instance, the use of temporary appointments of “acting officials” (article 30 of the Civil Service Law) without any competition was considered by SIGMA (2013b) to be an invitation to evade the regular procedure. The IDFI (2013) reported 327 appointments of acting officials between 20 October and 17 December 2012, after the general elections in Georgia, with the majority of appointments made in the Ministry of Finance and the Ministry of Sport and Youth Affairs (see Table 18 below). High-ranking officials (heads of department, etc.) may be appointed as acting officials for no more than one year, and appointments to other positions must not be for more than three years. This amendment should have entered into force as from 1 January 2013, but its implementation was postponed. The use of acting officials is therefore an easy way of avoiding the competitive system.

In the period analysed by IDFI (2013), only nine positions were subject to competition and 123 were appointments without competition. If those appointments were not covered by article 30, they are illegal (see Table 18). The number of appointments without competition in the Administration of the Government and in the Ministry of Internal Affairs was considerably high because the legislation does not mandate these two institutions to carry out open competitions. The Administration of the Government has recently created a recruitment commission in order to ensure transparency.

¹⁰ https://idfi.ge/en/civil_service_recruitment_17072014

Table 18. Appointments and dismissals in a selected number of ministries and public authorities in Georgia (during the period from 20 October 2012 to 17 December 2012)¹¹

	Temporary appointment of acting officials	Announced competitions	Appointments without competition	Dismissals through personal statements
Ministry of Finance	235			130
Ministry of Sport and Youth Affairs	32			32
Ministry of Regional Development and Infrastructure	19			0
Ministry of Agriculture	16			0
Ministry of Internally Displaced Persons and Accommodation	8		1	0
Ministry of Justice	6	7	7	101
Ministry of Environment	5		5	263
Ministry of Energy and Natural Resources	3			
Ministry of Foreign Affairs	2		3	
Office of the State Minister for Reintegration	1		0	
Ministry of Economy	0	2	0	
Ministry of Internal Affairs	327		71	
Administration of the Government			44	
Ministry of Culture and Protection			4	
State Ministry of Euro-Atlantic Integration			1	
Ministry of Defence			123	222

Source: IFDI, 2014 <https://idfi.ge/en/are-the-current-appointment-and-the-dismissal-procedures-in-the-georgian-civil-service-fair-and-transparent->

During the six months prior to the 2012 parliamentary elections (1 March 2013), only 4% (257) of the 6557¹² newly appointed officials were selected on the basis of merit. The rest of the appointments concerned acting civil servants. The “purge” after the 2012 elections was considerable. At least 5 149 employees were dismissed from public sector organisations at central and local levels of government. Of those, 2 330 (45%) resigned “voluntarily”. Some officials who had written their resignation letters reported that they had been subject to pressure from their supervisors (Transparency International, 2013).

Before 2012, it was legal to serve as an acting official for an open-ended period in a position that was supposed to be filled through a competition. Many public officials had served *ad interim* for years on a non-competitive basis. Since 2012, service as an acting civil servant was limited to one year. The deadline for announcing the vacancies of all of the positions occupied by acting civil servants and appointing the successful candidates was finally set (on 1 March 2013, after several postponements) at 1 January 2014 for central government public authorities¹³. During that period, out of 1 779 positions subject to competition, 1 592 (i.e. 89.5%) of the position-holders remained in the civil service and 1 376 (86.5%) retained their positions as acting civil servants. This percentage is very high, as the average number of applications for all vacancies was 62. As an example, 72 (98.6%) of the 73 acting civil servants won the relevant competitions in the Ministry of Justice, while on average 184 applications had been submitted for each competitive position in that ministry. More examples are provided below in Table 19 (Transparency International, 2014).

¹¹ The Institute for Development of Freedom of Information (IDFI) in Georgia requested, by means of a questionnaire, public information from 16 ministries, four offices of state ministries, and the Government Chancellery.

¹² This information refers to public sector employees, a wider category than civil servants.

¹³ The Chancellery of the Government and the Ministry of Internal Affairs were exempted from this mandatory competition requirement.

Table 19. Percentage of acting public servants winning competitions*

Agency	Percentage
AAR Ministry of Finance	100
Office of the State Minister of Euro-Atlantic Integration	100
Office of the State Minister of Reconciliation	100
AAR Government	100
Adjara Supreme Council	100
President's Administration	100
Ministry of Defence	100
Ministry of Justice	99
Ministry of Finance	99
Ministry of Sport and Youth Affairs	98
Ministry of Economy	97
Ministry of Culture	97
Ministry of Health	95
Ministry of Energy	95
Ministry of Agriculture	91
Ministry of Environment	86
Ministry of Refugees	85
Ministry of Infrastructure	83
Parliament	79
AAR Ministry of Health	71
AAR Ministry of Education	71
Ministry of Corrections	66
Ministry of Foreign Affairs	33

Source: Transparency International, 2014 (page 10)

* This table refers to competitions held in central government institutions between 1 March 2013 and 1 January 2014.

Many public authorities, according to Transparency International (2014), apply this lax regulation to the interview. Since the head of the agency may also be the head of the Selection and Certification Commission, there is a high potential to select his/her preferred candidate.

Government Ordinance No. 412 on Approval of the Competition Procedure regulates (article 16) the process of appeal in competitive recruitment. The ordinance provides details concerning the appeal procedure, which can be exerted within the recruiting administration and/or in the court. There are also appeal rights for other administrative procedures against a civil servant (Civil Service Law, article 127), but the court is used as the primary instance.

This provision requires reforms in at least two areas. First, in terms of the administrative procedure, the process is a bit unusual, since the existence of an appeal commission in each body is optional, and the citizen can appeal to the commission or to the court. As there is no clear process, the results cannot be homogeneous. Second, the appeal procedure can be very heterogeneous depending on the instance (decision on recruitment, promotion or dismissal), as the head of the agency signing the administrative act informs the civil servant (or candidate in a competition) regarding the appeal procedure. Several aspects of the process are thus left to the discretion of the head of the agency. This arrangement can result in the contrary effect expected from the process, which is its uniformity across the public sector, its transparency and its predictability.

In summary, there are too many loopholes in the recruitment of civil servants to consider it as merit-based. The Government has attempted to reform this non-meritocratic system through various legislative measures, but in practice many of the ministries and public authorities use different instruments to select the candidate of their choice and not necessarily the best candidate. For instance, acting officials have been used as a tool to extend the contracts of persons who had been selected on a discretionary basis. The legislation has aimed to stop this practice, but it is still too early to say whether these efforts have been successful.

5.4. Equal treatment of civil servants

Principle: There is equal treatment in the public service.

The principle of equal access to the civil service is legally recognised as one of the basic principles of the Georgian Civil Service Law (article 13). However, the civil service legislation does not contain any specific provision for fighting the usual inequalities (religion, gender, age or ethnical group).

Gender issues have been high on the governmental agenda. The Georgian Government has launched several initiatives since 2006 to promote gender mainstreaming: the State Concept of Gender Equality, the creation of the Gender Equality Council (reporting to Parliament), the establishment of the Inter-Agency Commission for developing governmental gender equality policies, and the adoption of the Law on Gender Equality.

In recent years, further policy decisions and legislation have attempted to reduce discrimination. The 2013 Labour Code includes anti-discrimination measures, in particular the protection of mothers at work, and the 2014 Law on Anti-Discrimination should contribute to these efforts, especially within the civil service. In any case, this legislation and other initiatives have not been highly successful. According to USAID (2014), the implementation of these policies and gender-mainstreaming instruments has often failed to materialise or, when implemented, their success has been limited (for instance, the Gender Action Plans 2011-2013 and 2014-2016, aimed mainly at local politicians). In spite of all of these policies, there is a general lack of knowledge about gender mainstreaming in most departments and across all levels of government.

Statistics show that gender equality is far from a reality in Georgia. In 2013, out of 74 532 public servants in 166 public authorities, the majority were men (70.7%), while women only represented 29.3% of public sector employment in those authorities [IDFI, 2014 a)]. In specific institutions, men are likely to dominate as a consequence of the nature of the work, i.e. enforcement agencies like the Ministry of Internal Affairs, the Central Office of the Ministry of Defence, the State Defence Special Service, and the Intelligence Service. In these agencies, men are in the majority: (86.2% of 39 637 civil servants). However, in agencies that are not involved in enforcement, the situation is more balanced, with 34 872 civil servants, of which 18 508 (53%) are men and 16 387 (47%) are women.

Women's access to higher-level positions and to decision-making is still limited in the civil service at national and local levels. More precise data [IDFI 2014 a)] shows that the proportion of women in high-ranking positions in "non-enforcement" agencies is 29.7%. According to the statistics of the Civil Service Bureau, this percentage is in fact lower. The proportion of women in the senior civil service ranks has slightly increased, from 13.3% in 2011 to 18.8% in 2013. The recommendations of USAID (2014) give a considerable role to the Civil Service Bureau in the achievement of mainstreaming of gender issues in public authorities.

In summary, the equality agenda in Georgia focuses in particular on gender mainstreaming. The Government and Parliament have launched numerous initiatives, but those initiatives have not yet resulted in specific legal provisions for the civil service. It is probably the case that gender mainstreaming is not a major concern in the civil service. Statistics show that the percentage of women in "non-enforcement" agencies is low in general and in high-ranking positions in particular.

5.5. Objectivity of the termination of civil service

Principle: Objective criteria for termination of public service are explicitly regulated in law and followed in practice.

Georgian civil service legislation (Chapter X) is quite detailed with regard to the reasons for dismissing a civil servant (14 reasons in 14 articles). In this sense, all possible cases of dismissal are reflected in the

legislation. However, the issue of dismissals raises concern in two cases: a) dismissal because the Government requires the “voluntary” cessation of functions of a particular civil servant; and b) abolition of agencies or structural units.

The civil servant can request a cessation of activities (article 95), which is wrongly labelled as a dismissal. The examples resulting from the recent changes in the Government suggest that this provision has been used to request that particular civil servants terminate their employment relationship. In principle, this practice constitutes a legitimate voluntary reason for terminating a working relationship. However, this type of “dismissal” becomes a matter of concern if the number of cases is high in specific periods (for instance, after a change of government). It affects more acutely high-ranking officials, for whom a considerable number of (formal or informal) complaints have been lodged.

Various pieces of evidence illustrate the way in which the use of this provision (cessation of functions through the civil servant’s personal statement) is controversial and promotes discretionary dismissals. First, there have been cases of prosecutors who were requested to sign “voluntary” resignation letters. Apparently when they refused to sign, they were dismissed on petty administrative grounds. Second, in the period from January to March 2013, in 166 public authorities totalling 74 532 public sector employees, 11 709 (i.e. 15.7% of the total) public servants were dismissed on the basis of their own statements. An IFDI report shows that the number of dismissals was relatively high, and even more so in the higher ranks. During the same period (January to March 2013), in those 166 public authorities there were 9 250 high-ranking public servants, of whom 2 969 (32.1%) terminated their functions through their personal statements [IFDI, 2014 a)]. It is difficult to assess whether those dismissals were due to “political purges” or for other reasons, but the data raises serious doubts concerning the application of meritocracy in the termination of office in the civil service. After a change of government, the number of dismissals through personal statements was relatively high in a group of public authorities (748 in five ministries) See Table 20 below.

Table 20. Dismissals in selected ministries and public authorities in Georgia (20 October 2012 to 17 December 2012)¹⁴

Ministry	Dismissals through personal statements
Ministry of Finance	130
Ministry of Sport and Youth Affairs	32
Ministry of Justice	101
Ministry of Environment	263
Ministry of Defence	222
Total	748

Source: IFDI, 2014 <https://idfi.ge/en/are-the-current-appointment-and-the-dismissal-procedures-in-the-georgian-civil-service-fair-and-transparent->

Another instrument for the termination of employment of a civil servant that also raises concern is the abolition of an agency. Termination of employment is permitted if an agency is abolished or if a reorganisation leads to a reduction in staff (article 96 of the Civil Service Law). Apparently, in the past the abolition of an agency sometimes served as a pretext for dismissing civil servants, since a new agency was subsequently created with almost identical functions. In the period from January to March 2013, in 166 public authorities totalling 74 532 public servants, 21 506 (28.8%) public servants were dismissed¹⁵. Of these 21 506 public servants, 9 797 had been dismissed by the administration. It is difficult to know how many of those officials were re-employed. The numbers suggest that agency reorganisation is a potential way of circumventing a merit-based civil service.

¹⁴ See footnote 11 above.

¹⁵ The high numbers of dismissed public servants (especially by the administration) may be connected to inter-agency rotation or reorganisation, which can result in the appointment of public servants to other positions.

Before the local 2015 elections, the election reform included a clause requiring all local public servants (approximately 12 000) to pass an "attestation examination". An unsuccessful result would imply dismissal. The provision, challenged in the Constitutional Court, was revoked before a decision of the Court was made. The attestation examination is justified, according to the Civil Service Bureau, because the level of professionalism of civil servants at local level is critically low.

There is a possibility of submitting a complaint before going to court after a dismissal decision. This option was taken in Georgia by 164 civil servants between 2008 and 2013 (44 decisions were made in favour of the civil servants). This number is not very high if consideration is given to the dismissal of 21 506 public servants during only three months of a single year.

In summary, objective criteria for the termination of public service are explicitly regulated. According to the data available, information provided by experts and various reports, after a change of government the system has been perverted by "requests" to public servants to massively sign resignation letters or by the abolition of some agencies with the purpose of getting rid of public servants. Public servants have the right to appeal against unfair dismissal. The low number of appeals (within the administrative structure) may suggest that a) these officials were re-employed in another public agency; b) they found employment in the private sector (i.e. termination of service through a personal statement); or c) the public servants did not have any trust in the appeal system.

5.6. Mobility, promotion and demotion of civil servants

Principle: Mobility, promotion and demotion of public servants are objective, transparent and based on merit.

The Civil Service Law establishes the right and rules for the promotion of civil servants (article 76). However, substantive criteria for promotion are missing in the provisions. Minor requirements refer to service of at least one year in a previous position prior to promotion, consent of the civil servant to the promotion, and use of attestation scores in the event that several civil servants have been listed for promotion. However, promotion depends in fact on the discretion of the supervisor, as established in the legislation, and no competitive procedure has been put in place to grant promotions (SIGMA, 2013b). The law (article 105) also allows for transfers (horizontal mobility), but data to assess the implementation of this provision is difficult to obtain.

In summary, merit does not constitute the basis for promotion in the public sector in Georgia, as it is the discretion of the supervisor that matters. Therefore, this instrument does not fulfil the functions performed in a professional civil service. It is more difficult to assess the relevance of mobility. This provision applies when there is a reorganisation, an agency is abolished or another is created. Some public servants are nevertheless re-employed. However, the lack of precise data does not allow a proper assessment.

5.7. Fair and transparent remuneration system

Principle: Remuneration system of public servants is fair and transparent and applied in practice.

There is no law on salaries and bonuses for civil servants in Georgia, and the Civil Service Law deals with the remuneration system in articles 9 and 37 only. These provisions basically establish that the remuneration of public office-holders is regulated in other pieces of legislation and that the Government defines the upper and lower limits of the remuneration of public servants according to the grades of civil service positions. The remuneration of a civil servant includes salary, allowances and bonuses. Other provisions refer to the role of the head of a state agency, who has the right to determine any additional pay, such as remuneration for overtime work or for an extraordinarily heavy workload, but within the

payroll limits of the agency. The Civil Service Law does not contain any provisions regulating monetary or non-monetary allowances and social benefits for civil servants.

The classification system does not support a fair remuneration system. The differences in compensation mainly depend on the way in which the classification system is designed and applied. The current Civil Service Law enumerates four ranks corresponding to administrative hierarchies in other legal systems; namely, junior, senior, leading and chief positions. Each rank is divided into three classes. The classification matrix has 12 distinct classes (article 70). However, the law does not provide a definition of any rank (or any class), and there is no guidance on this matter in secondary legislation. The assignment of a rank to a particular position is carried out by the head of the respective government body. The result is an erratic ranking of positions across public sector organisations. As ranks and classes are linked to remuneration, the absence of a clear classification system leads to inequities of pay.

There is some transparency with regard to the general civil service salary for top officials, according to the Civil Service Bureau. Information on salaries, bonuses and allowances falls within the category of public information, which is in the public domain. However, Transparency International (2013)¹⁶ maintains that the declaration required for disclosing this information is not user-friendly. As this information applies to top officials, the salary of civil servants is still non-transparent.

Transparency is especially lacking in the application of the bonus system. Bonuses distort the relationship between fixed pay and variable pay. A bonus, granted for a variety of reasons, normally compensates for the low level of basic pay, as perceived in the civil service. The amount of the bonus is variable; it may be a one-time lump-sum payment or a semi-permanent addition to basic pay. As a result, basic pay often constitutes less than one half of the total compensation, and variable compensation is unpredictable, as it depends on the discretion of the supervisor. Normally no justification is required for granting bonuses (Transparency International, 2013).

The budgetary process supports the discretionary granting of bonuses. Budgetary institutions can issue bonuses as part of the allocations approved for labour remuneration. The claimed payroll of an agency in the budgetary process is the only limit of the bonuses. If the public authority only uses 70% of the claimed amount for salaries, the remaining unspent 30% can be used for bonuses. Since budgetary control is not very tight, i.e. demanding a real adjustment to the number of working staff, the public authority does not need to make any savings in the granting of bonuses, as long as it claims a higher payroll than needed.¹⁷

In July 2014, the Georgian Government passed Decree No. 449, which established rules for the allocation of bonuses in executive branch agencies, but this regulation neglected local government bodies. The decree attempts to overcome some of the criticisms raised by the practice of granting bonuses. According to the decree, public authorities are obliged to provide information on performance appraisal (if it is carried out) to the Civil Service Bureau. Bonuses are to be granted by taking into account the performance evaluation results or other adequate justification. Furthermore, some limits have been established regarding the amount of these bonuses. It is unclear whether this regulation is making the system more transparent and more uniform, since at the time of writing there was no experience of its practice.

The competitiveness of civil service salaries with regard to private sector salaries is difficult to assess and depends on the particular ministry. Some ministries have attracted the most talented and well-paid civil servants, thus rivalling with the private sector (e.g. Minister of Justice). The competitiveness of the salary also depends on the employment level in the economy. Georgia has a high level of unemployment, officially 16% but probably higher since half of the working population are subsistence farmers, who do

¹⁶ <http://transparency.ge/en/blog/pincome-declarations-scrapep>.

¹⁷ <http://transparency.ge/en/node/4425>

not count as being unemployed. Unofficial estimates of unemployment in the capital, Tbilisi, are about 25%-30%. Deferred remuneration systems (i.e. pensions) are lacking in Georgia in both the public and private sectors. The pension is therefore not an element of competitiveness.

In summary, the remuneration system in Georgia is not uniform, transparent or competitive with the private sector. The job classification system, which depends on the discretion of the head of the agency, does not ensure equal remuneration for similar positions in the various public authorities. Some parts of the remuneration are transparent, but bonuses are not. Bonuses are used in a discretionary way by supervisors to compensate for the low pay levels. Finally, the salaries do not match salaries in the private sector for equivalent functions. The Civil Service Bureau and the Administration of the Government have been tasked with the rapid preparation and presentation of a concept for enacting a new law on salaries and bonuses for civil servants, but this concept has not yet materialised at the time of writing.

5.8. Professional development of civil servants: training and performance appraisal

Principle: The professional development of public servants is ensured, including regular training and fair performance appraisal.

Training

Training does not have a prominent place in the Civil Service Law. Article 51 misses the opportunity to list career development as a civil servant's right, as is customary in other civil service systems (SIGMA, 2013b). There is only one provision in the law regarding capacity-building, which is inappropriate for the needs and for the role that training plays in public sector organisations. This provision (article 48) grants civil servants the right to take sabbatical leave for up to three months every five years in order to improve their qualifications.

Since the law is rather silent regarding training, the creation of a uniform and unitary training system for the civil service may have been hampered. Each public authority deals individually with its training needs assessment and management.

Reform now underway is taking into consideration the implementation of continuous training and professional development of civil servants. The Civil Service Law (article 130) assigns another role to the Civil Service Bureau: the co-ordination and provision of methodological support to "professional training, retraining and capacity enhancement of [the] civil servants." International organisations, such as USAID (2014), consider that the role of the Civil Service Bureau in these co-ordination and support activities is limited.

Development capacity varies among ministries and agencies, including practically no training at all in some cases. Training is planned in an *ad hoc* way every year, without any clear rationale or any link to the professional or career development of civil servants. Some public authorities, such as the ministries of Finance, Interior Affairs and Justice, have their own training centres or academies. These centres offer tailor-made training to meet the needs of their "parent" ministries. At the same time, economies of scale are absent for more general background training, like public management, to mention just one example. This type of training can only be planned and monitored by a centralised unit. In addition, universities and non-governmental organisations (NGOs) also deliver training for civil servants (USAID, 2014).

In summary, in Georgia training does not play an important role as an activity that is centralised and co-ordinated by the Civil Service Bureau. Reform is very much needed to fill this gap.

Performance appraisal

The Civil Service Law regulates a certification (attestation) system (especially in articles 81 to 83). Articles 74 and 75 describe in detail the various incentives that can be used for rewarding the excellent

performance of duties: note of appreciation; one-time bonus; valuable gift; or rise in the remuneration category. The civil service reform currently underway includes a module on performance appraisal. This system should help to implement adequately Decree 449/2014 regarding the regulation of bonuses, which is currently very opaque.

According to the existing legislation, the periodic appraisal of a civil servant through an attestation procedure is conducted every three years. Attestation is an assessment of the suitability of the professional skills, qualifications, capacities and personal qualities of an incumbent for the position that he/she occupies.

There are three main criticisms against attestation. First, it does not properly assess the performance of a civil servant. Second, if this process were to assess the performance of an individual against targets, the three-year period between attestations is too long according to comparative standards. Finally, public authorities conduct attestation almost in the same way as a competition, i.e. through examinations and interviews. This operating method is inadequate in evaluating whether a civil servant is fit to perform his/her functions.

In summary, professional development in the civil service in Georgia needs considerable changes in order to realise the potential it offers. At present, an attestation (certification system) is in place, with the purpose of matching the qualities of the person and the position. This system, which is practiced every three years, is inadequate to assess the performance of staff. It is carried out in a similar way as a recruitment competition examination, which is inappropriate. Performance appraisal is being planned at the time of writing.

5.9. Promotion of integrity and prevention of corruption

Principle: Measures for promoting integrity and preventing corruption in the public service are in place and applied.

The Civil Service Law (Section VI) and the Law on Conflict of Interest and Corruption in the Civil Service regulate ethical behaviour. There is no code of ethics applied to civil servants.

Both laws contain provisions on incompatibility, banning work simultaneously inside and outside the civil service; exercise of two positions within the public service; work in an agency or enterprise that the civil servant has systematically supervised over the last three years; and receipt of gifts while in office. In addition, other articles oblige civil servants to declare any potential incompatibility of interests.

The Law on Incompatibility of Interests and Corruption in the Civil Service contains detailed provisions for the protection of whistle-blowers. The concept of whistle-blowing is new to Georgian reality, and so far it has not been fully introduced and adapted. Information on cases of criminal prosecution of civil servants for corruption was not available at the time of writing.

An improvement to the enhancement of transparency is the implementation of an electronic registry of asset declaration. This registry aims to reduce corruption and prevent situations of incompatibility of interests. Transfer to the online system has significantly improved and simplified the process of completion and submission of declarations by state officials. Within 48 hours of submission, an asset declaration becomes accessible for any interested party. Users of the website are ordinary citizens and the media. Notably, the “Electronic System of Asset Declaration for State Officials” has been a winner in a UN competition in the category of “Prevention and elimination of corruption in the civil service”. However, Transparency International (TI) in Georgia has voiced criticisms about the usability of data for carrying out analyses. TI has converted the pdf files in the databases (*scaping*) so that they can be

consulted by anyone¹⁸. It is nevertheless difficult to monitor the completion of asset declarations by state officials. The legislation does not contain a detailed regulation on monitoring.

The World Bank's 2012 report praised the progress achieved by Georgia between the late 1990s (when corruption permeated almost every aspect of public sector life) and 2012, when the report was completed. Georgia had achieved remarkable results in reducing corruption in a short period of time. TI's Global Corruption Barometer ranked Georgia first in the world in 2010 for its relative reduction in the level of corruption. In that year, Georgia also ranked second in terms of the public's perception of the Government's effectiveness in fighting corruption. In 2013 Georgia ranked 55th in TI's Corruption Perceptions Index (CPI), which measures the level of perceived public sector corruption in 176 countries. Georgia's score in the 2013 CPI was 49 on a scale of 0 (perceived to be highly corrupt) to 100 (perceived to be incorruptible). Georgia currently ranks ahead of some EU member states, including the Czech Republic, Slovakia, Romania, and Bulgaria.

In spite of this evolution, according to the EU Delegation multiple cases of corruption allegations involving former senior officials are ongoing. Business and financial organisations present credible arguments of extortion by public officials (with many cases involving the financial police), who are exhorted to agree on plea bargaining arrangements and/or to "voluntarily" donate their property/business to the State. Many donations occur in the early hours of the day, at dawn for example, raising doubts about the voluntary nature of these donations. In all, up to 9 520 voluntary donations were recorded in the years preceding October 2012.

In summary, there is a considerable amount of legislation aimed at promoting integrity and fighting against corruption. This legislation and political will in recent years have curbed corruption and improved the public perception of the fight against corruption. However, there is ample room for improvement, as corruption allegations remain. A report of SIGMA (2013b) offers several recommendations on how to improve the legislation on integrity, incompatibilities and the fight against corruption.

5.10. Implementation of disciplinary procedures

Principle: Disciplinary procedures of public servants, with right of appeal, are consistently applied.

The Civil Service Law regulates matters related to disciplinary misconduct, including sanctions imposed for misconduct.

The head of the public institution concerned is authorised to impose disciplinary sanctions. The disciplinary misconduct of a civil servant has to be examined by an "investigation unit" of the institution, which presents sanction recommendations to the head of the institution, who then makes the final decision. Employees of this unit are independent in their investigation activities.

According to international organisations (SIGMA, 2013b; USAID, 2014), the Civil Service Law and secondary legislation define misconduct in very general terms. By contrast, sanctions in the current law represent a graduated scale and are defined in precise terms. The current law is silent on the procedures that should be followed, except for the provision that the appointing authority (identified in the law as an official or an agency) is entitled to impose sanctions as defined. The absence of any obligation to initiate or report on a disciplinary proceeding deprives the current Civil Service Law of the definition of a system of accountability, which would reduce the probability of a violation. The entire process needs to be regulated. Particular matters of concern include the legal representation of the civil servant, the permissible evidence in writing or in person, and possibilities of appeal. Finally, the Civil Service Law does not establish any commission (disciplinary commission) to decide on more severe sanctions, such as temporary demotion or dismissal.

¹⁸ <http://transparency.ge/en/our-data>

In summary, the disciplinary regime of the Georgian legislation regulates misconduct in a very general way, while sanctions are very detailed. Furthermore, the process to be followed in the case of disciplinary sanctions is not clearly indicated. These weaknesses in themselves merit a reform of the system. Other aspects of the system also need to be reformed.

5.11. Civil service policy and legal framework based on administrative law principles

Principle: Policy and legal frameworks for a professional and coherent public service, based on administrative law principles, are established and applied in practice.

The Georgian Civil Service Law mentions explicitly only three European principles: efficiency, effectiveness [both in article 73 4)] and transparency [article 73 8)]. However, the principles of reliability, predictability (which refers to legal certainty) and accountability do not appear in the legislation. For instance, reliability and predictability are principles that refer to the management of the civil service (regarding recruitment, promotion, termination of service, remuneration, and the like). However, according to a USAID (2014) report, many human resources practices differ among most ministries, and it is therefore hardly possible to talk about the reliability and predictability of human resources procedures. Consistent HRM practices should prevail, but they do not.

On 24 July 2013, the Government of Georgia established the Council for Elaboration of the Civil Service Reform Concept, consisting of representatives of 15 ministries and Parliament. The draft Concept was to constitute a conceptual framework for civil service reform and the basis for the elaboration of the civil service strategy and action plan. The Good Governance in Georgia (G3) Programme, funded by USAID and other donors (SIGMA, UNDP, NATO's Professional Development Office, and the Government of Poland) facilitated this process. The draft Concept, presented to the Government on 1 July 2014, has not yet been approved. However, the general principles put forward in the Concept reflect European principles of public administration, such as legal predictability and accountability, impartiality, professional integrity, meritocracy and political neutrality.

There are examples of the non-observance of the above-mentioned principles. For instance, the remuneration among organisations and within public authorities and the discretionary granting of bonuses are not transparent. The abusive practice of appointing acting civil servants to fill vacancies temporarily and then permanently is also not a transparent procedure.

In several instances, processes are unpredictable. First, the appeal procedure can be very heterogeneous, depending on the instance (decision on recruitment, promotion or dismissal), since the head of the agency signing the administrative act informs the civil servant (or candidate in a competition) of the appeal procedure, which differs among public authorities. Several aspects of the process are then left to the discretion of the head of the agency. This arrangement can result in the contrary effect intended from such a process, i.e. its uniformity across the public sector as well as its transparency and predictability. Second, the Competition Commission may filter candidates, prior to the examination and the interview, by applying their own criteria. These criteria may change from one commission to another. Third, predictability also suffers when the head of a public authority assigns a rank to a particular position. In the absence of systematic evaluation of functions, this process depends on a specific authority. Finally, the way in which bonuses are awarded is unpredictable because managers with the authority to award them are given considerable discretion in this regard. Therefore, since the bonus may represent a considerable part of total remuneration, civil servants cannot predict their level of income.

In summary, European administrative law principles are not included in the current legislation, but a concept paper recently approved by the Government reflects those principles. From the point of view of implementation, the principles of transparency and predictability are not applied in many HRM processes, such as recruitment, the granting of bonuses, appeal procedures, and the assignment of a particular rank to a position.

5.12. Specific recommendations

1. The legislation should improve the definition of a civil servant. It is recommended to establish a homogeneous regime for all positions that involve the exercise of public powers conferred by public law and that have responsibility for safeguarding the general interests of the state or other public bodies (i.e. the horizontal scope) and to clearly determine the upper and lower dividing lines among political appointees, public servants and support staff (i.e. the vertical scope).
2. Although the Civil Service Bureau has started a process of gaining influence capacity, it should strengthen it by setting a personnel registry and using its information for managing HR processes. The access to this information will likely enhance the strategic capacity of the Bureau.
3. More enforcement efforts should be placed into stopping the use of acting officials in such an intensive way. Its use reduces considerably the credibility of a merit-based recruitment system.
4. The loopholes of the recruitment system should be overcome. Special care should be placed in the area of screening candidates (analysing the documentation), in setting up the competition commission (avoiding excessive influence of the public authority members) and in carrying out the whole process.
5. The tradition of using resignation letters as a coercive method to dismiss civil servants after a change of government should be gradually reduced. Since this is “voluntary”, tackling this problem is not easy. However, a first step could be the creation of a reserve list or reappoint civil servants to absorb some of the capital that has public sector experience.
6. Merit should be used in internal promotions. This should be reflected in the legislation and put into practice.
7. Efforts should be put into enforcing the classification system with appropriate fixes in order to ensure that similar positions in different public authorities are similarly classified.
8. Criteria have to be regulated and enforced to guarantee that the granting of bonuses is transparent and non-discretionary.
9. A plan to secure financial resources for increasing the competitiveness of civil service salaries is required. Efficiency measures are probably needed for the implementation of this plan, which may affect civil service size, so that savings can be used for the payroll. The wider context of public sector employment has to be taken into account in this plan.
10. There is a strong need to offer centralised training for fields that are common to all civil servants. This requires that the Civil Service Bureau engages more actively in training planning and in the real identification of training needs that cover organizational and individual needs of civil servants.
11. Consideration should be given to abolishing the attestation system. The attestation system should be replaced by an annual performance appraisal system.

6. MOLDOVA

6.1. Scope of the civil service

Principle: The scope of public service is adequate, clearly defined and applied in practice.

The Civil Service Law of Moldova of 2008 (158/2008) regulates the civil service and sets out its vertical and horizontal scope. From a horizontal perspective, the civil service has a wide coverage because it applies to ministries and administrative bodies reporting directly to the President; the Prime Minister's Office; ministries; administrations of Parliament, the President and the Prime Minister; other administrative bodies at the level of central administration; and independent constitutional bodies reporting directly to Parliament and to local government officials (levels I and II). The law does not cover most of the staff of administrative bodies in the Ministry of the Interior, which constitute an important element of a merit-based system.

The civil service at central level grew from 20 869 to 23 903 civil servants between 2011 and 2013 (official survey). In 2013 the civil service represented 7.6% of public sector employment. Total public sector employment was 316 500, which represented 26% of total employment in both the private and public sectors.

From a vertical perspective, different pieces of legislation apply to the different groups: Group A) officials holding public dignity offices (political appointees), listed in the Annex to Law 199/2010; Group B) personnel (discretionary appointments) in the cabinets of public dignity offices (under Law 80/2010); and Group C) civil servants (under Law 158/2008, which also distinguishes between senior civil servants and civil servants).

For senior civil servants, the recruitment, dismissal and career rules are different than those for the rest of the civil service (article 8 of Law 158/2008), although the specific recruitment procedure has only applied as from 2014. The senior civil service includes three salary grades with five salary steps each, and the appointments are indefinite. Above the highest civil servant and below the minister, the deputy minister is a political appointee. When merit-based recruitment is fully in place for senior civil servants, Moldova will possess a highly professionalised civil service.

In summary, the legislation in Moldova presents a reasonable horizontal and vertical reach. On the one hand, it covers not only state authorities but also local self-governments. On the other hand, different pieces of legislation regulate the different groups of public servants, offering a clear distinction between civil servants, senior civil servants and political appointees. Merit-based recruitment covers the two levels below the minister, which makes the vertical scope of the civil service far-reaching.

6.2. Institutional set-up for consistent and effective human resources management practices

Principle: The institutional set-up enables consistent and effective human resource management (HRM) practices across the public service.

According to the Civil Service Law (article 11), the Government is responsible for the civil service through the State Chancellery. Before the recent changes, the Head of the State Chancellery held the position of Minister of State. At present, no individual minister is responsible for the civil service. The Head of the State Chancellery (Secretary General of the Government) and the Prime Minister share this responsibility.

This change has not diminished the role of the State Chancellery with regard to the civil service. According to the country authorities interviewed for the survey, the capacity of the central unit has improved in recent years.

The main unit responsible for the civil service is the Division for the Reform of Central Public Administration (previously named the Personnel Policy Division) of the State Chancellery. The Division is in charge of: developing state policy and legislation on the civil service; monitoring the activities of public authorities concerning the civil service; granting methodological assistance; co-ordinating the process of civil servants' professional development; and keeping records on public functions and civil servants. As noted by SIGMA (2012), co-operation between the State Chancellery and the Ministry of Finance could be enhanced for the purpose of planning the size of the civil service workforce.

The State Chancellery is also responsible for civil service reform, and designated ministries and agencies are responsible for other aspects affecting the civil service. The State Chancellery co-ordinates all drafts of normative documents, sets common standards for other public authorities on the management of the civil service (e.g. recruitment, performance appraisal and training), and monitors implementation. The Ministry of Labour, Social Protection and Family is responsible for wage policy; the Ministry of Justice for integrity policy; the Ministry of Finance for the size of the civil service and staff costs; the National Anti-Corruption Centre for preventing and combating corruption; and, finally, the National Commission for Integrity is responsible for monitoring and evaluating the state of affairs with regard to the integrity of civil servants.

The management of the system is highly fragmented, not only across public authorities but also within them, especially at local government level (SIGMA, 2012). This fragmentation challenges central co-ordination. Although there is considerable co-operation between HRM units, the country authorities who were interviewed conceded that this co-operation could be further improved.

To perform its tasks, the Division for the Reform of Central Public Administration is understaffed (like its counterparts in public authorities). Currently, the Division has nine staff members, which means 0.4 staff members per 1 000 civil servants in the central administration. This ratio is aggravated when taking into consideration local-level civil servants, who are also under the responsibility of the State Chancellery. Given the scope of functions and the target groups that the State Chancellery has to cover, it is obvious that the number of staff is not sufficient to effectively fulfil these functions. The level of skills of the Chancellery staff is acceptable, and they are continuously updating their skills by taking part in courses given by international experts. According to the country authorities, the State Chancellery has the capacity to adequately co-ordinate up to three quarters of its main functions, as established in the Civil Service Law.

SIGMA's 2012 peer review provided an example of the consequences of insufficient resources in the State Chancellery. At that time, the number of staff was four civil servants and eight consultants funded by donor trust funds. According to the peer review, with inadequate resources in the State Chancellery there would be no outside control over each competition commission and its activities. The activities of each commission would be left to the internal staff of the ministry, with a political appointee (central public authorities) or a politician (local authorities) as its chair. Hardly any outsiders to the public authority would be present on the commission. Competitions would therefore remain by and large unchecked. The *ex post* monitoring function performed by the State Chancellery (a task that only really started in 2011) would not suffice to identify and correct inadequate practices in the recruitment process.

The implementation of the automated information system, "Register of the Civil Service and Civil Servants", began in 2014, and the first use of decision making based on the Register is envisaged for 2015. The Register is expected to serve as a relevant management tool (covering up to three quarters of the main HRM processes, according to the country authorities consulted) due to the following modules:

- Information on the structure of an authority, its public functions and positions;

- Records on civil servants regarding service/labour relations related to recruitment, calendar of events, and notification system;
- Professional situation of civil servants, including performance appraisal, motivation, training records, individual training plan, and disciplinary sanctions;
- Management of vacations and trips for official purposes;
- Reports based on the needs identified by public authorities.

Once information has been entered into the registry it will serve as official data on the civil service. Currently, there is duplication of data, for instance between the National Bureau of Statistics and the Ministry of Finance. In addition, duplication of data on civil service salaries is found in every public authority due to the use of previous data from a different information system. The new Register has not integrated the previous data for technical reasons.

In summary, in recent years the State Chancellery has gained capacity to manage the civil service. It has a good institutional position, co-operates well with HRM units, and has been updating legislation, guidelines and tools to improve the management of the civil service in a coherent way. When totally implemented, the Register will undoubtedly help in the management of the civil service. There is nevertheless some room for improvement in this area. The country authorities interviewed for the survey considered that it was necessary to establish clearly in the normative acts the competencies (duties and responsibilities) of the authorities involved in managing the civil service. Furthermore, the Division for the Reform of Central Public Administration within the State Chancellery clearly needs to have more staff in order to properly perform its tasks.

6.3. Merit-based recruitment of civil servants

Principle: Recruitment is based on merit in all its phases.

Civil servants

The Civil Service Law (article 28) regulates the merit-based recruitment of civil servants, and secondary regulations (Government Decision 201/2009) cover all of the phases of recruitment.

The announcement of a vacancy has evolved from an isolated exercise carried out by each public authority to become part of a centralised portal devoted to career development in the civil service. The public authority organising the competition announces the vacancy in a periodical at least 20 calendar days before the deadline for submitting the application. This announcement contains the name of the public authority, the public position(s) open for competition, and the location where information about competition requirements can be obtained. The public authority provides more detailed information concerning the conditions of the competition on its website and on notice boards placed in a visible location within its headquarters. Public authorities may also use other forms of advertising. Since the beginning of 2014, vacancies have been announced on the Government's portal www.cariere.gov.md.

The composition of the competition commission varies among the different types of vacancies at central level. The head of the relevant authority sets up the competition commission for managerial and executive positions. This commission is usually composed of one deputy head of the public authority and between four and six civil servants of the authority, of whom two or three are managerial civil servants. The secretary of the commission is a civil servant from the HRM unit.

The composition of recruitment commissions has been a source of mistrust in recruitment (SIGMA, 2012). These commissions are made up exclusively of staff of the public authority where the vacancy is located. This composition constitutes one of the reasons for mistrust in the impartiality of the commissions. This mistrust is also due to the fact that the chair of the commission, who is a deputy head of the public authority announcing the vacancy, may ask other commission members (normally from

lower hierarchical levels in the same public authority) to be “less demanding” when marking the examination or during the interview of a particular candidate.

The selection procedure includes the inspection of application documents, a written examination composed of multiple tasks, and an interview. The written examination tests the knowledge and skills that are necessary to perform the tasks and duties of a public position. In Moldova, the leakage of examination questions has been a matter for concern (SIGMA, 2012). A set of three exams is prepared for each position. Only one of them, chosen by a candidate at random, is used as the examination. However, the whole set of exams could be transmitted to a particular candidate in order to give him/her a real advantage in the examination process. The number of persons participating in the commission and their access to the examination questions beforehand increases the possibility of leakage. Other systems have solved this problem by means of a random selection of questions immediately before the examination.

Candidates who have succeeded in the examination are admitted to the interview. The main questions asked during the interview include: professional and personal abilities relevant to the position; factors that motivate and demotivate the candidate; and behaviour in various situations, including crisis situations. For top management and managerial civil service positions, the questions are also related to leadership style, ways of motivating subordinates, teamwork, and so forth.

The competition commission establishes the list of candidates who have successfully completed the competition in descending order of scores. The candidate who obtained the highest final score is the winner. The competition results are then submitted to the appointing authority. If the winning candidate refuses to be appointed, the appointing authority will follow the ranking order of scores to appoint the next candidate.

The State Chancellery plays an important role in the process, but more involvement is probably required. The Chancellery has elaborated the normative framework and the methodology for recruiting and selecting civil servants. It also trains the competition commission members on how to apply the relevant procedure. It does not interfere with the work of the commission. The competition could probably be improved if representatives of the State Chancellery were present in the recruitment process, thereby counterbalancing the excessive influence of the managers of the appointing authority. However, the Chancellery has neither the mandate nor the resources to exercise this function.

The internal appeal procedure (contestation within a public authority) concerning the recruitment, dismissal, and disciplinary sanctioning of civil servants is lacking. However, the Civil Service Law 158/2008 (articles 29 and 60) foresees an external appeal procedure through the administrative court. According to the Law on Administrative Litigation 793/2000 (article 14), a person (including a civil servant) whose rights, stipulated by law, have been prejudiced through an administrative act, can require, by submitting a request, the partial or full cancellation of that act. Thus, indirectly, the public authority has the opportunity to reconsider its decision, and the civil servant has the opportunity to obtain a remedy from the public authority.

According to SIGMA’s 2012 peer review, the parties involved in the recruitment procedure do not seem to believe that the objectives pursued by open competition are possible, respected, achievable and valuable for the public authority. This attitude is probably the main challenge in the implementation of merit-based recruitment. Managers are mainly concerned about formal compliance with the law. Data on the average number of candidates per vacant position in the civil service at central level illustrates this perception. The average number decreased from 4.3 in 2011 to 2.7 in 2013. Of course, this decrease could also be an indication that the civil service salary is not attractive (see below). Other data also shows the reduction in competitiveness for vacant positions. The percentage of vacant positions filled by external competition (the vacancy is announced outside the civil service, and candidates from both within and outside the civil service can apply) has been steadily low in recent years (44.9%, 43.4% and 45.4% respectively between 2011 and 2013). This low percentage is partly due to the fact that a competition examination takes place for every vacancy that has not been filled through promotion or

transfer. The proportion of civil service vacancies filled without complying with the Law has nevertheless decreased in recent years, from 8.7% in 2011 to 3.9% in 2013.

Senior civil servants

In Moldova, different rules for recruitment, dismissal and career development apply to a separate group of senior civil servants (article 8 of the Civil Service Law 158/2008). This group includes three salary grades with five salary steps each. Senior civil servants are appointed for an indefinite period.

A senior civil service position is filled through competition (Government Decision 201/2009). The Government appoints a special standing committee of seven experts in the field of public administration to fill the vacancies of a ministerial state secretary and a deputy head of an administrative authority. Competition commissions are established in accordance with the provisions adopted by the public authorities concerned in order to fill, through competition, the positions of the head of the civil service and the deputy head of the public authority (Parliament, President, Superior Council of Magistracy, Constitutional Court, Supreme Court, General Prosecutor's Office and Court of Accounts).

Although the legislation concerning the recruitment of senior civil servants was adopted more than five years ago, the first competition for the position of secretary took place in 2014. The competition commission was established by Government Decision 154/2014. The State Chancellery organises the meetings of the commission and issues methodological guidelines for the application of the legal framework.

All vacancies are advertised on the Government's website, on the website of the public authority announcing the vacancy, and in various national publications. The selection process foresees the inspection of the application documents, a written examination including several tasks, and an interview.

A change of government is a clear test to assess whether senior civil servants are maintained in their positions under a new government. Nearly all deputy heads of administrative authorities were kept in their positions under the new government. The number of such positions has increased, and new persons were appointed (in 2011 – none; in 2012 – two persons; in 2013 – five persons). These positions were not filled through merit-based recruitment. The proportion of appointments after the last change of government of new recruits for senior civil service positions that were not based on merit has therefore been low (less than one quarter of all positions). Furthermore, the turnover of senior civil servants is a bit higher than the turnover of civil servants. For senior civil servants the turnover jumped from 5.2% in 2011 to 20% in 2013, while for civil servants the turnover increased more gradually, from 10% in 2011 to 15.6% in 2013.

In summary, regulations are in place to carry out merit-based recruitment for civil service vacancies at senior civil service level and at other levels. Although senior civil servants were already considered as a separate group in the Civil Service Law in 2008, it was only in 2014 that the first competitive recruitment process concerning senior civil servants (only at secretary of state level) started. It is too soon to tell whether the process is truly meritocratic in practice. At other levels, the practice has some loopholes, especially with regard to the composition of the competition commission, which also affects the way in which the examination and the interviews are carried out. A higher involvement of independent and external experts in the commissions, possibly from the State Chancellery, would undoubtedly enhance the competitiveness of recruitment. Nevertheless, the system is improving gradually. It still needs to introduce competitiveness in promotions and transfers, since these two mechanisms are preferred to external recruitment. Finally, an internal appeal process would make the system more flexible and open than it is at the moment.

6.4. Equal treatment of civil servants

Principle: There is equal treatment in the public service.

The provisions in the Civil Service Law (art. 29) and in the Code of Ethics (art. 13 Law 25/2008) that promotes gender equality are generic, stating the principle of equal access to public service for all citizens, and the policies on gender mainstreaming in the civil service are not very prominent on the government agenda. However, the presence of women in the civil service and their position in society are better than in other countries. According to the Social Institutions and Gender Index, Moldova was ranked 29 out of 86 in 2012, decreasing its relative position since it was ranked 12 out of 102 in 2009. Furthermore, Moldova was ranked 52 (out of 136) in the 2013 Global Gender Gap Index, with a score of 0.703¹⁹. These indexes reflect a wide array of indicators that apply to the position of women in society and in the family, which reflects the context in which the presence of women in the civil service has to be understood. In the civil service at central level, the percentage of women has been held steadily at above 40%, with a slight decline from 42.2% in 2011 to 40.1% in 2013. However, the proportion of women in the senior civil service at central level has increased considerably, from 21.1% in 2011 to 33.3% in 2013.

In summary, in spite of the absence of central policies for gender mainstreaming in the civil service, women enjoy a relatively better position compared to other countries. They even constitute one third of all senior civil positions. Considerable room for improvement remains, but clearly a social context in which women play an increasing role (and where inequalities are diminishing) must have some impact on this evolution.

6.5. Objectivity of the termination of civil service

Principle: Objective criteria for termination of public service are explicitly regulated in law and followed in practice.

Conditions for the termination of employment in the civil service are specified in articles 61-65 of the Civil Service Law. In the case of the reorganisation of a public authority (change of structure, staff downsizing, etc.), the employment relationship ends for civil servants of those subdivisions affected by the changes if the positions are not specified in the new structure. According to the country authorities interviewed and SIGMA (2012), some cases of discretionary dismissals have occurred (although there have been few in recent years) as a result of the reorganisation of a public authority or changes in positions in some subdivisions within a public authority. In most cases, the civil servants go to court and are subsequently reinstated in their positions. For instance, following the last change of government in 2011-2013, which was not very radical, some positions were abolished when a single authority was created through the merger of two existing authorities. In such cases, transfers were made. In addition, dismissals come at the cost of a six-month salary as severance pay per employee and/or at the cost of finding suitable candidates for the vacancies in a competition process.

In summary, the termination of service can be considered as objective since the conditions for dismissal are well specified in the law. Concern regarding the use of abolition and restructuring of institutions to dismiss civil servants is still present but is diminishing. Additional regulation, praxis in ministries, six-month severance payments, and reinstatements following appeals in court are all helping to curb malpractices in this regard.

¹⁹ <http://genderindex.org/country/moldova>

6.6. Mobility, promotion and demotion of civil servants

Principle: Mobility, promotion and demotion of public servants are objective, transparent and based on merit.

Promotion is based on the results of performance appraisal, but there is some discretion involved, since promotion affects only a small proportion of those entitled to it. The decision to promote a civil servant belongs to the head of the public authority where the civil servant works. A civil servant whose last performance appraisal was "very good" or last two appraisals were "good" can be promoted to a higher position, provided that he/she meets the requirements of the higher position. As mentioned above, every year one fifth of all civil servants obtain a promotion. Since the proportion of "good" and "very good" appraisals is high (more than 95% in recent years), promotion can obviously not be granted to every civil servant who potentially deserves it.

Transfers take place among subdivisions of a public authority and among public authorities. The transfer is authorised by the head of the public authority (Civil Service Law, article 48), and it is carried out to accomplish particular tasks in a public agency (as one example) or at the request of the civil servant. In the former case, the written consent of the transferred civil servant is required. A request for a transfer is an instrument used by civil servants to develop their career in a horizontal way.

Secondment can be used to improve the competence of a public authority or a civil servant (Civil Service Law, article 47), but it is not widely applied in practice.

The regulatory framework governing the work of a civil servant does not foresee his/her demotion, but for civil servants with special status stipulated in special laws, downgrade procedures, in both function and special grade, are possible (Law 162/2005 article 34 and Law 1150/2000, article 26).

The main problem of promotions and transfers is that they are not subject to open competition, which contradicts the merit principle of the Civil Service Law (SIGMA, 2012). Article 28 favours direct promotion and transfer over competition. Articles 45 and 48 attempt to mitigate the effects of article 28 by introducing competition for promotions and transfers in some cases. Article 45, on promotion to a higher public position, establishes that if there is more than one civil servant who meets the requirements for promotion (i.e. having received a "very good" performance appraisal in the last evaluation or "good" appraisals in the last two evaluations), an open competition should be organised. Article 48, on transfer between public authorities, also mandates the use of competition if candidates have the same performance appraisal results. However, candidates may only apply for a position if the public authority has announced the vacancy, and such an announcement is voluntary.

Managers may offer the vacancy to a particular civil servant, provided that the requirements of the law have been met (one "very good" performance appraisal or two "good" appraisals, provided that he/she meets the requirements of the higher position). Given the results of performance appraisals (with 97.1% of civil servants having been given "very good" or "good" appraisals in 2013), most civil servants are probably eligible for promotion. This percentage implies a high level of discretion of the supervisor in promoting a civil servant. In practice, promotion is usually offered to a staff member in the same sub-unit (comprising a very small number of staff) as the vacancy and not to the whole staff of the public authority. Certain civil servants are therefore targeted for promotion without any enquiry being made concerning the availability of another (possibly better) candidate. Promotion through competition takes place only when no internal candidate of the sub-unit is capable of being promoted due to the lack of the required competencies or in the (rare) situation where the required performance appraisal marks are lacking.

In summary, promotion in Moldova is not competitive, since the supervisor has considerable discretion in granting it. Some legal provisions would force the opening of a vacancy for internal competition and promotion, but this eventuality is rare. Some technical adjustments of promotion are currently underway.

6.7. Fair and transparent remuneration system

Principle: Remuneration system of public servants is fair and transparent and applied in practice.

The Law on Civil Service Pay System (48/2012) and two brief articles in the Civil Service Law (2008) regulate the remuneration of civil servants. In the Civil Service Law, article 39 states that “remuneration shall provide the civil servant with the necessary conditions for an efficient performance of his/her duties and contribute to staffing the public authorities with qualified personnel”. Article 40 of the law refers to the motivation of civil servants and incentives, such as a bonus, verbal appreciation, diploma of honour, and state honours.

According to the Law on civil service pay system, there are 23 salary grades based on two job classifications: classification A) comprises grades 1-20, with nine salary steps, for executorial and managerial civil servants; and classification B) comprises grades 21-23, with five salary steps, for senior civil servants. The human resources units establish the salary grades and groups (an administrative act is issued by the head of the public authority) in accordance with the legal framework (Law 48/2012 and Government Decision 331/2012). The legislation has considerably reduced the possibility of any discretion with regard to the attribution of salary grades. When salary steps were established, some discretion, limited to one salary step, was allowed in uncertain situations.

However, the classification of posts presents at least two main challenges related to the distinction between civil service and technical positions and the use of the Single Classifier of Public Positions, approved in 2011 by Parliament (SIGMA, 2012). A first challenge relates to the division between civil service and technical posts. The Civil Service Law distinguishes between civil service posts, which hold public power prerogatives, and non-civil service (technical) posts. No specific criteria have been established to distinguish between these two categories. The division appears to have been based on a simple analysis of a staff list, which contains the tasks of each position. As the level of salaries of technical staff is lower than that of civil service staff, this classification has become a very sensitive issue.

A second challenge is that the Classifier contains generic job descriptions of all positions. It provides a transparent system for classifying civil service jobs based on factors such as the relative level of responsibility, powers and complexity of the job as well as on educational qualifications, experience and other skills required to perform the functions of the position. The Classifier streamlines the previous hierarchy of positions, outlines generic descriptions for each position (benchmark job description), and sets minimum requirements for each position in terms of experience and basic skills. In the Single Classifier, however, it is not clear how positions in the various administrative bodies relate to each other. For instance, the basis for determining the relative weight of each position in one authority (e.g. State Chancellery) compared to similar positions in another authority (e.g. a ministry) is unknown. This lack of clarity constitutes a hindrance to the development of uniform pay across the civil service. According to the country authorities interviewed for the survey, no job evaluations have been elaborated to compare the salary levels for similar responsibilities. Salary grades for similar positions seem to vary among public authorities.

The salary of a civil servant is composed of a fixed part (which is related to the position and a supplement for the qualification degree/special degree/diplomatic rank) and a variable part (supplement for collective performance and annual bonus). Bonuses for collective performance are paid twice a year as a result of a collective performance appraisal. Unique bonuses are awarded on the occasion of jubilees, professional holidays and non-working holidays. These unique bonuses are paid from the savings foreseen after the payment of annual wages.

Other allowances and benefits are provided for some civil servants. A civil servant may be granted financial support to solve social and living expense problems (article 42 of the Civil Service Law 158/2008), but this allowance is rarely disbursed. Depending on financial resources, a public authority may provide some civil servants (few in number) with mobile phones (or subscriptions); some public

authorities (very few) are given parking spaces; all civil servants are covered by the compulsory health insurance system (both the employer and the civil servant contribute through standing orders). Civil servants with special status have additional benefits (according to their special legislation).

In the past, the percentage of total remuneration representing discretionary allowances and bonuses was proportionally very high, but this has changed with the new Law 48/2012. The legal provisions on remuneration are not entirely applied in practice. Currently, the salary step advancement is not applied, and annual bonuses are not being paid because of budgetary constraints.

The level of transparency of the remuneration structure is considerably high, as it has improved in recent years. All salary items are included in wage legislation. The law foresees collective bonuses and other incentives, but the amount depends on the financial resources of the public authority. Information related to salary calculation is stipulated by law, and anyone interested may have access to it. Data on the monthly salaries of civil servants is not published. All civil servants submit annually a statement on their income (and in some cases this statement is required by law), which is published by the National Commission for Integrity. Sometimes information is required on the salaries of certain civil servants who have remuneration other than salary (i.e. as state representatives on the boards of state enterprises or as members of joint stock companies).

After the application in 2012 of the new salary system, the salary of civil servants was expected to increase by 12.5% on average, and this increase was foreseen to be higher for local public officials (between 30% and 40%). This raise in salary has slightly improved the situation. However, no research has been undertaken to assess whether the remuneration provides reasonable conditions for recruiting, motivating and retaining public servants with the required competencies. The fact that the retirement system for civil servants, which meets certain conditions of Law no.156/1998), is better than the system foreseen in the private sector does not offset the relatively low salaries.

In summary, job classification in Moldova is still not very well aligned with remuneration, since similar positions in different public authorities are rewarded differently. The award of bonuses has become more transparent. As currently very limited resources are available to award annual bonuses and step advancement, this issue has not raised much concern recently. In any case, the level of transparency has increased, since public access to information related to the salary calculation has been given. Compared to the private sector, the civil service salary levels have been historically low. Legislative changes since 2012 are not yet sufficient to offer competitive salary levels.

6.8. Professional development of civil servants: training and performance appraisal

Principle: The professional development of public servants is ensured, including regular training and fair performance appraisal.

Training

The Civil Service Law contains two articles (37 and 38) regulating civil service professional development, which the law renders identical to training. Article 37 obliges civil servants to update their skills, establishing a specific number of training hours per year (40 hours). Public authorities have to commit 2% of their payroll to training. Article 38 deals with the specific rights of civil servants to attend training courses as well as the obligation for them to remain for a specific period of time in the civil service whenever the training programme exceeds 90 calendar days per year.

According to SIGMA's 2012 peer review, the training objectives have been achieved once a civil servant has received 40 hours of training per year. The focus of this objective is quantitative (the number of hours that the civil servant has spent on training) rather than qualitative (i.e. a higher level of

competency, skills and knowledge acquired by the civil servant). Furthermore, data provided by central public authorities show that not all civil servants benefit from this number of training hours (40 per year).

The Central Civil Service Unit carries out several functions that are typical of a planning entity in the area of training and professional development of civil servants. These functions include the following: developing the regulatory and methodological framework for training; drafting annual training plans; co-ordinating training programmes for various categories of civil servants; identifying, selecting and sending staff to training courses organised by development partners in other countries; monitoring and evaluating the implementation of the professional development process by public authorities; and training some categories of officials.

Various actors are responsible for identifying training needs: a) for each civil servant, his/her immediate supervisor; b) for a public authority, the head of the authority and the co-ordinator of the HRM units; and c) for the whole civil service, the State Chancellery, based on information provided by public authorities.

The Government approves annually the Professional Development Plan for all public authorities, which is elaborated by the State Chancellery based on the requests of public authorities. These requests reflect the training needs identified at the level of each civil servant/each public authority as well as the Government's strategic goals. A training service provider (to date the Academy of Public Administration) evaluates the Plan, and a semester report is submitted to the State Chancellery.

Each public authority prepares its own professional development plan, which includes components such as "internal training" and "external training". The plan is developed annually by the HRM units within the public authority and may be updated throughout the year. The plan is implemented within allocated resources. The implementation of these plans has not yet been evaluated for all public authorities.

Induction training is provided to develop the skills, capabilities and attitudes of the junior civil servants required to exercise civil service functions. The public authority must provide to every junior civil servant an introductory training course of at least 80 hours.

Performance appraisal

Performance appraisal is regulated in the Civil Service Law (articles 34-36) and in secondary legislation. It has been implemented in all public authorities since 2010.

Professional performance appraisal is carried out annually for all three categories of civil servants: senior, managerial and executorial civil servants. Performance appraisal is not undertaken for junior civil servants or for civil servants who remained in the position for less than four months during the appraisal period. Secondary legislation (Government Decree 201/2009) foresees an internal complaint process.

The direct supervisor carries out the performance appraisal for managerial and executorial civil servants. For senior civil servants, the appraisal is comprised of two phases. The direct supervisor prepares the assessment report and proposes the appraisal scores. Subsequently, the documents are sent to the evaluation committee, which completes the evaluation form and takes a final decision.

During the performance appraisal, the results are compared with the targeted goals (indicators), which are based on appraisal criteria. The results of the performance appraisal serve for the following staff decisions: promotion, award of a higher qualification grade, salary advancement, dismissal and training.

SIGMA's peer review (2012) identified some problems associated with the practice of performance appraisal. The main problems were the reluctance of line managers to apply the system, confusion between job descriptions and annual objectives, difficulties in identifying appropriate performance objectives and indicators, subjectivity in appraising performance, and the limited effect of the appraisal on the salary. According to the country authorities consulted, in the interviews carried out during

monitoring visits in 2014, the monitors noticed that the attitude of stakeholders involved in the performance appraisal procedure had considerably improved over the years.

Some Moldovan public authorities demonstrate good practice in setting objectives. In certain ministries, managers have been able to link individual and organisational objectives. Furthermore, some ministries consider that performance appraisal can be used for staff with a special status, such as those in the Ministry of Interior, and it is already used for special status personnel in the Ministry of Defence. In general, the result-oriented culture is slowly entering the civil service (see also the project regarding the use of a “balanced scorecard” for the civil service (SIGMA, 2013b).

Performance appraisal does not play an important role in other human resources processes due to the inflation of grades. Since 2011, the proportion of civil servants receiving good or very good results has increased from 94% to 97.3%. Since performance appraisal cannot be used to award bonuses (at the moment due to financial restrictions, as mentioned above), and only 19% of civil servants were promoted in 2013 as a result of performance appraisal, this exercise may lose influence over time.

In summary, professional development is taken seriously in the Moldovan system. On the one hand, training is mandatory and constitutes a right to which civil servants are entitled. Some regulations concern the number of hours of training that a civil servant must carry out. Although this obligation of the regulation has not been realised, a considerable effort has been made to carry out needs assessments, develop and evaluate training plans, and promote training at all levels. On the other hand, the performance of training has not yet yielded the expected results. It is nevertheless remarkable that in a few years the appraisal has become an integral part of civil service management. The inflation of scores does not help to link appraisal with other management decisions affecting the civil service. The State Chancellery has issued amendments to the regulations on performance appraisal following the observations made during the monitoring exercise of 2013-2014. The methodology used to carry out the appraisal also seems to be in need of some changes.

6.9. Promotion of integrity and prevention of corruption

Principle: Measures for promoting integrity and preventing corruption in the public service are in place and applied.

The Code of Conduct for Civil Servants is set down in the Law 25/2008. A considerable awareness of the Code is achieved through various means. First, in about two thirds of monitored central public authorities, persons and/or divisions are responsible for overseeing compliance with the Code of Conduct and with the Law on Conflict of Interest (Transparency International, 2012). Second, training programmes include the teaching and analysis of the contents and application of the Code. All central public authorities have taken measures to familiarise officials with the provisions of the Law on the Code of Conduct for Civil Servants and the Law on Conflict of Interest. Third, the State Chancellery published in 2013 a methodological guide, which serves as the basis for the training courses. Finally, the Academy of Public Administration organises and conducts courses for the professional development of staff and new incumbents. In spite of these efforts, according to the country authorities interviewed, existing training on ethical issues was insufficient.

Transparency International (TI) – Moldova, recognising the progress achieved in raising awareness of the Code of Conduct, noted a lack of real familiarity with the Code on the part of civil servants in central public authorities. According to the survey conducted by TI – Moldova in 2013, only one third of the officials interviewed confirmed that they had attended training on public ethics, conflict of interests and declaration of income and assets. A low level of assessment is made of the practice of the Code of Conduct, but information on these assessments is lacking. Moreover, central public authorities do not provide on their websites any information on violations of the Code of Conduct and penalties applied to

public authorities. Only 30% of the respondents to the TI – Moldova survey conducted in 2013 indicated that they had been informed about violations of the Code of Conduct and actions taken in this regard.

Compliance with the Code of Conduct for Civil Servants is compulsory for civil servants with general status. In addition to this code, other sector-specific codes of ethics have been implemented: e.g. Code of Conduct for Employees of the National Anti-Corruption Centre; Code of Ethics for Prosecutors; Code of Ethics for Judges; Code of Ethics of the Judiciary; and codes of ethics for border guards, employees empowered with control/audit in the Court of Accounts, internal auditors, tax officials, police officers, customs officers, etc.

Managerial responsibility for misconduct is clear, according to the Civil Service Law 158/2008. Its article 13 stipulates the obligations of managers. They have the obligation to promote codes of conduct and to ensure compliance with the codes by subordinate civil servants. Furthermore, civil servants have the obligation to take the necessary actions to prevent corruption among subordinate civil servants and to bear responsibility for failure as a result of the improper performance of such actions.

Law 16/2008 on Conflict of Interest complements the above provisions. It regulates conflicts of interest, which is a conflict between personal interests and the exercising of official duties (incompatibilities and restrictions on persons exercising a public function or other functions stipulated by this law, settlement of a conflict of interest, and procedure for submitting a declaration on conflict of interest).

The same Law 16/2008 on Conflict of Interest (article 19) and the Civil Service Law 158/2008 establish the incompatibilities and restrictions of civil servants. The legislative framework sets down restrictions related to the termination of an activity and post-employment in critical areas (Law 16/2008, article 20), the occupation of secondary employment (Civil Service Law, article 25), and the reception of gifts (Law 16/2008, article 23; Code of Conduct Law 25/2008, article 11). In addition, Law 1264/2002 provides the method for collecting declarations on income and property. Finally, civil servants are obliged to report suspicions of corruption, in accordance with the legislation on whistle-blowers (Government Decree 707/2013).

The National Commission for Integrity has been active in controlling conflicts of interest. According to the Commission's Activity Report for the first half of 2013, during that six-month period 38 controls were initiated, 16 of which were settled: eight resulted in observation reports, seven were closed, and one was suspended.

Some central authorities have identified cases of the failure by staff to report conflicts of interest, and they have notified the National Commission for Integrity of these cases. In addition, the 2013 report of TI – Moldova, "Monitoring of Anti-Corruption Policies in Central Public Authorities", notes that three central public authorities (Customs Service, National Anti-Corruption Centre, and Agency for Land and Cadastre) informed TI concerning the reporting of conflicts of interest.

In summary, considerable efforts have been made to promote integrity in the civil service and fight corruption. Legislation and training are in place to disseminate and discuss good practices in various areas that are at risk with regard to conflicts of interest. Public authorities acknowledge that the amount of training devoted to this issue is not sufficient and that monitoring of the enforcement of the Code of Conduct for Civil Servants could probably be further improved. The perception of corruption remains high. In 2013 Moldova occupied position 102 in the Corruption Perception Index (CPI) of Transparency International, with a score of 35 (100 = lowest perception of corruption).

6.10. Implementation of disciplinary procedures

Principle: Disciplinary procedures of public servants, with right of appeal, are consistently applied.

The liability of civil servants includes disciplinary, civil, administrative and penal responsibility for their misconduct or misbehaviour (Civil Service Law, article 56). Article 57 of the law provides a list of no fewer

than 12 cases of disciplinary misbehaviour subject to punishment by a disciplinary commission. This list includes various types of misbehaviour, from recurrent late arrival at work to improper conduct of recruitment or of performance appraisal procedures. At the end of the list, an open clause covers all possible types of misconduct. Misconduct can be punished by one of six explicit sanctions (article 58), on a gradual scale ranging from a simple warning to dismissal. Article 59 of the law explains how a disciplinary penalty should be applied, with all of the legal requirements and terms and a description of the specific process. Only a disciplinary commission is entitled to impose a penalty on a civil servant. Article 60 adds some information about the validity of a penalty and the process of contesting the decision of the disciplinary commission. The provisions of articles 56 to 60 are provided in detail in the law and replace previous provisions under which cases of misbehaviour were not described. Legal certainty is now greater since the enactment of the Civil Service Law.

SIGMA (2012) reported that different opinions are regularly voiced on the comprehensiveness of the list of types of misbehaviour. Some HR managers consider that the lists of misbehaviours and sanctions is useful and is not subject to interpretation, whereas other departments consider that these lists should be more explicit in order to leave less room for interpretation.

Regulation concerning the disciplinary committee stipulates that the committee has to be notified by the head of the public authority, the head of the subdivision in which the civil servant is working, or any person who believes that the civil servant's action constitutes a disciplinary deviation. In the course of an investigation of a civil servant, it is mandatory to obtain his/her written explanation. The civil servant has the right to be represented by another person.

Disciplinary sanctions are not regularly applied, as supervisors consider their application difficult, according to the official response to the survey. The SIGMA peer review (2012) reported that the disciplinary commission had to cope with a considerable workload. The commission members did not have the time to properly conduct an investigation, as required by law. Cases that the commission had dealt with had therefore been fraught with delays.

In summary, the Civil Service Law covers all possible types of misbehaviour, and it includes an open clause as well as a reasonable gradation of relevant penalties. The number of sanctioned civil servants is increasing [219 in 2012 (1.3% of the total number of civil servants) and 277 (1.7%) in 2013], and the country authorities consulted believed that the process was easy to use and that managers could use this instrument more often, even though managers had indicated that they found it a bit burdensome.

6.11. Civil service policy and legal framework based on administrative law principles

Principle: Policy and legal frameworks for a professional and coherent public service, based on administrative law principles, are established and applied in practice.

The Civil Service Law of Moldova (2008) refers to some of the European principles. For instance, transparency is mentioned in three articles that refer to the goals and principles of the civil service (articles 1, 5 and 29 regarding recruitment). Efficiency is also mentioned in articles 1, 2, 37, 39 and 40.

However, transparency and openness are not applied in some HRM processes, such as promotions (which are partially not merit-based) and transfers.

6.12. Specific recommendations

1. The principles of transparency and openness should be applied to recruitment in the administrative bodies in the Ministry of Interior.

2. The competencies of the different units in charge of HR management should be clearly established in the legislation so that the coordination capacity of the Chancellery can be better exercised.
3. The implementation of the recruitment of senior civil servants through merit-based processes should be speeded up. The number of recruits is still too low to have a critical mass of senior civil servants. Furthermore, it should be identified the unit or organization that will be responsible for senior civil servants.
4. Appeal processes against recruitment decisions should be more accessible for candidates.
5. Promotions should be subject to open competition. Technical fixes that are currently underway are not sufficient if an open competition is not established. Furthermore, the legal framework regarding the selection procedure of candidates for vacant positions should be amended by introducing more skills, motivation and other competencies.
6. Efforts should be put into enforcing the classification system with appropriate fixes in order to ensure that similar positions in different public authorities are similarly classified.
7. The amendments to the regulation issued by the Chancellery in the area of performance appraisal should include a mechanism to reduce the proportion of 'very good' and 'good' appraisal grades so that more discrimination is introduced when linking performance appraisal results to other HRM processes.
8. It is recommended to implement a medium term program for professional development to ensure a better training offer for civil servants.
9. The monitoring of the implementation of integrity measures requires to be centralized and further strengthened by implementing all the legal changes foreseen in the National Anticorruption Strategy for 2011-2015.

7. UKRAINE

7.1. Scope of the civil service

Principle: The scope of public service is adequate, clearly defined and applied in practice.

The Civil Service Law of Ukraine (3723/1993) of 1993 regulates the civil service. A new law, adopted in 2011, has not yet been enforced at the time of writing (October 2014). This section is therefore based mainly on the Civil Service Law of 1993.

The scope of the Civil Service Law is problematic due to the definition of a civil servant (article 1): “Civil service is understood as the professional occupation of persons holding positions at State organs and civil service employees practically implementing tasks and functions of the State in return for pay from government funds”. The definition of a civil service position based on the defence of general interest or the exercise of authority does not exist in Ukraine. Furthermore, as there is no clear process for assigning positions to the various types of public servants (political appointees, civil servants, and public employees under a labour contract), the courts have difficulties in protecting particular positions.

The horizontal perspective of the 1993 Civil Service Law is not very clear. Article 2 of the new Civil Service Law (adopted in 2011 but not yet enforced) is very detailed regarding the scope of the law. It applies to ministries and administrative bodies reporting directly to the President, the Government, the Prime Minister or ministers; the administration of the Parliament, the President and the Prime Minister; other administrative bodies of the central administration, court administrations and the Constitutional Court; and some positions in regulatory agencies. Officials of local self-governments are not subject to the Civil Service Law.

Civil service employment constitutes a very low proportion of public sector employment. In 2013, there were 335 270 civil servants, which represented 12.3% of public sector employment (2.7 million). Public sector employees constituted 13.3% of the whole private and public sector employment (20.4 million).

From a vertical perspective, article 9.1 of the 1993 Civil Service Law describes in detail the positions that are occupied by political appointees or elected officials in the executive, legislative and judicial branches. Seven categories are given the title of civil servant in the system. However, in the two highest categories, there are no requirements for competitive selection, and the minister or prime minister exercises discretion in determining the appointments to positions in those categories (Civil Service Law 1993, article 25). Appointees to these positions should therefore not be given the title of civil servants. It is customary for a civil service law to focus only on civil servants, while separate pieces of legislation regulate political appointees, elected officials and other discretionary appointments.

In summary, there is room for improvement in the legislation of Ukraine. Local self-government officials should be included as civil servants; the definition of the civil service and civil servants needs to be improved; and the inclusion of political appointees, elected officials and discretionary appointments in the Civil Service Law should be avoided.

7.2. Institutional set-up for consistent and effective human resources management practices

Principle: The institutional set-up enables consistent and effective human resource management (HRM) practices across the public service.

The National Agency of Ukraine on Civil Service (NAUCS), which was created with special status by Presidential Decree 769/2011, is adequately placed, taking into consideration the most recent, semi-presidential institutional context, to co-ordinate the management of the civil service. Since 2014, (Resolution of Cabinet of Ministers No. 69), the Vice Prime Minister in charge of Regional Development, Construction and Housing is responsible for the civil service, in accordance with the planned constitutional changes. In the past, this role was assigned to the Minister of Justice. In addition, the Cabinet of Ministers' Secretariat and the Presidential Administration have always played a significant role in this regard.

The task of the NAUCS is wide and far-reaching in the legislation, as it is in charge of ensuring the development and implementation of the uniform public policy in the area of the civil service; participating in the development of public policy in the sphere of local services; developing measures to increase the efficiency of the civil service; providing methodological support in human resources management; organising research on the civil service; monitoring the exercise of rights in application of the Civil Service Law; organising training of civil servants and local officials; developing a model of professional qualification; and monitoring compliance with anti-corruption regulation and ethical behaviour of civil servants.

Some changes could allow the NAUCS to exert a real influence on the system. First, some functions are missing; a higher capacity is required in monitoring recruitment processes (as well as performance appraisal); assessing training needs; overseeing the enforcement of civil service legislation in state institutions; managing the central registry; and taking part in manpower planning. If the NAUCS lacks the power to set standards in particular processes, the system becomes very fragmented. Second, international organisations and an NGO representative have voiced the opinion that the NAUCS is considerably involved in micro-management (for the Presidential Administration and the Cabinet of Ministers' Secretariat), without dealing with more strategic issues.

However, this central capacity is counterbalanced by the considerable independence of HRM units in individual administrative bodies. The chiefs of staff in administrative bodies have almost unrestricted power to approve professional competence profiles and requirements concerning the level of education, qualifications and experience; arrange competitions; appoint and dismiss civil servants; assign service ranks to civil servants; arrange training and development activities; ensure performance appraisal; reward civil servants; and hold civil servants liable to disciplinary proceedings.

The NAUCS is not well staffed for carrying out its tasks, given the size of the civil service in Ukraine. With 112 employees, there is only 0.33 NAUCS staff per 1 000 civil servants. It is therefore not surprising that the country authorities interviewed considered that the NAUCS was able to adequately co-ordinate up to three quarters of its main functions as established in the Civil Service Law. The capacity of the NAUCS to manage and co-ordinate the civil service has deteriorated in the last four years. An NGO representative is pessimistic about this weakened capacity, stating that the only contribution of the NAUCS to the reform process has been the elaboration of by-laws for implementing the Civil Service Law.

The NAUCS established in 2014 the Civil Service Registry by its Order 29/2014. The Registry will contain information on the number of civil servants, staff turnover, vacancies, training certificates, disciplinary sanctions and dismissals due to corruption, candidates for civil service positions, and the date of retirement, among other elements. The list of the Registry's contents offers limited information that can be used for the most important aspects of civil service management. Information is missing on personal records concerning performance appraisal results, qualifications, non-formalised training (through certificates), etc.

The goals that the NAUCS foresees for the Registry are far more limited than the functions that are customarily performed by this type of instrument. It is envisaged to use the Registry for drafting reports to various authorities (President, Cabinet and Parliament), preparing statistics, and providing methodological assistance to human resources management services. The country authorities interviewed maintained that the Registry could be used for taking decisions in up to half of the main HRM processes. However, given the current structure of the Registry, this HRM support seems unlikely.

In summary, the NAUCS has been placed in a good institutional position, but it has some weaknesses. First, it is not sufficiently staffed to be able to co-ordinate and monitor the management of the civil service in central and local public authorities. Second, its portfolio of functions is rather limited. It has conceived its role as the completion of routine work rather than strategic intervention. Third, HRM units have considerable independence in managing many processes. Finally, the Register, which is still not fully implemented, does not appear to be ready to fulfil its important role.

7.3. Merit-based recruitment of civil servants

Principle: Recruitment is based on merit in all its phases.

The Civil Service Law 3723/1993 (article 15) establishes that civil servants in the 3rd to 7th categories are to be recruited on a competitive basis. The competitive selection of candidates for vacant positions is further regulated in secondary legislation. Positions in the executive support service and in the 1st and 2nd categories are exempted from the competitive procedure, and their positions are filled through discretionary methods. Therefore their title of civil servant is inappropriate.

Each public authority announces the vacancy for competition. The announcement has to be published in the mass media or the official media at least one month prior to the competitive selection. Some authorities may announce vacancies in specialised media; for instance, the Ministry of Justice may use law journals for this purpose. An announcement is also posted on the website of the respective authority, but there is no integrated website for all vacancies.

The head of the public authority announcing the vacancy sets up a competition commission. Chaired by the deputy head of the public authority, the competition commission consists of representatives of HRM and legal departments and other units of the authority. There are no external experts or independent members in the commission.

The National Agency of Ukraine on Civil Service (NAUCS) and the National Academy of Public Administration have developed general procedures for examining candidates. The public authority head holding the competition approves the examination procedures and questions for evaluating candidates' knowledge of the legislation.

The selection process is carried out in three stages: analysis of submitted documents (to verify whether the candidates are qualified for the position), examination, and interviews with the candidates who successfully passed the examination. The examination checks the candidates' knowledge of the Constitution, the Civil Service Law and the Anti-Corruption Law as well as other laws under the jurisdiction of the particular authority organising the competition.

The commission decision to appoint a particular candidate is taken by a simple majority of votes of the members present at the meeting. In the case of an equal number of votes for two candidates, the chairman has a casting vote. For candidates who passed the examination but were not selected, the commission may include them in the authority's reserve pool, subject to the consent of the candidates. For the following year, they may be appointed to a position of the same or lower category as the vacancy, without competition.

According to the country authorities consulted for the survey, up to half of all civil servants have been appointed based on merit and open competition. An NGO representative maintains that many of these

competitions were merely nominal. Heads of public authorities usually select the winning candidate in advance, and informal criteria are then used in the competition to select the candidate who has already been chosen. This comment is not surprising, since the commission is comprised of staff working in the authority that announced the vacancy. Furthermore, the chair has a casting and final vote in case of disagreement. It is in this context that discretionary criteria in recruitment are imposed. SIGMA's 2012 review of the Civil Service Law in Ukraine also maintained that managers had too much discretionary power in recruitment.

A new law on "lustration", meaning a purge of government officials, was adopted by Parliament on 16 September 2014. The law includes the principle of extensive verification of the qualifications of current civil servants and candidates for government positions at both central and local levels, including political positions. Under the law (which is not yet in force at the time of writing), up to one million persons will be screened. If a person fails this verification, he/she is subject to dismissal or disqualification for a government position.

In summary, the recruitment of civil servants does not seem to be based on merit. First, some positions are referred to as civil service positions, whereas the vacancies are filled through discretionary appointment. Second, the discretion of managers to award the competition to a pre-selected candidate seems unrestricted. Finally, the percentage of vacancies filled through internal processes (not through real competitions, see below) is 53.6%. No contrasting data (such as the number of candidates per vacancy) is available in order to gauge the competitiveness of the system.

7.4. Equal treatment of civil servants

Principle: There is equal treatment in the public service.

The Civil Service Law (article 4) establishes that citizens of Ukraine – regardless of their origins, social and property status, racial or national affiliation, gender, political views, religious beliefs or place of residence – who received the appropriate education and professional training and were selected on a competitive basis are entitled to work in the civil service.

According to the country authorities interviewed, the composition of the 433 269 civil servants at central and local levels in January 2014 was 24.5% men and 75.5% women. In the central administration, with 335 270 civil servants, 75.2% are women and 24.8% men.

In summary, from a comparative perspective, Ukraine has a higher proportion of women in the civil service at both central and local levels. In the absence of precise data, it would seem that the proportion of women in senior civil service positions is far lower.

7.5. Objectivity of the termination of civil service

Principle: Objective criteria for termination of public service are explicitly regulated in law and followed in practice.

In Ukraine, detailed grounds for the dismissal of a civil servant are set down in two pieces of legislation: the Labour Code (article 36) and the Civil Service Law (article 30). According to an NGO representative, no reasons at all are required for the dismissal of a civil servant. Such dismissals occur the most often in the case of senior civil servants. The higher frequency of the termination of civil service for the higher categories is only normal, since the legislation establishes that appointments to senior positions are not merit-based. As a result, no justification is needed for such dismissals.

Article 40 of the Labour Code allows the termination of an employment contract by the employer if production and working conditions change, including such changes as liquidation, reorganisation,

bankruptcy, conversion of an enterprise, institution or organisation, layoffs or downsizing. However, according to the Civil Service Law (article 30), a change in the leadership or structure of a government authority does not constitute grounds for the dismissal of a civil servant from current office by the newly appointed leadership, except for civil servants in the support service. In fact, according to an NGO representative, reorganisations, including fictitious ones, are used as a way to dismiss civil servants.

The same NGO representative stated that all governments have been relatively consistent in terms of discretionary dismissals of civil servants after a change of government. During the periods of radical political changes, i.e. in 2005 and 2010-2011, there was a high turnover of senior positions (but data is not available). The current Cabinet, in office as from 2014, has dismissed the heads of several authorities. The officials who were dismissed have not been offered other positions or transfers to the reserve pool, and they are now in search of employment.

In summary, the legislation provides detailed reasons for the dismissal of civil servants. However, discretion can be used when restructuring or abolishing an agency, and it apparently leads to a number of dismissals, although no data is available to back up this statement.

7.6. Mobility, promotion and demotion of civil servants

Principle: Mobility, promotion and demotion of public servants are objective, transparent and based on merit.

The Civil Service Law (articles 11, 27 and 28) regulates promotion in a way that could encourage merit-based competition, but it does not. Civil servants are entitled to promotion based on their qualifications, abilities and proper performance of their duties. Civil servants who deliver top performance, take initiative, improve their professional skills continuously, and are in the reserve pool are to be the first promoted. The results of the performance appraisal and the annual evaluation of civil servants' performance should be taken into account when a decision is made on their promotion. Government authorities are to set up a reserve pool for filling vacancies and for promotion.

Open competition is not always applied to promotion. According to the Civil Service Law (article 19), a candidate for a civil service position may undertake on-the-job training in a public authority for up to two months (secondment) to gain practical experience and to test his/her professional level and business qualities. This experience can help during a promotion process. A civil servant who is included in the reserve pool, has taken an on-the-job training course or studied at the National Academy of Public Administration may be promoted by a decision of the head of the respective public authority without competition.

The Labour Code regulates transfers, because there is no distinction between private and public law on this issue. According to article 24, a transfer to another enterprise, institution or organisation has to be agreed by the heads of both institutions. Transfers within and between institutions or to another locality are generally to be subject to the consent of the employee (articles 32-33). The legislation provides some exceptions to this consent, where a transfer may be compulsory.

The Civil Service Law does not regulate compulsory transfers. The reasons for transferring a civil servant may include: liquidation of an organisation, downsizing or layoffs; an employee's temporary absence; an employee's poor health; the reinstatement in the position of an employee who had previously performed these functions; and other reasons established by applicable labour laws. In the end, the law allows for the practice of compulsory transfers in various situations.

In summary, some elements promote promotion and mobility in the civil service in Ukraine. The legislation has some provisions concerning the persons who should have an advantage to receive a promotion. However, no clear procedure has been established to implement these provisions, and promotion is not performed on the basis of merit.

7.7. Fair and transparent remuneration system

Principle: Remuneration system of public servants is fair and transparent and applied in practice.

The job classification system is not appropriate for establishing salaries in an objective way. The Ukrainian civil service comprises seven categories and 15 ranks of civil servants. According to the country authorities interviewed, the job classification system in the civil service was not well defined and failed to reflect the true nature of a particular position. As a result, it was impossible to evaluate and establish basic salaries objectively.

The Cabinet of Ministers establishes the conditions and amounts of civil service remuneration, but the large number of allowances is striking. The remuneration of a civil servant is comprised of basic salary, allowances, bonuses, and other extra payments. The basic salary constitutes 20% to 30% of the total salary, which is contrary to European practice. The number of allowances (some of which are universal, i.e. offered to every civil servant) is very high and includes the following: high achievement at work; execution of especially important work; knowledge and use at work of a foreign language; the title referred to as "honoured"; length of service; performance of the duties of a temporarily absent employee or manager; academic degree of Candidate or Doctor of Sciences in the respective specialty; night work; resolution of social and household issues; health care allowance for annual leave; state assistance to families with children, allowance for the birth of a child; and other incentives and compensatory payments established by local governments and enterprises. Some high-level officials may enjoy special health care, discounts on recreational tours, free rental of publicly owned holiday cottages, and rental of official cars using public funds.

Heads of public authorities are entitled, within the limits of the payroll, to establish salary increments for an employee's top performance or execution of especially important work. Such increments may constitute up to 50% of the total salary of a civil servant. Increments may be cancelled if a civil servant carries out tasks behind schedule, performs inadequately or violates internal rules. In addition, heads of authorities are entitled to pay bonuses to employees based on their personal contribution to overall results, but within the limits of the bonus budget, which is at least 10% of basic salaries, and with payroll savings. Each authority is in charge of issuing a regulation on bonuses (terms, conditions and amounts). The large number of allowances and bonuses makes the system non-transparent. These allowances and bonuses are intended to compensate for the low basic salaries, and in the end it is quite difficult to know the exact pay level of any civil servant. Furthermore, the system is not equitable.

Civil service salaries are not competitive with those in the private sector. First, the salary levels of civil servants are not comparable to those in the private sector, especially in the capital and in several other large cities. This is one of the reasons why the civil service does not appeal to the most qualified professionals. Quite a few politicians, for the most part members of previous governments, used to pay illegally "shadow envelope salaries" to their most valuable employees. Second, the latest salary increase for all civil servants took place in February 2008. Since 2009, salary increases have been granted to employees with salaries that are lower than the minimum wage. At the same time, during this period the minimum wage increased from UAH 515 (EUR 31) in February 2008 to UAH 1 218 (EUR 73) in 2014, i.e. 2.37 times. As a result, a large number of employees in local executive authorities and local governments, regardless of their qualifications and the amount of work performed, have the same salary, which is equivalent to the minimum wage. The new version of the Civil Service Law, adopted in 2011 and foreseen to come into effect on 1 January 2015, sets down new terms and conditions of labour remuneration that are competitive in the labour market, although they are not secured financially.

Pensions for civil servants are available for men and women, although their retirement age varies. The pension amounts to 70% of their salary after payment of the single compulsory social insurance fee. While the country authorities interviewed did not know which pension scheme was better – the scheme in the public or the private sector, an NGO representative maintains that the civil service has its own

privileged pension scheme. According to this NGO official, civil service pensions are 80% to 90% of the total pay, including all bonuses, as opposed to 40% to 45% of total pay in the private sector. This difference in pensions may be one of the factors that motivate older staff to hold onto their civil service positions.

In summary, the remuneration system in Ukraine presents several problems. First, the classification system, as in other countries of the region, does not allow similar positions in different public authorities to be rewarded equally. Second, the lack of transparency of the salary system is noticeable in the granting of allowances (more than 14 allowances are possible) and the discretionary award of bonuses. The large number of allowances and bonuses has dramatic effects, since the basic pay is around 20% to 30% of total pay. Third, civil service salaries are very low compared to salaries in the private sector. It remains to be seen whether the Civil Service Law to be enforced in 2015 will change this situation, but it seems that the law will only patch up the remuneration level, if financial conditions allow it.

7.8. Professional development of civil servants: training and performance appraisal

Principle: The professional development of public servants is ensured, including regular training and fair performance appraisal.

Training

The National Agency of Ukraine on Civil Service (NAUCS) is in charge of organising the training of national civil servants and local officials (Presidential Decree 769/2011). The NAUCS fulfils several functions in this regard: it drafts regulations, carries out needs analysis, organises and co-ordinates the professional training of civil servants; monitors public contracts for advanced training and its implementation by public authorities; together with public authorities, it determines the requirements for educational institutions in the training of civil servants; conducts the selection of these institutions according to the prescribed procedures; takes part in their licensing and accreditation, as well as in the certification and co-ordination of educational and professional training curricula and professional advanced training programmes.

However, public authorities are responsible for the assessment of training needs in line with the Methodological Guidelines approved by the NAUCS (presidential Order 26/2014). The training plan is elaborated, as a rule, before the start of the academic year. The particular public authority is in charge of determining the contents of this plan, with the help of an educational institution.

The amount of time devoted to the professional development of civil servants should not be less than 108 hours, including both work in class and independent work. For thematic, professional advanced training programmes (e.g. on the control, prevention and fight against corruption), the time period should not be shorter than 72 hours of class and independent work. The public authority determines the terms and forms of advanced training of a civil servant, although a general regulation specifies the time limit for out-of-job training. The salary of the civil servant is preserved during out-of-job training, but for not more than four weeks; during on-the-job training, the salary is guaranteed for up to six months.

Induction training is also in place. Advanced training through professional programmes is provided during the first year of employment for anyone entering the public service for the first time or for those elected and appointed to their respective positions. If needed, this training is also provided prior to or following the regular accreditation, but in any event not less frequently than once every five years.

Performance appraisal

Two evaluation systems coexist in the civil service: performance appraisal and annual performance evaluation, which confuses somewhat the assessment of the contribution of a civil servant to the

organisation. Performance appraisal, regulated by the Cabinet of Ministers' Resolution 1922/2000, applies to everyone in the civil service, with some legal exceptions. Civil servants in executive support services and those who have been in office for less than one year (although there are some exceptions) cannot be subject to performance appraisal. Women on maternity leave are to undergo the performance appraisal at least one year after they return to work. Persons appointed for a fixed term and pregnant women may choose to undergo performance appraisal. However, according to an NGO representative, more exceptions are applied than the ones mentioned in the law, i.e. for public officials in positions of categories 1 and 2. These exceptions are not laid down in the law but are instead established by the appointing authorities.

Performance appraisal is conducted every three years. The annual evaluation of performance by a civil servant of his/her assigned functions and duties is held in the period between appraisals. The head of the authority approves the period and schedule for performance appraisal. An NGO representative maintains that every public authority establishes its own performance appraisal schedule; there is therefore no uniform calendar across the public service.

The head of the unit is responsible for the whole process. He/she prepares the list of employees who are subject to performance appraisal and nominates candidates for the appraisal commission, among other functions. The appraisal commission carries out the performance appraisal. Performance appraisal in a small public authority (with a maximum of five staff members) may be conducted by the head of the authority or by a higher public authority. In some authorities, several commissions may be set up, depending on the number of civil servants employed and the scope of the authority's mandate.

The appraisal commission consists of the chair, the secretary and members. As a rule, the deputy head of the authority serves as the chair. Members of the commission include heads of structural units and representatives of the HRM and legal departments. The head of the authority may engage independent experts to work on the commission. A representative of the Ministry of Justice participates in a commission when the appraisal concerns the head of a legal department in a ministry or in another central executive authority.

According to an NGO representative, the performance appraisal focuses on the "discharge of official duties, command and use of official language in everyday work, as well as consistency in preparing recommendations for future use of the civil servant's experience and knowledge by the government agency". Unlike expected, the appraisal does not focus on performance or results when performing the job.

After the performance appraisal, the commission determines whether a candidate is adequate or inadequate, subject to the implementation of some recommendations. If the appraisal is positive, the commission recommendation may be to include the civil servant in the reserve pool, allow on-the-job training in a higher position, award the next civil service rank, grant a salary increment, etc. If the commission considers that the civil servant is adequate for the position, the commission will recommend, but only under certain conditions, to schedule another appraisal one year later if the civil servant agrees to implement some recommendations (for instance, to undertake a training course). If the civil servant is deemed to be inadequate for the position, the commission will recommend either a transfer to another position that is more in line with his/her professional skills or his/her dismissal. Each recommendation must be substantiated.

A second method of evaluation is called performance evaluation. The heads of structural units carry out the evaluations of their civil servants in an end-of-the year review. The HRM department of the individual administrative body is responsible for the organisation of the performance evaluation. This annual performance evaluation, instead of focusing on the civil servant's general competence level, focuses on performance in the course of the past year. The country authorities interviewed expressed their preference for giving priority to this underexploited method of evaluation and for abolishing performance appraisal.

In summary, the professional development of civil servants still needs to be strengthened. The three aspects of this development are training, performance appraisal (every three years), and annual performance evaluation. Training perhaps requires more centralisation, less managerial discretion of administrative bodies, more systematic needs assessment, and better overall annual planning. With regard to performance appraisal and performance evaluation, the two separate exercises cause confusion. One recommendation is to keep and improve the annual performance evaluation and to dismantle the performance appraisal carried out every three years. The appraisal is inadequate in assessing the performance of employees, and this instrument could be used for other management purposes.

7.9. Promotion of integrity and prevention of corruption

Principle: Measures for promoting integrity and preventing corruption in the public service are in place and applied.

The Civil Service Law, the Law on the Principles of Preventing and Combating Corruption (Law on Anti-Corruption), and the Law on Ethical Conduct Rules and General Rules of Conduct of Civil Servants (presidential Order 214/2010) regulate issues related to ethical behaviour. An NGO representative stated that the Law on Ethical Conduct Rules of 2012 was rather formal and did not provide any clearly defined mechanisms for enforcement. As a result, the law had virtually no effect on civil servants.

The Civil Service Law (article 38) establishes that persons found guilty of violating civil service laws are subject to civil, administrative or criminal liability. Information concerning persons brought to justice for corruption offenses (with exceptions related to intelligence and counter-intelligence) and disciplinary sanctions are entered into a Corruption Registry, maintained by the Ministry of Justice. Public authorities can ask to consult the Registry in order to check information on candidates for public service positions. The Ministry of Justice publishes information on its website concerning persons brought to justice for corruption.

According to the legislation, official powers cannot be used for receiving (or being promised) improper benefits. Civil servants (Law on Anti-Corruption, article 4) are prohibited to engage in other paid activities (with some exceptions) or entrepreneurial activities or to receive donations or gifts (with exceptions related to the concept of hospitality). They cannot serve as a member of any board of another executive or supervisory body or on the supervisory board of an enterprise or organisation that has the aim of making profits (there are also some exceptions in this regard). In addition, anti-corruption laws place one universal restriction on all civil servants. This restriction applies during the first year after termination of service. Former civil servants are forbidden to sign employment agreements/contracts or to make business deals with companies, institutions or organisations (with any form of ownership or with self-employed individuals) if they had been involved, as civil servants, in the control, supervision, or deliberation of decisions concerning the operations of such companies or institutions during their last year in the civil service prior to termination. One year after the termination of service, former civil servants are even required to provide a statement of assets, income, expenses and liabilities.

According to an NGO representative, there are general restrictions on secondary employment. However, there are no clearly defined rules on secondary employment in the fields where it is allowed, i.e. lecturing, research, arts, medical practice, or coaching/refereeing of sports. In particular, there is no definition of the person designated to grant permission or the way in which secondary employment affects the discharge of primary, official duties and remuneration, and similar issues.

There are also regulations applied to particular positions for the submission of declarations of assets and income. The Law on Anti-Corruption also sets down requirements and rules regarding the statements of income and expenses of civil servants. According to an NGO representative, such restrictions have existed all along, and corrupt senior civil servants still run their businesses through their proxies and even family

members. Efforts to control discrepancies between the income of civil servants and their actual lifestyle have been highly ineffective. Monitoring mechanisms are lacking in this regard.

Whistle-blower protection has been provided by the Law on Anti-Corruption. According to this law, the person who assists in preventing and combating corruption (the whistle-blower, i.e. denunciator) is placed under the protection of the State, even through the engagement of law enforcement agencies if there exists a threat to the life, housing, health or property of the denunciator. According to an NGO representative, a general feeling of disdain towards “snitches” (informers) has carried over from the Soviet days of the KGB. This formal rule concerning whistle-blowers is thus in practice ineffective.

A considerable number of legislative measures aim to promote ethical behaviour and to prevent and combat corruption, but their implementation is problematic. HRM departments and anti-corruption units are weak due to the lack of resources, discretionary powers to conduct internal investigations, etc. The identification of corrupt behaviour is therefore difficult. Controls concerning senior civil servants are especially weak.

In summary, there is a considerable wealth of regulations regarding the promotion of integrity and the fight against corruption. However, it is doubtful that the enforcement of these regulations is appropriately applied or if they can be enforced at all. The perception of corruption is very high, and Ukraine ranked 144th in 2013, with a score of 25 (0 = highly corrupt) in the Corruption Perception Index (CPI) of Transparency International.

7.10. Implementation of disciplinary procedures

Principle: Disciplinary procedures of public servants, with right of appeal, are consistently applied.

The Civil Service Law and the labour legislation regulate disciplinary sanctions. The regulations are not very specific with regard to the type of violations that can lead to disciplinary sanctions, and these sanctions are not presented on a gradual scale. For instance, sanctions for the violation of article 147 of the Labour Code are either reprimand or dismissal, without any other type of sanction in between. More elaborate sanctions imposed on a civil servant are the following: reprimand, notice of professional incompetence, suspension of assignment to a higher official rank, and dismissal. A general clause allows the introduction by legislation of other types of sanctions for certain categories of employees. Sanctions have to be applied no later than one month after the date of detection of the violation, and a disciplinary sanction may not be imposed any later than six months after the date of the violation. This period is too short for many ordinary cases and especially for corruption-related violations. Corruption may be concealed for a long period of time, and for many cases complex information has to be gathered. This time limitation should therefore be amended.

Disciplinary sanctions may be appealed. The normal procedure for appealing against a disciplinary sanction is to apply to the Commission for Labour Disputes.

According to an NGO representative, disciplinary proceedings are not very common. Offenses have to be very serious to initiate such proceedings. Apparently, supervisors may also use the procedure in an attempt to oust certain civil servants from office. Furthermore, investigations can hardly be considered to be impartial. Heads of public authorities have a strong influence on investigating agencies and commissions as well as on the overall proceedings. If the supervisor is biased, there is very little guarantee that the investigation will be fair. Technically, a civil servant has the right to provide the necessary explanations regarding his/her own case. Nevertheless, in the absence of independent commissions for the verification of the investigation’s findings, civil servants generally cannot expect to be given any protection. The only existing commission is the Internal Investigation Commission, which refers all findings to the head of the public authority or the investigating agency.

Managers employ other instruments to sanction employees. Generally, they withhold bonuses, which are intended to serve as reward mechanisms. Considering the proportion of total pay represented by bonuses, this instrument is very powerful.

In summary, disciplinary sanctions are regulated, but they are not very detailed and the scale is inappropriate. Apparently, disciplinary sanctions are not used very often, and the withholding of bonuses is a better strategy for sanctioning a civil servant.

7.11. Civil service policy and legal framework based on administrative law principles

Principle: Policy and legal frameworks for a professional and coherent public service, based on administrative law principles, are established and applied in practice.

The Civil Service Law does not explicitly mention the European administrative law principles. Other principles are mentioned, however, in article 3 of the law.

The 1993 Civil Service Law is not in line with the main European administrative law principles, according to an external expert who responded to the survey questionnaire, because the law is based on the post-Soviet concept of the role of cadres in the public administration. In fact, the law is not concerned with the recruitment of suitable personnel as much as it is focused on the categories of civil service positions and ranks as well as benefits, such as pensions. The new Civil Service Law, adopted in 2011 but not yet enforced, includes some of the above-mentioned European administrative law principles.

In practice, transparency does not apply to the areas of recruitment, promotion or remuneration. With regard to the salary, the payment of a large number of allowances and the discretionary granting of bonuses are not based on open criteria. Therefore, apart from including the principles in the legislation, it will be necessary to apply them in practice.

7.12. Specific recommendations

1. The legislation should improve the definition of a civil servant. It is recommended to establish a homogeneous regime for all positions that involve the exercise of public powers conferred by public law and that have responsibility for safeguarding the general interests of the state or other public bodies (i.e. the horizontal scope) and to clearly determine the upper and lower dividing lines among political appointees, public servants and support staff (i.e. the vertical scope).
2. The personnel registry should be used in a more strategic way that is foreseen. This would enhance the strategic functions of the National Agency for the Civil Service.
3. Merit-based recruitment should be better implemented. In external competition processes, practices have to be considerably improved. In promotions, open competition should be applied.
4. Restriction to the use of dismissals when restructuring or abolishing an agency should be placed by making compulsory the reappointment of staff or its inclusion in a reserve list that should be actively managed.
5. Efforts should be made into enforcing the classification system with appropriate fixes in order to ensure that similar positions in different public authorities are similarly classified.
6. Criteria have to be regulated and enforced to guarantee that the granting of bonuses is transparent and non-discretionary.
7. The promotion of integrity require centralized monitoring mechanisms that are not currently in place.

REFERENCES

- AMERIA (2010) *Designing a Development Strategy for the Civil Service System of the Republic of Armenia, Including Training*. Breckenhill, Yerevan.
- HM Government (2009) *Putting the Frontline First: Smarter Government*. Treasury, London.
- Hoppe, Tilman (2012), Country risk assessment – Azerbaijan “Ethics in the Civil Service”, Council of Europe, Brussels.
- IDFI (Institute for Development of Freedom of Information) (2013) *Remuneration Systems of Civil Servants: Member States of the European Union and Georgia*. IDFI, Tbilisi.
- IDFI (Institute for Development of Freedom of Information) (2014) *Civil Service Recruitment Legal Assessment (Georgia, the UK, Estonia)*. IDFI, Tbilisi.
- IDFI (Institute for Development of Freedom of Information) (2014a) *Statistics of Public Servants in the Public Authorities of Georgia in Terms of Gender*. IDFI, Tbilisi.
- ILO (International Labour Organization) (2010) *Work and Family in Armenia*. ILO, Genève.
- Khachiyani, Amalya (2011) *Analysis of Position Classification In Armenian Civil Service With Comparison To Selected Countries*. Policy Paper for the American University of Armenia, Yerevan.
- OECD (2013) *Azerbaijan. Monitoring report*. From the series: *Anti-Corruption Network for Eastern Europe and Central Asia Istanbul Anti-Corruption Action Plan*. Paris, OECD.
- OECD (2013) *Government at Glance*. OECD, Paris.
- Saryan, Lilit (2011) *Fair Pay: Perceived and Actual Levels of Wages and Wage Inequality in Armenia in Comparison to Selected Countries*. Policy Paper for the American University of Armenia, Yerevan.
- SIGMA (2009) *Comments on the Draft Law of the Republic of Armenia*. SIGMA, Paris.
- SIGMA (2010) *Assessment of the Civil Service System of the Republic of Armenia*. SIGMA, Paris.
- SIGMA (2012) *Peer Review of The Civil Service Legal Framework And Its Implementation Since The Enactment Of Law 158/2008 (Civil Service Law) And HRM Practices In The Moldovan Public Administration*. SIGMA, Paris.
- SIGMA (2013) *Comments on the Draft Policy Paper: Civil Service System Development in the Republic of Armenia*. SIGMA, Paris.
- SIGMA (2013a) *Strategy for the Reform of the Civil Service in the Republic of Azerbaijan*. Paris, SIGMA.
- SIGMA (2013b) *Review of the Law of Georgia on Civil Service*. Paris, SIGMA.
- SIGMA (2014) *Comments on the Civil Service Reform Concept of Georgia*. SIGMA, Paris.
- Transparency International (2013) *Staffing Changes in the Civil Service After the 2012 Parliamentary Elections*. Transparency International, Tbilisi.
- Transparency International (2014) *Outcomes of the Competitions for Civil Service Positions held by the Central Government Institutions*. Transparency International, Tbilisi.
- USAID (2014) *Civil Service Reform Concept*. Georgia. USAID, Tbilisi.
- Weinmann, Christopher David (2013), *Presentation on the results of focus group analysis with civil servants and citizens*. GIZ, Baku.

ANNEX - QUESTIONNAIRE

Comparative Study Civil Service Professionalisation in Armenia, Azerbaijan, Georgia, Moldova and Ukraine

This questionnaire of a comparative study on “Civil Service Professionalisation in Armenia, Azerbaijan, Georgia, Moldova and Ukraine” has been prepared by SIGMA, a joint initiative of the OECD and the EU, to support professionalising the civil services in the EU’s eastern neighbourhood countries in line with European principles and good practices of public administration.

The results of the study will be presented at the Regional Civil Service Conference in Tbilisi on 4-5 November 2014.

The Civil Service Council of Armenia, The Civil Service Commission of Azerbaijan, The Civil Service Bureau of Georgia, the Central Public Administration Department of the State Chancellery of Moldova, and the National Agency of Ukraine on Civil Service are requested to fill in this questionnaire either in English or in the official language with the support of other relevant administrative bodies, i.e. the Ministry of Finance, the Prosecutor’s Office, the Ethics Commission, the national civil service training institute, the oversight institution of the civil service.

The assembled replies to the questionnaire (one per country) as well as any supporting materials or links to relevant documents, if available on-line, should be submitted to SIGMA for the attention of **Airi Alakivi** (airi.alakivi@oecd.org) **no later than 7 July 2014**.

If you have any queries when answering the questionnaire, please do not hesitate to contact without delay SIGMA’s Project Manager Ms. Airi Alakivi at airi.alakivi@oecd.org (tel. + 33 6 27 48 36 51), or Project Co-ordinator Ms. Ilana Demal at ilana.demal@oecd.org (tel. +33 1 45 24 15 82).

INTRODUCTION

Armenia, Azerbaijan, Georgia, Moldova and Ukraine, belonging to the Eastern Partnership, a joint initiative of the European Union and Eastern European partner countries under the European Neighbourhood Policy, aim to reform different key policy areas to support their democratic transformation. Public administration reform is identified as one of the priority areas of the European Neighbourhood Policy²⁰. Civil service professionalisation, the focus of this comparative study, is one of the cornerstones for implementing public administration reform and for supporting good governance.

Although the Member States of the EU have wide autonomy regarding the way in which they organise their civil service, there are common European principles of administrative law and good administration that should be reflected in national administrative legal frameworks and followed by all institutions and civil servants²¹. The methodological framework of the study is based on these principles, similar to the annual assessments and technical assistance to the EU candidate countries and potential candidates on strengthening their governance systems, provided by SIGMA for over 20 years.

Within the context of this comparative study, SIGMA applies the scope of civil service *in sensu stricto*, i.e. covering the ministries and administrative bodies reporting directly to the President, Government or ministers, and other administrative bodies if they are included in terms of civil service law and whose personnel exercise public authority conferred by public law and are responsible for safeguarding the general interests of the state or other public bodies.

The objective of the study is

- to analyse civil service professionalisation in Armenia, Azerbaijan, Georgia, Moldova and Ukraine;
- to identify common challenges and develop recommendations for sustainable civil service reforms in the European eastern neighbourhood;
- to identify country-specific challenges and priorities of action for civil service professionalisation in each country.

The study will use national reports, reports from international organisations and NGOs, as well as the information collected with this questionnaire, which will be sent to officials working in the central unit in charge for civil service management and co-ordination, the official in charge for public administration in the EU Delegation, and representatives of civil society interested and knowledgeable on public administration in each country.

The questionnaire addresses civil service legislation and policies, as well as human resource management process and practice in the civil service, **focusing on the gaps between the legislative framework and its practical implementation.**

All respondents are invited to express their professional view on the civil service. This view will help SIGMA to analyse the answers in relation to respective civil service legislation and any other relevant documents and reports, in order to help the countries to professionalise their civil services in line with the European principles and good practices of public administration.

²⁰ European Commission and European External Action Service (27 March 2014), "Implementation of the European Neighbourhood Policy in 2013. Regional report: Eastern Partnership", http://eeas.europa.eu/enp/pdf/2014/regional/eastern_partnership_report.pdf.

²¹ OECD (1999), "European principles for public administration", SIGMA Paper No. 27, http://www.oecd-ilibrary.org/governance/european-principles-for-public-administration_5kml60zwd7h-en.

I. COVERAGE OF CIVIL SERVICE LEGISLATION

This section refers to the coverage of the law on the civil service. It particularly focuses on the application of the vertical scope (distinction between political appointments and civil service positions) and horizontal (institutional coverage of the civil service) scope. In this section, appointment to posts through political and discretionary criteria are excluded.

1. Does the civil service legislation apply to all the following groups or only to some of them? Please specify which groups are covered by the civil service legislation?

- A) ministries and administrative bodies reporting directly to the President, Government, Prime Minister or ministers;
- B) administrations of the Parliament, the President and the Prime Minister;
- C) other administrative bodies at the level of central administration if they are included in the scope of civil service in terms of the civil service law and whose personnel exercise public authority conferred by public law and are responsible for safeguarding the general interests of the state or other public bodies;
- D) independent constitutional bodies reporting directly to the Parliament.

2. Is there any group, area or administrative body, that is mentioned in the civil service legislation but not included in the list of the previous question?

3. Is the distinction between political appointees, discretionary appointments and civil servants clear in the legislation? If the distinction is not clear, please, explain why not. When answering this question, please, take into account the following items.

- A) What positions are politically appointed?
- B) What is the highest civil service level (please, provide some examples of positions)?
- C) What is the lowest level of civil service (please, provide some examples of positions)?
- D) Other...

4. Is the civil service legislation applied in line with the main European administrative law principles (reliability and predictability, openness and transparency, accountability, efficiency and effectiveness)? Please consider the definitions in the footnote when answering the question and support your reasoning²².

²² **Reliability and predictability.** Administrative bodies exercise the powers and responsibilities vested in them in accordance with the regulations applying to them. When exercising their discretion they remain within the boundaries set by the law, in good faith and in a reasonable and proportionate way, upholding the requirement of equal treatment. They decide in reasonable time.

Openness and transparency. Administrative bodies keep matters secret or confidential only in order to protect a legitimate superior interest, e.g. national security or personal data of third parties etc. They even facilitate access in various ways, e.g. by electronic means, where feasible, and through points of single contact.

Accountability. Administrative bodies, their work and its outcome are open to scrutiny and review by other administrative and legislative authorities as well as the courts. Supervision ensures that the public authorities honour the principles embedded in administrative law. Accountable administration further requires the possibility of legal remedies for a decision and the provision of information about them by indicating any preconditions.

Efficiency and effectiveness. Administrative bodies need to be successful in achieving the goals and handling the public problems set for them by law and government; they need to use public resources in a way proportional to the results attained; they set clear objectives, evaluating past experience as well as the future impact of their action.

Based on OECD (1999), "European principles for public administration", SIGMA Paper No. 27.

II. SENIOR CIVIL SERVANTS: RECRUITMENT AND DISMISSAL

This section focuses on senior civil servants²³. It covers senior officials of the upper level of the civil service. Please answer questions 6 to 11 of this section if there is a separate group of senior civil servants in your system or there are separate legal provisions for recruitment, and dismissal for the upper levels of the civil service.

5. Who are senior civil servants in your system? Please elaborate considering the following issues.

- A) Is there a group of senior civil servants whose recruitment, dismissal and career rules are different from the rest of the civil service?
- B) How many levels are included? Which positions are the highest and the lowest in this group?
- C) Do they have fixed-term or open-ended appointment?
- D) How many levels of political appointees are between the highest senior civil servant and the minister?
- E) If such a group does not formally exist, do managers of the highest levels of the hierarchy enjoy different recruitment and promotion rules? Which positions are concerned?
- F) Other...

Recruitment of senior civil servants

6. What is the normal process of recruitment in practice to fill a senior civil service vacancy? Please provide details for positions for which the rules change (i.e. state secretaries or equivalent, heads of division or equivalent...) addressing the issues below.

- A) What is the division of roles between the President, Prime Minister, ministers, members of parliament, party leaders, state secretaries, deputy state secretaries, selection committees, etc. when recruiting senior civil servants? Who really takes the decision?
- B) If the vacancy is advertised, where, when, and what is the geographical coverage of the advertisement? Please identify positions excluded from the advertisement process if any.
- C) Are the criteria and requirements for particular vacancies based on legal provisions? Do they correspond to the tasks performed on the position? What is the average time for the candidate to submit an application?
- D) Are the rules and methods of selection established and made known for the candidates before the recruitment procedure starts?
- E) Who is formally responsible for recruitment and who are the members of the competition commission (if any)? Please elaborate on the different roles played by each actor.
- F) What is the public perception of the relevance of informal contacts, party, friend, or family affiliation, etc. for the recruitment of senior civil servants?
- G) Which selection tools are usually used to evaluate the candidate (i.e. examination of documents, oral, written, test, interview, solving a case...)?
- H) What is the capacity for discretion in appointing best candidates to regular positions by the appointing authority after the decision has been made by the selection committee?
- I) What is the role of the central civil service unit in the recruitment process of the senior civil

²³ A commonly used definition of senior civil service is provided by OECD (2008):

“A **senior civil service** is a structured and recognised system of personnel for the higher non-political positions in government. It is a career civil service providing people to be competitively appointed to functions that cover policy advice, operational delivery or corporate service delivery. The service is centrally managed through appropriate institutions and procedures, in order to provide stability and professionalism of the core group of senior civil servants, but also allowing the necessary flexibility to match changes in the composition of Government by using appropriate due processes”.

OECD (GOV/PGC/PEM, 31 January 2008), “*The Senior Civil Service in National Governments of OECD Countries*”.

servants? Can this unit intervene in the case of violation of the merit-based principle?

J) Other...

7. To what extent are senior civil servants really employed based on merit? If no data available, please estimate.

1	2	3	4	5
Hardly anyone is employed on the basis of merit and open competition	Only a quarter of senior civil servants are employed on the basis of merit and open competition	Up to half of senior civil servants are employed on the basis of merit and open competition	Up to three quarters of senior civil servants are employed on the basis of merit and open competition	All senior civil servants are employed on the basis of merit and open competition

Dismissal of senior civil servants

8. Are there cases of dismissal of senior civil servants which are not based on clear and objective criteria established in the civil service law? Please consider the following issues.

- A) What are the most commonly used grounds for dismissal of senior civil servants from the administrative body and/or from the civil service as a whole?
- B) Does the reorganisation/abolition of an administrative body lead to the dismissal of senior civil servants of this body?
- C) Are discretionary dismissals of senior civil servants practiced in certain cases?
- D) Other...

Impact of government change on recruitment and dismissal of senior civil servants

9. Does the normal process of recruiting and dismissing senior civil servants (described in the answers to the questions 6 and 8) change after a change of government? If yes, please describe the changes considering the following issues.

- A) Was there any major difference in applying the legislation after the latest change(s) of government?
- B) After a change of government, was there an intensive process of changing the organisation of state administration?
- C) What happened to the incumbents of the abolished positions (i.e. reallocated, dismissed...)?
- D) Other...

10. What proportion of non-merit based new recruits for senior civil service positions took place after the last change of government? If no data available, please estimate.

1	2	3	4	5
Nobody (or hardly anybody)	Low (between nobody and a quarter of senior civil service positions staffed after the last change of government)	Medium (between a quarter and half of senior civil service positions staffed after the last change of government)	High (between half and three quarters of senior civil service positions staffed after the last change of government)	Very high (for more than three quarters of senior civil service positions staffed after the last change of government)

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11. Please identify any area of future improvement in the legislation and its application for recruitment and dismissal of senior civil servants.

III. HUMAN RESOURCE MANAGEMENT PRACTICES IN THE CIVIL SERVICE

This section focuses on all civil servants. If there are differences regarding the processes of recruitment and dismissal of senior civil servants, please, provide separate answers in the previous section.

Recruitment of civil servants

12. Please describe the process of recruitment in practice to fill a vacancy (for internal and external candidates), considering the following issues.

- A) If the vacancy is advertised, where, when, and what is the geographical coverage of the advertisement? Please, identify positions excluded from the advertisement process if any.
- B) Are the criteria and requirements for particular vacancies based on legal provisions? Do they correspond to the tasks performed in the position? What is the average time for the candidate to submit an application?
- C) Who is formally responsible for recruitment and who are the members of the competition commission (if any)? Please, elaborate on the different roles played by each actor (or group of actors).
- D) Are the rules and methods of selection established and made known to the candidates before the recruitment procedure starts?
- E) Which selection tools are usually used to evaluate the candidate (i.e. examination of documents, oral, written, test, interview, solving a case...)?
- F) What is the capacity for discretion in appointing best candidates to regular positions by the appointing authority after the decision has been made by the selection committee?
- G) What is the role of the central civil service unit in the recruitment process? Can this unit intervene in the case of an appointing authority violating the merit-based principle?
- H) What is the public perception of the relevance of informal contacts for the recruitment of new staff?
- I) Other...

13. To what extent are civil servants really employed on the basis of merit, and open competition? Please estimate.

1	2	3	4	5
Hardly anyone is employed on the basis of merit and open competition	Only a quarter of civil servants are employed on the basis of merit and open competition	Up to half of civil servants are employed on the basis of merit and open competition	Up to three quarters of civil servants are employed on the basis of merit and open competition	All civil servants are employed on the basis of merit and open competition

Dismissal of civil servants

14. Are there cases of dismissal of civil servants which are not based on clear and objective criteria established in the law? Please elaborate considering the following issues.

- A) On what grounds is a civil servant dismissed from the administrative body and/or from the civil service as a whole?
- B) Does the reorganisation/abolition of an administrative body lead to the dismissal of civil servants?
- C) Are discretionary dismissals of civil servants practiced in certain cases?
- D) Other...

Impact of government change on recruitment and dismissal

15. Does the normal process of recruitment and dismissal (described in questions 12 and 14) change after a change of government? If this is the case, please describe the changes considering the following issues.

- A) Is there any major difference in applying the legislation after the latest change(s) of government?
- B) After a change of government, is there an intensive process of changing the organisation of state administration? What happened to the incumbents of the abolished positions (i.e. reallocated, dismissed...)?
- C) Other...

16. After the last change of government, what proportion of civil service vacancies were not staffed based on merit? If no data available, please, estimate.

1	2	3	4	5
Nobody (or hardly anybody)	Low (between nobody and a quarter of positions)	Medium (between a quarter and half of positions)	High (between half and three quarters of positions)	Very high (for more than three quarters of positions)

Mobility, promotion and demotion

This section focuses on the use of merit and objective and transparent criteria concerning the mobility, promotion and demotion of civil servants.

17. What are the main criteria used in practice to promote (horizontal, in-the-job, vertical) or demote civil servants? Please, consider the following issues.

- A) How important are factors such as seniority, performance appraisal, and discretion of superiors for the promotion of a civil servant?
- B) Do all civil servants with the same functions, qualification and competencies within an administrative body have the same possibilities of promotion? If not, why?
- C) Other...

18. What type of transfer (mobility) of civil servants from one administrative body to another is most commonly practised? Please describe the process of transfer considering the following issues.

- A) Who takes the decision?
- B) Is the transfer compulsory in practice, and if yes, is the civil servant able to accept or decline the transfer?
- C) Has the government implemented a policy facilitating the transfer of civil servants, e.g. from surplus to deficit administrative bodies, transfer as a consequence of major policy changes, etc.? Are there other criteria for transfer?
- D) Is secondment used to enrich the competencies of civil servants?
- E) For transfers, what are the most common criteria used in practice?
- F) Other...

19. Please identify and specify future areas of improvement in the legislation (civil service law and by-laws) in the areas of recruitment, promotion, transfer, demotion, dismissal.

Performance appraisal

20. How does the performance appraisal system work in practice? Please consider the following issues.

- A) Who is subject to performance appraisal? Are some categories of civil servants excluded from performance appraisal?
- B) How often is a performance appraisal conducted (yearly, every two years...)?
- C) Who conducts the performance appraisal (direct superior, human resource manager, one of the top managers, minister, appraisal committee). Please describe their roles?
- D) What is assessed in performance appraisal, e.g. competencies, outcomes, output, etc.?
- E) Other...

21. In practice, what are the most common consequences of performance appraisal for the civil servant? Please consider the following issues.

Does it have consequences for...

- A) ...career development? Horizontal, vertical?
- B) ... salary increase (i.e. temporary bonus, salary step...)?
- C) ... training (i.e. training needs are identified during the appraisal)?
- D) ... other aspects (dismissals, disciplinary procedures...)?
- E) No consequence.

22. What is the attitude of actors involved in the implementation of performance appraisal? Please consider the following issues.

- A) Are supervisors and civil servants critical or positive about the performance appraisal process?
- B) Do all actors take performance appraisal seriously or do they merely carry out an imposed exercise?
- C) Other...

23. For what proportion of civil servants is the performance appraisal implemented (i.e. it is objectively applied and has consequences for civil servants (see question 21)? Please estimate.

1	2	3	4	5
Nobody (or hardly anybody)	Low (between nobody and a quarter of civil)	Medium (between a quarter and half of civil servants)	High (between half and three quarters civil servants)	Very high (for more than three quarters civil servants)

	servants)			

24. # In the last four years, the application of performance appraisal (i.e. that it is objectively applied and with consequences on civil servants (see question 21) has...

1	2	3	4	5
Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably

25. Please identify any area of future improvement in the legislation (primary and secondary) and in the application of the legislation on performance appraisal.

Remuneration

26. What are the main applied features of the salary system? Please consider the following issues.

- A) How many salary groups and salary classes exist?
- B) Are salary levels based on the job classification?
- C) Who determines the allocation of civil servants to particular salary classes (direct superior, human resource manager, state secretary...)? How much discretion do these people have when it comes to the allocation of civil servants to salary classes?
- D) Are the legal provisions on remuneration applied in practice?
- E) Please describe allocation of variable pay (e.g. bonuses and/or performance related pay)?
- F) Other...

27. What kinds of (monetary and non/monetary) allowances exist, (e.g., family allowances, access to health insurance, flat, car, mobile phone, flight, bus or train ticket reductions, free or subsidised lunch, parking place ...)? Please also consider the following issues when answering the question.

- A) How many different allowances are included?
- B) Are any allowances not mentioned in the law? What types of allowances are these?
- C) Other...

28. Is the civil service pension scheme(s) better than the private sector pension scheme(s)?

29. What is the level of transparency of the reward structure? Please consider the following issues.

- A) Are all salary items, basic salaries, bonuses, allowances, tax breaks and other benefits included in the legislation?
- B) If the information of the rules for calculating the salary is disclosed, what is the frequency and level of detail of the disclosed information? Is the information reliable and verifiable?
- C) What is the government’s approach to transparency? Has the government been pushed into publishing salary information of individuals?
- D) Other...

30. To what extent do salary levels for similar responsibilities vary across different administrative bodies and between the public and the private sector for positions with similar responsibilities?

31. To what extent does the remuneration system of civil servants provide reasonable conditions for recruiting, motivating and retaining public servants with the required competencies? Please elaborate.

32. In the last four years, the transparency level of the remuneration system has (please estimate)...

1	2	3	4	5
Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably

33. In the last four years, the level of competitiveness of the remuneration in relation to the private sector has (please estimate)...

1	2	3	4	5
Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably

34. Please identify and specify any area of needed future improvement in the legislation and in its application on remuneration.

Training

35. How are the strategic training plan(s)/programme(s) for civil servants prepared and implemented? Please consider the following issues.

- A) What is the role of the central civil service unit for civil service training?
- B) Who is responsible for training needs assessment and who develops the training plan(s)?
- C) How often is the training plan prepared (yearly, every two years...)?
- D) How is the training plan prepared (how are needs considered, what is the role of different administrative bodies and stakeholders in drafting the plan, how does performance appraisal contribute to the plan...)?
- E) Are the training plan(s) implemented and evaluated?
- F) Other...

36. How often and what amount of professional training are civil servants supposed to receive? Please consider the following issues.

- A) Is formal induction training organised for newly recruited civil servants? Who provides this training and how long does it take?
- B) In practice, do civil servants participate in the compulsory amount of training established in the law?
- C) Who determines the kind of training that civil servants receive? Do superiors determine training courses and hence civil servants' needs? Do civil servants choose themselves? Is there a connection between training and performance appraisal?
- D) Other...

37. In the last four years, the quality (i.e. training is linked to the needs of the civil service) of training has...

1	2	3	4	5
Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably

38. Please identify and specify any area of future improvement in the legislation and in the application of the legislation on training.

Equality agenda

39. To what extent are equality and non-discrimination measures applied to the most relevant issues of civil service management? Please consider the dimensions below and take into account other equality categories that are used in the civil service legislation of your country.

- A) Recruitment
- B) Promotion
- C) Reward
- D) Performance appraisal
- E) Training

Appeal

40. Please describe the process of (internal and external) appeal? Please distinguish between the following processes: recruitment, dismissal, performance appraisal, promotion and demotion.

- A) Is there a process of appeal in recruitment, dismissal, performance appraisal, promotion, demotion and disciplinary sanction? In any other process?
- B) Is the candidate/ civil servant informed about the right of appeal?
- C) Who is included in the appeal commission?
- D) Does the appeal process help to enhance objectivity in the different processes?
- E) Are there different appeal criteria for senior civil servants?
- F) Other...

IV. INTEGRITY AND DISCIPLINE OF THE CIVIL SERVICE

- *This section focuses on integrity frameworks, and the use of disciplinary sanctions and procedures.*

Integrity

41. Please outline the main structure and contents of the code of ethics of civil service, considering the following issues.

- A) Does the code of ethics of civil service exist? If not, please describe how the guidelines for ethical behaviour are established?
- B) Is the code of ethics (or parts of it) enforced? If so how?
- C) What is the degree of awareness of the code of ethics? Is it published? Is it assessed in practice? Is

it subject to civil service training?

- D) What is, according to your judgement, the effectiveness of the code of ethics? What are the main limits?
- E) Is there adequate training on ethical issues?
- F) Other...

42. How clearly is the integrity framework applied? Please, elaborate reflecting upon the following elements.

- A) Is management responsibility for misconduct clear?
- B) Is the regulation of incompatibilities established and applied?
- C) Are there restrictions for secondary employment? In addition, for post-employments in critical areas?
- D) Is there a clear policy in place regarding the reception of gifts and benefits?
- E) Is financial information concerning civil servants disclosed via the adequate channels and are monitoring mechanisms in place?
- F) Other...

43. What are the main conflicts of interest applied in the system?

- A) In practice, have restrictions on the economic activities of civil servants (e.g. external profit making activities, external employment, business participation) before appointment and/or while being appointed been a problem or cause of concern in your country?
- B) In practice, have restrictions on the political activities of civil servants (membership and participation in political party activities and in electoral campaigns) been a problem or cause of concern in your country?
- C) Other...

44. Have there been cases of criminal prosecution of civil servants for corruption during the last four years?

- A) Are civil servants protected by immunity from criminal investigation and prosecution?
- B) Is there a legal requirement for civil servants to report suspicions of corruption? Have there been any cases of such reporting?
- C) Does whistle-blower legislation exist? Who is responsible for its enforcement?
- D) Other...

45. If there is a general code of ethics, for what proportion of civil servants is it adequately implemented (i.e. there is a code of ethics adopted by the institution and it is enforced with civil servants obeying it)? Please, estimate.

1	2	3	4	5
Nobody (or hardly anybody)	Low (between nobody and a quarter of civil servants)	Medium (between a quarter and half of civil servants)	High (between half and three quarters civil servants)	Very high (for more than three quarters civil servants)

46. In the last four years, the application of the measures for promoting integrity and preventing corruption have...

1	2	3	4	5

Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably

47. Please, identify and specify any area of future improvement in the legislation and in its application on corruption and integrity measures.

Disciplinary procedures

48. How does the disciplinary process work? Please consider the following issues.

- A) How common is the initiation of disciplinary proceedings?
- B) What are the main reasons for the initiation of disciplinary proceedings?
- C) Are sanctions proportionate to misconduct by civil servants?
- D) How impartial is the investigation and to what extent is the opinion of the public servant heard?
- E) Other...

49. What is the attitude of managers towards disciplinary proceedings? Please consider the following issues.

- A) Is it an instrument that they use regularly?
- B) Do they find it difficult to apply?
- C) What other instruments are applied to sanction subordinates, to discipline them or, occasionally, to put pressure on them?
- D) Other...

50. Please identify and specify any area of future improvement in the legislation and in its application on disciplinary procedures.

V. MANAGEMENT OF THE CIVIL SERVICE

This section examines the roles of the institutions that manage the civil service from the centre. Different questions address the position, responsibilities and capacities of these central institutions.

Institutional set-up

51. Which bodies are responsible for the policy making, management, co-ordination and oversight of the civil service at central level? Please consider the following issues.

- A) Is the political responsibility established? Which minister is responsible for the civil service?
- B) What are the responsibilities and roles of the central management and co-ordination unit for the civil service? If there are more than one body in charge, how easy is co-operation and co-ordination between them?
- C) What institutions are participating in developing and implementing civil service reform policies and processes, and primary and secondary legislation drafting (i.e. initiation, preparation, and decision-making)?
- D) What institutions are participating in setting common standards for other public authorities on the management of the civil service (i.e. recruitment, performance appraisal, training...)?
- E) What institutions are responsible for monitoring of the civil service?

- F) Is the independent oversight of the civil service ensured?
- G) Other...

52. How is the central civil service unit organised, and what is its capacity to manage the system? Please consider the following issues.

- A) What are the main functions?
- B) What is the overall staff size of the central civil service unit(s)? Is that staff size appropriate and do the staff have the right competences to fulfil its functions?
- C) Is the budget size appropriate to fulfil its functions?
- D) Other...

53. Overall, grade the capacity of the central civil service unit in implementing their functions as established in the civil service law. Please estimate if data are not available.

1	2	3	4	5
The central unit is weak and cannot fulfil its role	It has capacity to <u>adequately coordinate</u> up to a quarter of main functions as established in the civil service law	It has capacity to <u>adequately coordinate</u> up to half of main functions as established in the civil service law	It has capacity to <u>adequately coordinate</u> up to a three quarters of main functions as established in the civil service law	It has capacity to <u>adequately coordinate</u> up to all main functions as established in the civil service law

Impact of government change on central capacity to manage the system

54. Have the functions and/or capacities of the central civil service unit to manage and co-ordinate the civil service changed with different governments?

55. In the last four years, the capacity of the central civil service unit to manage and co-ordinate the civil service has...

1	2	3	4	5
Got far worse	Got a bit worse	Not changed	Improved a bit	Improved considerably

Central civil service registry

56. How is the data on human resources gathered and used in decision-making processes? Please consider the following issues.

- A) Is there enough information in the personnel registry on the following issues to take decisions? (organisational structure of administrative bodies, recruitment and training plans, total numbers of civil servants, qualifications of civil servants, salary information, performance appraisal results, appeals from civil servants, disciplinary sanctions, gender and ethnic representativeness, dismissal and the like)
- B) What kind of co-ordination is in place and what is the level of data duplication with other bodies that have information on civil servants (e.g. on salaries)?
- C) How is the information from the registry used? (e.g. to send reports to several authorities such as

the government, parliament, ombudsman...; to take decisions on recruitment, training, performance appraisal or salaries...; to control the human resource management practices by individual administrative bodies?)

D) Other...

57. To what extent is the central civil service registry used to take decisions on human resources management in the civil service? Please estimate the results if data are not available.

1	2	3	4	5
There is no civil service registry	The civil service registry is used to take decisions in up to a quarter of main human resources processes	The civil service registry is used to take decisions in up to half of main Human Resource processes	The civil service registry is used to take decisions in up to a three quarters of main Human Resource processes	The civil service registry is used to take decisions in up to all main Human Resource processes

58. Please identify and specify any area of future improvement in the legislation and in the implementation of the central management, co-ordination and oversight of the civil service.

VI. PERFORMANCE INDICATORS

General profile

- Total labour force (including private and public sector).
- Public sector employment.
- Employment of general government at central level (including civil servants and public employees).
- Civil service employment at central level.

Recruitment, dismissals and appeals

- Average number of candidates per vacant position.
- Average time to fill vacancies.
- Percentage of vacant positions filled by internal competition.
- Percentage of vacant positions filled by external competition.
- Percentage of appeals on recruitment decision in favour of the appellant.
- Annual turnover of civil servants at central level.
- Turnover of civil servants within six months after the latest change of the Government.
- Percentage of appeals against civil service termination decisions in favour of the appellant.

Senior civil servants

- Size (number) of the senior civil service (at central level).
- Annual turnover of senior civil servants (at central level).
- Turnover of senior servants within six months after the latest change of the Government.
- Annual share of vacant senior civil service positions filled by internal competition.
- Annual share of vacant senior civil service positions filled by external competition.
- Percentage of appeals on recruitment decisions of senior civil servants in favour of the appellant.
- Percentage of appeals against civil service termination decisions of senior civil servants in favour of the appellant.

Equality agenda

- Percentage of women and men in the civil service (at central level).
- Percentage of women and men in the senior civil service (at central level).

Salary

- Average monthly salary (incl. fixed and variable elements of pay) of civil servants (at central level).
- Average monthly salary (incl. fixed and variable elements of pay) of senior civil servants (at central level).
- Ratio of fixed and variable elements of pay in average monthly salary of civil servants.
- Ratio of fixed and variable elements of pay in average monthly salary of senior civil servants.
- Ratio of average monthly salary of civil servants to the average monthly salary of the tertiary-educated workers in the private sector.

- Ratio of average monthly salary of senior civil servants to the average monthly salary of the tertiary-educated workers in the private sector.

Training and performance appraisal

- Expenditure of training of civil servants as a proportion of salary budget (at central level).
- Percentage of training expenditure financed by external aid.
- Average number of training days per civil servant.
- Percentage of performance appraisals with good and very good results.
- Percentage of civil servants who were promoted based on the results of performance appraisal.
- Percentage of civil servants whose employment was terminated based on (two consecutive) negative performance appraisals.

Integrity

- Perception of civil service integrity and trustworthiness by citizens.
- Number of civil servants who have received disciplinary sanctions for violating Codes of Ethics.
- Number of civil servants who have been criminally convicted of corruption crimes.

Disciplinary sanctions

- Percentage of disciplinary sanctions of civil servants that were appealed.
- Percentage of appeals on disciplinary sanctions where the decision was in favour of the civil servant.

THE SIGMA PROGRAMME

SIGMA (Support for Improvement in Governance and Management) is a joint initiative of the OECD and the EU, principally financed by the EU. SIGMA has been working with countries on strengthening public governance systems and public administration capacities for over 20 years.

SIGMA currently works with:

- Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Kosovo²⁴, Montenegro, Serbia, and Turkey as EU candidate and potential candidate countries
- Algeria, Armenia, Azerbaijan, Egypt, Georgia, Jordan, Lebanon, Moldova, Morocco, Tunisia and Ukraine as EU Neighbourhood countries

SIGMA provides assistance in 5 key areas:

1. Civil service and public administration organisation and functioning
2. Policy making
3. Public finance and audit
4. Public procurement
5. Strategy and reform

SIGMA assesses:

- Governance systems and institutions
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- Progress in reform implementation and provides:
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²⁴ This designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and with the ICJ opinion on the Kosovo declaration of independence.