



SIGMA

Support for Improvement in Governance and Management

A joint initiative of the OECD and the European Union, principally financed by the EU

**FORMER YUGOSLAV REPUBLIC
OF MACEDONIA
PUBLIC SERVICE
ASSESSMENT MAY 2009**

Summary

This report updates the information on the public service provided in Sigma's May 2008 assessment report on Public Service and the Administrative Framework in the former Yugoslav Republic of Macedonia¹.

Main Developments since last year

The policy of taking large groups of the public service out of the scope of the Law on Civil Servants and creating separate legal sub-systems (e.g. the Court Service Law, in force since 1 January 2009; the Law on the Public Revenue Office of July 2008; and the Law on Real Estate Cadastre, also of 2008) has continued. This is a wrong approach for tackling the existing problem, which is that the current Law on Civil Servants does not satisfactorily cover all of the requirements of some special groups of public servants, mainly because it is excessively detailed.

The December 2008 amendments were introduced in order to align the law with the recent pay reform (the concept of gross salary was introduced for the first time in Macedonia on 1 January 2009). The second amendment to the law, which entered into force in January 2009, also concerns the civil servants' salary system.

The Law on Labour Relations, applicable not only to the private sector but also to the large group of public employees, was amended twice in 2008. In particular, the deletion of two articles that had ensured a certain degree of protection against arbitrary dismissal bears negative significance for the public sector and its employees.

Administrative bodies increasingly employ staff on the basis of a temporary contract. This procedure does not fall under the Law on Civil Servants. After several months, a temporary post is transformed into a civil service position and the temporary contract candidate becomes a civil servant, without the regular legal procedure, further undermining the principles of a merit-based civil service.

The number of civil servants employed under the Programme for Employment of Community Members does not reflect the real staffing needs of the respective administrative body to which the civil servant is to be assigned. As already pointed out in previous reports, this well-intended tool, developed for putting into practice the principle of equal representation of the various minorities (Ohrid Agreement), quite often enters into contradiction with the merit system, because it provides additional room for partisan-influenced recruitment (given the existence of parties representing these minorities, which have always been a part of coalition governments).

The Constitutional Court adopted two decisions during this period abolishing the regulations of two articles of the Law on Civil Servants. The first decision of September 2008 concerned the equal treatment of men and women with respect to the age of retirement. The second decision of October 2008 abolished two regulations, a disciplinary rule on the grounds that it violated the principle of presumption of innocence and a rule imposing the burden of proof in connection with the recruitment procedure on the civil servants. Both parts of the second decision improved the legal position of civil servants.

Main Characteristics (strengths and weaknesses)

Several pieces of secondary legislation that were enacted are appropriate tools for rationalising administrative organisation and strengthening implementation of the Law on Civil Servants. Positive mention should be made of the establishment of the Training Department in the Civil Servants Agency, which has succeeded in building up a functioning civil servants' training system. It is in general a very proactive and reform-oriented institution, aiming to ensure the uniform application of civil service legislation across all public bodies served by civil servants.

¹ In this report, the former Yugoslav Republic of Macedonia will hereafter be referred to as "Macedonia".

However, impediments very often appear, mainly originating from the weak and misplaced position of the Agency within the institutional landscape, when the implementation of civil service legislation and the correct conduct of procedures do not depend on the Civil Servants Agency's involvement alone. Many administrative authorities at all government levels still demonstrate arbitrariness with regard to important aspects of the civil service system. They frequently use unlawful administrative practices, related in particular to recruitment, and refuse to fulfil their legal obligations in procedures that are to be conducted under the main responsibility of the Civil Servants Agency. One of the resulting effects on the administrative situation in Macedonia is the perpetuation of a highly politicised civil service with low professional competence.

Recommendations for Reform

The areas that are still in need of reform and the suggestions for addressing the problems can be specified as follows:

1. ***Professionalism of civil servants:*** Recruitment and other decisions regarding the career of a civil servant are increasingly based on political or private motives rather than on merit. These notorious illegal practices not only entail a lack of professionalism, in particular of managerial post-holders, but also increase public scepticism regarding the rule of law and the low credibility of the democratic system in general. The strict observance of the Law on Civil Servants is imperative for the creation of a merit-based civil service.
2. ***Unity of state administration:*** The tendency towards a more and more fragmented civil service has continued. The policy of taking large groups of the public service out of the scope of the Law on Civil Servants and creating separate legal sub-systems is the wrong direction for tackling the existing problem, which is that the current Law on Civil Servants does not satisfactorily cover all of the requirements of some special groups of public servants. However, the uniformity of the civil service is a high value that should be safeguarded by adjusting the general legal framework to some particular sector-related needs rather than creating a fragmented system of state administration that will become more and more unmanageable and expensive.
3. ***Status of the Civil Servants Agency:*** Given its current legal status as an “autonomous state body accountable to parliament”, the Civil Servants Agency has no effective legal instruments to ensure that other administrative bodies correctly implement the Law on Civil Servants. The Agency should be put under the responsibility of the government, because the latter is responsible for the functioning of the state administration (article 96 of the Constitution).
4. ***Social dialogue:*** The relationships between the government and some organisations representing public employees have been deteriorating. Unfair treatment of members of “inconvenient” unions was reported. However, social peace and stability require strong trade unions capable of acting as coequal partners in a fair social dialogue. A policy of weakening (some) trade unions would not be worthwhile. Trade unions should also be encouraged to adopt a role of preserving the merit system in the management of the civil service.

1. Introduction

Two general reasons explain why in some areas the civil service reform process was either delayed or did not show the expected and desired results. They are both related to administrative practice and are mutually dependent.

The first reason is the lack of respect for the principle of legality. Too often legally prescribed procedures of the Law on Civil Servants are disregarded by an administrative body if their observance would have an unwelcome outcome. The same applies to obligatory decisions or guidelines of an administrative authority, such as those of the Civil Servants Agency, which are very often simply ignored.

The second reason is the weak implementation capacity that most public sector bodies suffer from. This is mainly a consequence of their recruitment practices, which lead to the recruitment of poorly qualified candidates. The strict application of recruitment procedures as regulated in the Civil Servants Law would contribute to the establishment of a merit-based civil service that meets the required professional standards. However, many administrative bodies do not hesitate to circumvent the law in order to select candidates who fulfil political or other legally impermissible criteria. If at all, professional standards play only a secondary role for the selection of their staff. The result is the lack of civil servants who are capable of implementing new (and old) legislation and of conducting administrative procedures in a knowledgeable way, let alone proposing sound policy analysis and reform programmes.

1.1 Does an appropriate legal basis exist, defining the status of public servants in a way that is compatible with prevailing standards in EU Member States?

Legislative activities regarding the Law on Civil Servants

The eight-year-old Law on Civil Servants was amended twice during this assessment period. The December 2008 amendments² were introduced in order to align the law with the recent pay reform (the concept of gross salary was introduced for the first time in Macedonia on 1 January 2009). The second amendment to the law, which entered into force in January 2009³, also concerns the civil servants' salary system.

Furthermore, the Constitutional Court adopted two decisions during this period abolishing the regulations of two articles of the Law on Civil Servants. The first decision⁴ of September 2008 concerned the equal treatment of men and women with respect to the age of retirement. The second decision⁵ of October 2008 abolished two regulations, a disciplinary rule on the grounds that it violated

² Official Gazette of the Republic of Macedonia, no. 161/2008

³ Official Gazette, no. 6/2009

⁴ *Official Gazette*, no. 118/2008; the decision abolished line 6 of article 81-c of the law, which referred to termination of the civil servant's employment when he/she fulfils the conditions for retirement in accordance with the law. Since the Law on Civil Servants does not regulate the age retirement of civil servants, but refers to "conditions in accordance with law", that is the Law on Pension and Disability Insurance, it meant that these conditions were 64 years of age for a man and 62 years of age for a woman and at least 15 years of work. The Constitutional Court ruled that such conditions represented unequal treatment between men and women and that the provision in the Law on Civil Servants was not in accordance with the principle of equality among citizens irrespective of their sex and with the principle of equal access to every job under equal conditions for everyone.

⁵ *Official Gazette*, no. 128/2008; the first part of this decision relates to line 3 of article 81-c of the law. This regulation stated that the employment of a civil servant was to terminate if he/she had been issued an injunction banning him/her from exercising a profession, business or office, as from the day on which the injunction was issued. It was the last part of this line ("as of the day the injunction was issued") that was annulled by the Constitutional Court, since it was not in line with the constitutional principle of presumption of innocence. The same decision abolished also paragraph 2 of article 9 of the law. Article 9 lists the general employment conditions of civil servants; paragraph 2 regulated that the evidence that one of these general conditions is fulfilled should be supplied by the body in charge of keeping the penal records. The Constitutional Court abolished the provision since, according to the Criminal Code, no one has the right to require citizens to

the principle of presumption of innocence, and a rule imposing the burden of proof in connection with the recruitment procedure on the civil servants. Both parts of the second decision improved the legal position of civil servants.

Finally, an Amending Law to the Law on Civil Servants was recently completed by the Civil Servants Agency. The draft law is currently in the process of inter-ministerial consultation before the Ministry of Justice submits its final version to the government. The amending law is expected to be adopted by parliament before the summer break.

SIGMA was involved in the preparatory phase of drafting the above amending law by reviewing a policy paper that provides a good description of the current situation regarding the Law on Civil Servants, stressing its main weaknesses and suggesting possible ways of improving the overall quality of the law in order to create better conditions for increasing and consolidating professionalism in the civil service. However, many of the problems are not related to the legal text but to its insufficient implementation.

However, one major problem is derived directly from the law, namely the unclear and thus fragile position that the Civil Servants Agency holds within the system of governing the civil service. Many of the implementation problems are a consequence of this relatively weak position of the Agency; the conformity of this position with the Constitution is questionable.

According to general information provided by the Civil Servants Agency in April 2009, the draft text of the amendments comprise a number of articles that provide substantial changes, with the tendency to ensure stricter procedures and a stronger position of the Civil Servants Agency in relation to line ministries and other administrative bodies. However, the legal status of the Civil Servants Agency as such has reportedly not been modified in the draft law, and the lack of such a modification represents a truly missed opportunity.

Other legislation affecting the civil service system

The Law on the Court Service was adopted in August 2008⁶ and amended twice⁷ before its implementation started on 1 January 2009. With this law more than 2000 court servants, who previously fell within the scope of the Law on Civil Servants, were taken out of the group of civil servants. It is now the Law on the Court Service that regulates the status, rights, duties and responsibilities of court servants, the system of salaries and allowances of the court service, and court case management. As for the systematic of this law, the topic case management dealing with procedural issues is out of place in a “service” law, which usually regulates only the legal status of public servants and their relationship to the public employer. The law resembles very much the civil service concept, and it seems that most of its provisions have been literally copied article by article from the Law on Civil Servants, which puts in question the actual necessity of this law.

The Law on Foreign Affairs⁸ was amended in August 2008⁹. As far as the status, rights and duties of diplomats and civil servants working in the Ministry of Foreign Affairs are concerned, the law refers in general to the Law on Civil Servants but provides some special regulations on recruitment requirements for posts in the diplomatic service and in the ministry.

The Law on the Public Revenue Office¹⁰ was amended in July 2008¹¹. In 2005 this law had excluded a large proportion of the Public Revenue Office staff from the scope of the Law on Civil Servants. For

submit evidence of their prior convictions, and the Court deemed that the Civil Servants Agency should supply this evidence *ex officio* instead of the candidate.

⁶ Official Gazette, no. 98/2008

⁷ In December 2008, *Official Gazette*, no. 161/2008, and in January 2009, *Official Gazette*, no. 6/2009

⁸ Official Gazette, no. 46/2006

⁹ *Official Gazette*, no. 107/2008

¹⁰ Official Gazette, no. 81/2005

¹¹ Official Gazette, no. 81/2008

this excluded group of employees, the law had set up its own human resources management system, but in an incomplete and imprecise manner, leaving huge scope for discretion in the personnel-related decisions to be taken by the director of the Office. The amendments now define in a clearer way three different categories of employees: a) tax servants who execute tasks in the area of taxes and conduct procedures on misdemeanours for which the Public Revenue Office is competent; b) employees to whom the Law on Civil Servants applies, who perform tasks related to the financial and material operation of the Office, as well as to public procurement; and c) employees who carry out general, administrative-technical and support tasks, to whom the Law on Labour Relations and the Collective Agreement apply.

The Law on Labour Relations¹², applicable not only to the private sector but also to the large group of public employees, was amended twice in 2008¹³. In particular, the deletion of two articles¹⁴ that had ensured a certain degree of protection against arbitrary dismissal bears negative significance for the public sector and its employees. These changes substantially lowered the legal barriers for dismissal for “business” reasons (reasons related to the needs of operation of the employer), and it is now much easier to misuse this tool against politically “undesirable” employees.

The State Cadastre Bureau was transformed into a Real Estate Cadastre Agency under the new Law on Real Estate Cadastre of 2008¹⁵. The agency gained the status of an executive agency outside the structure of state administrative bodies, accountable to the government and managed by a governing board and a director. The law stipulates that all of the employees of the former State Cadastre Bureau are to be transferred to the new Agency and that they are to no longer hold the status of civil servants, which is questionable from the standpoint of the protection of acquired rights and which might pose problems of constitutionality. However, unlike the laws regulating the establishment of other executive agencies in recent years, which contain such short provisions on the applicable legislation regarding their employees (they are all governed by the general labour law), the Law on Real Estate Cadastre defines a separate, mixed and incomplete framework for the Cadastre Agency’s human resources management.

The scope of the Law on Civil Servants

One of the major objectives of the Law on Civil Servants is to provide the legal basis for a coherent civil service, which in turn is the precondition for a coherent system of state administration. Accordingly, the law stipulates in paragraph 1 of article 3 that a “civil servant is a person who performs expert, normative-legal, executive, administrative-supervising activities and decides upon administrative matters ...”. Systematically, as an exception to this rule, paragraph 5 of the same article 3 lists some areas of the public sector that are exempt from the scope of this law, such as military personnel, police, and customs administration. Although it might be questionable whether it is necessary or advisable for each group listed in paragraph 5 to be exempt from the scope of the Law on Civil Servants, it is in any case clear, from both the systematic meaning and spirit of the law, that the legislator had intended to create a legal framework that would include insofar as possible the complete public sector staff executing “managerial, expert, or expert-administrative tasks” (article 6, paragraph 1).

However, in recent years a reverse development has been observed. Sigma’s May 2008 assessment report already explicitly cautioned against the legislator’s tendency to diminish the scope of the Law on Civil Servants by excluding larger groups of public servants through special legislation. Nonetheless, this process has intensified in 2008/2009. As a result of the three pieces of legislation mentioned above – the Law on the Court Service, the Law on the Public Revenue Office, and the Law on Real Estate Cadastre – by the end of 2008 the civil service legal framework (which still covered 13,203 civil servants) had lost almost one-third of its “clientele” (exactly 4,165 civil servants). This

¹² Official Gazette, no. 62/2005

¹³ In August 2008, *Official Gazette*, no. 106/2008, and in December 2008, *Official Gazette*, no. 161/2008

¹⁴ Article 76 and article 98

¹⁵ Official Gazette, no. 40/2008

group is now completely excluded from the general civil service system and is governed separately by special legislation. This fragmentation of the system was not necessary as, in terms of the legal and operational principles of their status and tasks, the separated groups were absolutely comparable to the other civil servants working in general administrative bodies. A review of the special laws confirms this comparability; all of these laws comprise larger parts of the provisions that are identical or at least very similar to the corresponding provisions of the Law on Civil Servants.

In discussions with representatives of the separated areas of the public sector, three major reasons for the separation were pointed out: a) the posts in the respective area required different (usually higher!) salaries than those provided by the Law on Civil Servants; b) many procedural rules in the Law on Civil Servants do not reflect the broad variety of needs of administrative bodies, include too many technical details and thus are very often simply not applicable in the practice of every administrative sector; and c) the quality of the Law on Civil Servants in general is unsatisfactory, as it is too detailed and its rules are too strict, formalistic and complicated, and the managerial approach of the law is too centralistic.

However, even on the assumption that in every single case these arguments were fully justified, the reaction of the legislator headed in the completely wrong direction by fragmenting the civil service through the creation of several parallel subsystems.

A better and necessary approach would have been to adapt the Law on Civil Servants to real and legitimate needs. To a large extent it would be possible to widen the applicability of procedural norms through the formulation of justiciable principles and the use of more general legal terms, rather than prescribing every procedural step. Technical details should be regulated either in secondary legislation or even through administrative rules. If, in the end, a single administrative sector of the state still requires specific statutory norms, this could be done by creating a few exemption clauses, either within or outside the Law on Civil Servants. Such an approach of reviewing the Law on Civil Servants would require, of course, the intensive and continuous involvement of many stakeholders (ministries, administrative bodies) in the process in order to create a good, common legal basis for the civil service as a whole.

From a political standpoint it may be easier and faster for the legislator to create a separate law rather than making the effort of perfecting a generic Law on Civil Servants. However, the short-term advantage of a quick and “pragmatic” legislative solution does not compensate for the long-term disadvantage of a fragmented state administration. A unitary civil service system is a precondition to ensuring fairness and equity among those who perform state functions (employees in legislative, executive or judicial branches, as well as in local self-governments¹⁶). Moreover, a unitary civil service provides better conditions for controlling staffing, developing professionalism, standardising working conditions and improving human resources management and mobility; last but not least, it is a precondition for the transparent and clear planning of the state budget in terms of public personnel. Therefore, in previous assessment reports and other documents SIGMA has recommended enlarging the scope of the Law on Civil Servants rather than fragmenting the system. There is hardly any reason for not bringing e.g. tax administration, customs and court administrators under the scope of the Law on Civil Servants, if necessary with complementary provisions but without substituting special legislation for particular groups, which the current law itself allows.

Admittedly, it would not be easy to return in the right direction as it would require facing some vested interests and going against some centrifugal forces. However, this is a crucial issue for the creation of a well-functioning public administration and thus should be addressed.

Conclusions

The negative situation related to the scope of the Law on Civil Servants has deteriorated. The movement of the legislator towards fragmenting the public service system by creating unnecessary

¹⁶ MPs, judges, members of the government, and elected officials in local self-government are not employees because they are not professionals or, as professionals, they are considered as independent organs of sovereignty (judges).

parallel subsystems for single public sector bodies has proceeded. This policy needs to be reversed. General problems require general solutions instead of case-by-case solutions that damage the overall coherence of the state system.

The wrong approach that has been adopted of relentless fragmentation of the civil service system, along with the weak central management capacity of the system embodied by the Civil Servants Agency, is conducive to making the civil service system fall apart, and the negative effects of such a situation are already noticeable.

In a mid-term perspective, the current civil service legislation would benefit from a thorough review. In such a process many stakeholders in the public administration should be involved, in particular those who have identified deficiencies in the existing law and have contended that it was not applicable in their specific areas (e.g. court administration, Public Revenue Office).

Revision of the Law on Civil Servants should result in the elaboration of a general law, which avoids unnecessary details. Regulations on technical procedural details should be dealt with in secondary legislation and administrative instructions, not in primary law. As far as necessary, a few exemption clauses, either in the Law on Civil Servants or elsewhere, could be adopted to meet the requirements of a special sector of the public administration.

1.2 Are civil servants' recruitment, rights and obligations defined, regulated and enforced in such a way as to ensure their commitment to constitutional and public-law values, such as legality, impartiality, political neutrality and integrity?

Recruitment

The Civil Servants Register for 2008 indicates that there were 13,203¹⁷ civil servants; the total number of employees paid by the Ministry of Finance is about 74,000.

In 2008 the Civil Servants Agency published 296 public announcements for the employment of 2,416 civil servants. Of these, 190 public announcements were published for the employment of 1,775 civil servants at central level and 106 announcements for the employment of 641 civil servants at local level. The tendency towards an increasing number of applicants continued in 2008, and the Civil Servants Agency received 99,998 employment applications or on average 55 applications per position. Electronic (via Internet) applications represented 95.6% of the total number of applications, with only 4.4% of all applications being submitted in paper copy.

The Civil Servants Agency, which is responsible for the first stage in the selection/recruitment process ("professional examination"), has made further progress in the past year in refining and modernising systems and procedures for the pre-selection of candidates for any given position. In particular, problems in the examination procedure have been addressed, and the procedure is currently under thorough review. In addition, some other improvements in the technical instruments used by the Agency are positive steps towards a more objective and accurate assessment of the qualifications and merits of candidates for vacant positions; these improvements have in turn resulted in a substantial increase in applications.

However, the Civil Servants Agency still lacks mechanisms to effectively follow up and oversee the second and/or further stages of recruitment processes, which are entirely managed by the relevant bodies and state authorities, with a view to ensuring that the final outcome of any given recruitment process is totally free of the possible influence of political affiliation, patronage or cronyism. The Agency pointed out in its 2008 Annual Report that a serious problem, resulting from its inability to

¹⁷ The number of civil servants from the ethnic Macedonian community increased in 2008 from 9934 to 10,432 (5%), the Albanian community from 2001 to 2050 (2.4%), the Turkish community from 130 to 152 (16.9%), the Roma community from 50 to 63 (26%), the Vlach community from 119 to 125 (5%), and the Serbian community from 183 to 201 (9.8%). A total of 6822 (51.7%) of civil servants are female, and 2481 (18.8%) of civil servants work in municipalities. Of the total number of civil servants, 79% are members of the ethnic Macedonian community, 15.5% of the Albanian community, 1.2% of the Turkish community, 0.5% of the Roma community, 0.9% of the Vlach community, and 1.5% of the Serbian community.

prepare full and precise analyses of new appointments in the civil service and thus to monitor the application of the merit principle, is the lack of data on selected candidates, since some employing bodies do not submit the final selection decision or any data for inclusion in the Civil Servants Register to the Civil Servants Agency.

Complaints have also been made to the effect that administrative bodies increasingly employ staff on the basis of a temporary contract. This procedure does not fall under the Law on Civil Servants but is regulated— as an exceptional tool – by the Law on the Agency for Temporary Contracts. After several months, a temporary post is transformed into a civil service position and the temporary contract candidate becomes a civil servant, without the regular legal procedure. This practice is quite common, even in the highest-level administrative bodies, and serves to circumvent the rules of the Law on Civil Servants. It is reported that in one administrative body about 40% of the staff were recruited in this way. Such a manoeuvre would seem to be formally legal but is obviously not in compliance with the spirit of the Law on Civil Servants.

Another “technique” of evading the rules of the Law on Civil Servants relates to the filling of certain top positions. To circumvent the requirement limiting access to such positions to those already holding “managerial” positions in the civil service, as a first step a (politically desirable) candidate is appointed to a managerial post and subsequently (after a few months) promoted to the top position. Apparently, the system developed in the Law on Civil Servants for ensuring the professionalisation of these senior positions is not working properly, or at the least the system is not flawless and still allows several ways of by-passing the appointment requirements.

In a similar way as last year, the government adopted for 2009 a Budgetary Programme for Employment of Community Members¹⁸ aimed at equitable representation of minorities in the civil service. The Government Secretariat for Implementation of the Framework Agreement prepared this programme in co-operation with the Civil Servants Agency and the Ministry of Finance; the Secretariat is also in charge of its implementation. In 2008 the Secretariat publicly announced 603 additional civil servant positions reserved for “non-majority community members”, 245 of which were filled by the end of 2008, while for the rest the procedure is still in progress. For 2009 another 800 appointments under this programme are expected. The Secretariat for Implementation of the Framework Agreement will assign all of the employed civil servants to various state bodies during 2009. Over 92% of the already employed community members (245) are Albanians, the majority of whom are employed as expert civil servants (193 of the 245 employed), while only two minority community members are employed in the first group of managerial civil servants.

The number of civil servants employed under the Programme for Employment of Community Members does not reflect the real staffing needs of the respective administrative body to which the civil servant is to be assigned. It is reported from various sources that very often those civil servants find no office space or, if they are accommodated somewhere, they are hardly working. As already pointed out in previous reports, this well-intended tool, developed for putting into practice the principle of equal representation (“Ohrid Agreement”) of the various minorities, quite often enters into contradiction with the merit system, because it provides additional room for partisan-influenced recruitment (given the existence of parties representing these minorities, which have always been a part of coalition governments).

Conclusions

Although the Civil Servant Agency has been more effective in enhancing and improving the instruments and mechanisms to ensure a more efficient and objective selection of candidates for vacant positions in the civil service, the fact that the role of the Agency is fundamentally limited to the first stage of a multi-step recruitment process leaves room for final recruitment (employment) decisions based on criteria other than merit.

¹⁸ Based on article 21 of the Law on the Execution of 2009 Budget of the Republic of Macedonia, *Official Gazette*, no. 166/2008

Even the highest-level executive bodies increasingly adopt recruitment approaches that seem to be formally lawful but are obviously contradictory to the Law on Civil Servants. These strategies to circumvent recruitment rules not only result in a more politicised public sector but also have a negative impact on the society's acceptance of the rule of law.

The legal and procedural mechanisms for ensuring that recruitment for all civil service positions (including managerial positions) is based solely on merit should be strengthened, while the rules concerning appointment to certain top positions could be reconsidered, with a view to providing a more realistic mix between the guarantee of minimum professional qualifications and the necessary discretion of the appointing authority (government or equivalent authority in other state institutions). A legal compromise solution may be better than the current unlawful practice.

Promotion

No positive developments are to be reported in this area since the previous assessment. Vertical promotion based on the objective evaluation of merit, experience or performance is not envisaged in the civil service legislation, and the civil servant is therefore required to participate in a new open competition for any higher position. No "internal" competitions are foreseen in the current Law on Civil Servants as a first way of filling vacancies. It remains to be seen whether the draft amendment law will address this problem.

In the absence of such a mechanism, ministries and other authorities frequently resort to the mechanism of "re-assignment" (instead of competition) to fill a vacancy. For the civil servant appointed to such a position, the re-assignment quite often constitutes an actual promotion, but it is nevertheless not subject to objective rules and criteria and is carried out without transparency.

On the contrary, the practice of demotion (re-assignment to a lower position) seems to have become too common and has led to an increase in complaints submitted by the civil servants affected by such demotions. Through these demotions, civil servants are re-assigned to positions of lower rank and responsibility, freeing the higher positions for other civil servants to fill through "re-assignments". Although the possibility of such demotions is foreseen in the Law on Civil Servants, it is only in specific situations (an "unsatisfactory" rating in the performance appraisal, organisational changes involving the suppression of positions, etc.), and evidence gathered during the assessment mission points to a potential abuse of this legal possibility in connection with changes in the political management of many civil service bodies.

With regard to horizontal promotion, the main mechanism in the law is the "career development step" (article 38), which entails the right to the payment of a "career supplement". Advancement on the stepladder (comprised of a total of four steps) requires three years of work experience in the previous step plus a positive mark in the performance assessment (for details on the career supplement, see below section 2.3).

Conclusions

The absence of a system allowing for vertical promotion (to a higher post) based on merit is possibly discouraging potential candidates from joining the civil service (and current civil servants from staying). It is considered to be an important weakness of the civil service framework, because it favours bad practices based on the use of less transparent mechanisms for re-assignment and demotion.

For vacant positions other than that of junior associate (in the expert group) or junior officer (in the expert-administrative group), internal and public competition between candidates from any civil service body should be set as the first step. A competition that is open to external candidates should be arranged only if an internal competition has failed to produce suitable candidates for the position. This solution could increase motivation through internal competition, improve mobility, and help to eliminate or reduce forced redeployment.

Obligations, Rights and Duties, with special reference to Impartiality

Obligations, rights and duties of civil servants are established by the Law on Civil Servants, in line with commonly accepted standards.

Regarding the implementation of disciplinary rules, the number of disciplinary procedures against civil servants in which the Civil Servants Agency's representatives participated in 2008 was somewhat lower than in 2007: 121 in 2008 compared to 142 in 2007. Of these 121 procedures, 91 were completed in 2008, 16 continue to be carried out in 2009, two are temporarily postponed and 12 are time-barred (because the bodies and their disciplinary commissions did not succeed in completing the procedures within the legally defined period of 60 days). Most (42) of the procedures completed in 2008 resulted in fines amounting to 10-30% of the civil servant's salary; in five cases the civil servant was demoted to a lower position for a duration of 6-12 months; and in five cases termination of employment was pronounced. In 38 cases the proposal to initiate a disciplinary procedure was rejected, and in one case the disciplinary procedure was temporarily postponed pending completion of a criminal procedure against the civil servant.

A total of 12 procedures for the establishment of material liability of civil servants were initiated in 2008, of which 10 were completed in 2008. In two cases the civil servants were found to be not liable and in eight cases their liability was established.

Grievances

Based on the Civil Servants Agency's 2008 Annual Report, the number of appeals and complaints submitted to the Agency in 2008 was lower compared to 2007. Out of 674 appeals and complaints in total, the Agency's second-instance commission reviewed 594 (514 were appeals or complaints by civil servants at central level and 80 by municipal civil servants). Most of the grievances – 442 or 74% – were rejected, while only 17% (98) were accepted; 4% (23) were withdrawn; for 1% (6) of them the commission was not the competent body to decide; and 4% (25) were sent to other bodies. Most of the appeals and complaints were against employment selection decisions (228 or 49%); 28% (168) against re-assignment decisions; 6% (33) against decisions on termination of employment; and only 2% (10) against performance assessment decisions. The Civil Servants Agency's second-instance commission has no information on the rate of execution of its second-instance decisions by first-instance bodies.

Professional Independence from Politics

Despite the provisions in the Law on Civil Servants and other legal instruments applying to the civil service, the current situation concerning recruitment (employment), re-assignment and promotion/demotion of civil servants does not guarantee their professional independence from politics and partisan influence. In particular, the above-mentioned "strategies" of administrative bodies to circumvent the recruitment procedures set out in the Law on Civil Servants contribute to a situation where the public administration is still pretty much in the hands of political parties and politicians (spoils system).

The perception is that recently the situation has deteriorated even further. However, a professional and independent civil service is required, not only in the interests of the individual citizen and the society as a whole, but also in the interests of the political elite. Every government, regardless of its political profile, needs independent and experienced advisors and professional civil servants for the development and implementation of its policies rather than opportunists who have been filtered by a selection procedure that was (directly or indirectly) operated by a political party or another interest group. Unfortunately, there is scarcely any indication of this understanding by the political élite.

Conclusions

A more consistent implementation of legislation with regard to the recruitment/employment of new civil servants and the introduction of clear systems and rules governing promotion within the civil service are still very much needed to strengthen the professional independence of civil servants from politics.

There is still very little understanding on the part of the political elite that a politicised civil service is contrary not only to the interests of the general public but also to the interests of any government that wants its policies to be professionally developed and successfully implemented.

Integrity

Sigma's May 2008 assessment report on the Public Integrity System in the former Yugoslav Republic of Macedonia already pointed out that the legal situation regarding conflict of interest and impartiality of civil servants requires clarification. This judgment is still valid.

In the past it was the Law on the Prevention of Corruption that regulated the subject of conflict of interest and impartiality with a wide scope of applicability, also including civil servants. In June 2007 this issue was taken out of the Law on the Prevention of Corruption and included in the Law on Conflict of Interest¹⁹. However, unlike the Law on the Prevention of Corruption, the scope of the Law on Conflict of Interest covers only "elected or appointed officials" and does not apply to professional civil servants.

Thus, through the change of legislation in 2007 a (presumably unintended) legal gap emerged in the regulatory system regarding conflict of interest in the civil service and compatibility/incompatibility of civil servants' work with other jobs or private activities (commercial or professional). With regard to civil servants there are now only two articles in the Law on Civil Servants (and the Code of Ethics) dealing in a wider sense with the subject matter: Article 68, paragraph 1 specifies under no. 10 "receiving gifts or other benefits" as a disciplinary offense; and paragraph 2 of article 18 provides the civil servant's general obligation to do his/her job impartially, whilst paragraph 3 of this article refers for the rest to the Code of Ethics. This framework is clearly insufficient for ensuring integrity in the civil service.

Based on article 33-a of the Law on Prevention of Corruption, in July 2008 the Minister of Justice adopted the Rulebook on the Manner of Handling the Asset Declarations of Officials²⁰, one year later than legally prescribed.²¹ The Rulebook – and its legal basis – is also applicable to civil servants, regulating the submission of asset declarations by officials to the bodies in which they are employed. They have to submit asset declarations when taking up duty, when their assets change, and when their employment terminates. Declarations are kept by these bodies and are submitted to the State Commission on the Prevention of Corruption, but only if requested to do so. The Rulebook prescribes that a designated official in each of the state bodies and municipalities is to serve as the single authorised person handling the asset declarations of his/her colleagues; he/she must sign a statement on the confidentiality and protection of the personal data contained in the asset declarations. This official is to keep special records of asset declarations in both written and electronic forms and to submit semi-annual reports to the State Commission on the Prevention of Corruption indicating the officials in the body who fulfilled and those who did not fulfil their duty to submit an asset declaration. Asset declarations of officials whose employment has terminated are to be kept for an additional five years.

The question remains whether this Rulebook forms an appropriate regulatory basis for the civil service. On the one hand it seems to be unnecessary and thus disproportional to subject each and every civil servant to this procedure; not for every level and function within the civil service are the private pecuniary circumstances of the acting civil servant of significance for the correct execution of his/her tasks. On the other hand, in those events, if pecuniary circumstances really matter (e.g. senior civil servants with decision-making competence, tax/public revenue officers), the instrument appears rather weak. The procedure lacks effectiveness, since asset declarations are only "kept" but not

¹⁹ *Official Gazette*, no. 70/2007 of 5 June 2007.

²⁰ *Official Gazette*, no. 89/2008; the Rulebook executes article 33-a of the Law on the Prevention of Corruption

²¹ According to Art. 33-a of the Law on Prevention of Corruption it should have been done up to May 2007 the latest.

controlled by the bodies in which the officials work, and declarations are submitted to the State Commission on Prevention of Corruption only upon its request.

Conclusions

The legislative gap concerning incompatibilities and conflict of interest affecting civil servants needs to be filled, preferably by regulating this matter for the civil service more in detail in the Law on Civil Servants.

It is questionable whether the Rulebook on the Manner of Handling the Asset Declarations of Officials should be applicable to each and every civil servant. For those officials, however, working in “sensitive areas” it is a weak and not very effective tool.

1.3 Does the law fix the salary scheme, and is the determination of individual pay transparent and predictable?

The salaries of civil servants rose remarkably from 2008 to 2009. The amendments to the Law on Civil Servants of January 2009 introduced an increase of 46 salary points for the position supplement of each of the civil service positions. Moreover, the government adopted a new decision on the value of the salary point for civil servants for 2009²², increasing the value by 55% compared to the value of 2008. Finally, an increase of 10% of the value of a salary point²³ is expected in 2009, but it has not yet been adopted by the government. The pending 10% increase would represent the completion of the government’s plan of 2006 to increase the salary of civil servants in the period 2007-2009 by 10% per year. Currently the salary of an advisor (senior position of group II) without a career supplement amounts to about 590 EUR.

According to the Law on Civil Servants, a career supplement to the salary of a civil servant is to be used as an “incentive for successful performance” (art. 37, para. 1) and requires a “positive assessment of performance” (art. 37, para. 2). With a delay of nine months, the Supplementary State Budget²⁴, adopted by parliament after the July 2008 early elections, provided additional funds for the payment of career supplements as from September 2008.

In order to start the payment of the career supplement, the Civil Servants Agency adopted Guidelines on Implementation of the Career Supplement of Civil Servants in July 2008²⁵ (updated in September). The Guidelines show some inconsistencies with the current version of the Law on Civil Servants in terms of the minimum length of experience²⁶ and the strict relation of a career supplement to a positive performance assessment²⁷. In general, the text of the Guidelines handles the career supplement as a regular salary enhancement every three years for every civil servant, rather than a performance incentive that is attributed to only well-performing staff. If it is intended to change the character of the career supplement from a performance-related pay to a regular salary enhancement,

²² Official Gazette, no. 11/2009

²³ From 48.52 MKD (= 0.78 EUR) to currently 75.3 MKD (= 1.2 EUR); currently the monthly salary of an advisor (top position of Group II) without a career supplement amounts to about 590 EUR

²⁴ Official Gazette, no. 90/2008

²⁵ Published on the Agency’s website at:
http://www.ads.gov.mk/WBStorage/Files/Upatstvo_Dodatok_na_Plata_za_Kariera_Precisten_160908.pdf

²⁶ For steps two to four of a career supplement, three years of experience “at the previous step” is required. This corresponds to article 37, para. 1, according to which the *ratio legis* is the professional development “in the position”. When the civil servant acquires a position of a higher rank, he/she loses the right to a career supplement (since he/she receives a higher salary) and must start the horizontal career anew at the level of the new position (article 40). However, according to the Guidelines, only experience “in the service” is required, which would make it possible for the civil servant to also keep his/her supplement step(s) after changing positions (i.e. after promotion).

²⁷ The Guidelines allow a supplement even in the event of a performance mark of “not fully satisfactory” and remains unclear in the event of a mark of “unsatisfactory”, for which the law provides the legal consequence of downgrading the career supplement.

then the Law on Civil Servants needs to be amended; as long as this is not the case, the Guidelines will continue to lead to unlawful payment practices.

A similar observation applies to the Guidelines on the Detailed Criteria for Granting Monetary Awards to Civil Servants, adopted by the Civil Servants Agency at the end of June 2008²⁸, according to which every civil servant with an “outstanding” performance mark is granted a monetary award, while the Law on Civil Servants requires (art. 61, para. 1) “extraordinary efforts” as an additional (cumulative!) legal condition. The equalisation of an “outstanding” performance mark with “extraordinary efforts” contravenes the law.

The salaries of the remaining public employees (74,000 on the payroll of the Ministry of Finance, plus 25,000 in the health care sector) are regulated by the general Law on Salaries and by a nationwide collective agreement for the public sector. The Law on Salaries²⁹ was amended in December 2008 in order to introduce the concept of gross salaries in the public sector (as well as in the private sector). The gross salaries will include, in addition to the basic salary, the taxes, obligatory social contributions, and allowances for daily travel and food. The application of the amended law started with the payment of salaries for January 2009.

The Ministry of Labour is preparing a completely new Law on Salaries in the Public Sector, with assistance from the World Bank in an ongoing project. A draft legal text or substantial information on its content was not yet available when the assessment mission took place.

Conclusions

In 2009 the salaries of civil servants increased on average by more than 60% compared to 2008.

With regard to the “career supplement” and “monetary award”, the Guidelines on Implementation of the Career Supplement of Civil Servants, adopted by the Civil Servants Agency in July/September 2008, are not in compliance with the current Law on Civil Servants. If it is intended to change the character of the career supplement and the monetary award, this cannot be done through “guidelines”; it is the Law on Civil Servants that needs to be amended. As long as the law remains unchanged, the present payment practices – based on the Guidelines – remains unlawful.

1.4 Do sufficient and reasonable mechanisms (basically mobility, training and motivation) exist for good performance and career development within the civil service so as to make it attractive?

Performance Appraisal

A satisfactory implementation of the performance appraisal system introduced by the Law on Civil Servants is still pending. Despite the additional efforts and actions and the reminders sent to the administrative bodies that had not finished performance assessments for 2007 by May 2008, the Civil Servants Agency managed to receive only 98 performance assessment reports, i.e. 56% of the total number that it should have received. Of these 98 assessment reports for 2007, 54 were submitted by central bodies (representing 60% of the total number of 90 central bodies), while 44 were submitted by municipalities (representing 52% of the total number of 85 municipalities). These figures indicate not only a lack of managerial capacity in administrative bodies but also points out the need for examining the practicability of the performance appraisal instrument.

No additional information about the actual performance assessment results and the quality of this exercise was provided in the Civil Servants Agency’s 2008 Annual Report.

²⁸ Official Gazette, no. 77/2008

²⁹ Official Gazette, nos. 70/94, 62/95, 33/97, 50/2001, 26/2002, 46/2002, 37/2005, 121/2007 and 161/2008

Conclusion

The low number of performance assessments carried out in 2007 and in the first half of 2008 points out the need for examining whether the performance appraisal system, as it is currently implemented, should undergo further refinement.

Training

The situation regarding the training system for civil servants significantly improved since SIGMA's May 2008 assessment report.

In July 2008 a new National System for Co-ordination of Professional Development and Training of Civil Servants in the Republic of Macedonia (hereafter referred to as Training Document II) was adopted by the Civil Servants Agency³⁰, thus replacing the former document of 2005 (Training Document I). Training Document II defines the general training policies and the system for the co-ordination of training for civil servants and records the progress achieved in the last three years.

Some of the problems identified in Training Document I nevertheless remain, and Training Document II lists the following problems, among others: public bodies in general do not finance training out of their own budgets; most of the training is supply rather than demand-driven (because most of it is financed by donors); the selection of civil servants for training events is not often based on the needs of the respective body; usually only an evaluation of the quality of training delivery is made, while training impact assessment is absent; it is still difficult to calculate the funds spent on training at national level (most of which come from foreign donors, with the result that training is regarded by the bodies concerned as being free of charge)..

As for the financing of training, Training Document II proposes that the amount of funds for training be no less than 0.5% of the total salary costs for civil servants, that specialised training be financed by the individual administrative bodies' budgets, and that generic training be financed by a special budget programme in the Civil Servants Agency's budget. All civil servants should be entitled to have five days of training per year.

Since December 2008 a new institutional structure for the co-ordination of generic civil servants' training is in place, where the Civil Servants Agency and its Training Department have a leading role, assisted by a Training Council representing 13 ministries and other administrative bodies.

A Strategy on Training of Civil Servants for the period 2009-2011 and an Action Plan for its implementation were prepared by the Civil Servants Agency and adopted by the government in September 2008.

Based on training needs assessments carried out in the framework of several donor-funded projects, the Strategy document states that the generic training should cover five topics: strategic planning and policy development; management; EU issues; public administration and civil service system; and integration of minority community members in the civil service and the public administration.

To implement the Strategy and provide co-ordination of the training at national level, the Civil Servants Agency established a Training Department in December 2008 with 17 positions, 10 of which have been filled. An urgently needed training facility is foreseen to be established in Skopje.

The Civil Servants Agency also adopted an Annual Programme on Generic Training of Civil Servants for 2009. The Agency complains about the lack of co-operation on the part of municipalities and central bodies in providing the required input to programme planning. The content of training for 2009 focuses on management topics and on topics in the area of general public administration and civil service. At least 1181 civil servants are foreseen to participate in this training. In addition, it is planned to send civil servants for training to the UNIDEM Campus and to ReSPA in 2009.

³⁰ Official Gazette, no. 85/2008

In April 2009 parliament adopted the Law on Ratification of the Agreement on Establishment of ReSPA³¹, and the funds (120,000 EUR) required as the contribution of Macedonia to the ReSPA budget for 2009 have already been provided for in the budget of the Civil Servants Agency (according to the justification of the proposed draft Amending Law to the Law on Civil Servants).

Funds for an amount of 10,750,000 MKD (somewhat over 175,000 EUR) for delivery of the programmed training and an additional 12,250,000 MKD (approximately 199,500 EUR) for the supply of training equipment (for the Skopje training facility) are provided by the State Budget for 2009.

According to its 2008 Annual Report, the Civil Servants Agency organised 32 workshops, seminars, training events and conferences on its own or in co-operation with other partners and donors, for a total of 393 civil servants trained in 2008.

Conclusions

There has been evident progress in improving the quality of the training system, for which the Civil Servants Agency is directly responsible. The new institutional set-up and the Strategy on Training of Civil Servants for 2009-2011 show promise in forming a good basis for the achievement of the ambitious goals formulated by the Agency.

However, a major problem is still the lack of support of many administrative bodies in terms of their required contribution to planning and implementing the training programme. It seems that a training culture is not yet sufficiently developed in the public administration.

A regular and systematic training needs analysis should be carried out by the Civil Servants Agency to ensure that training is primarily demand-driven, even if many of the training courses are provided and/or financed by donors.

An adequate training facility in Skopje, which was already expected to be established in 2008, has still not been set up but is announced for 2009. The current situation does not allow for the training of the number of participants indicated in the Training Strategy and in the annual programme. Furthermore, the training budget margin, which the Civil Servants Agency has been claiming since 2007 (0.5% of the total salary costs for civil servants), is still far from materialising in the state budget.

1.5 *Have systems for personnel management and a cross-government structure been established so as to ensure the application of homogeneous standards across the administration?*

According to its mandate, the Civil Servants Agency has been trying to ensure the uniform application of civil service legislation not only across the state administration but also across all state bodies served by civil servants. The new instruments (at the level of secondary legislation) reported on in SIGMA's May 2008 assessment report were found to be appropriate tools for rationalising administrative organisation and strengthening the quality of implementation of the Law on Civil Servants. However, the Agency is still facing many difficulties in making sure that the system is being applied in accordance with homogeneous standards. Ministries and other state authorities still demonstrate an important degree of arbitrariness with regard to important aspects of the system.

As underlined in previous reports, a major reason for the problems related to implementation of the legal framework is the fact that the Civil Servants Agency is an "autonomous state body accountable to parliament", while the main political responsibility for the civil service belongs to the government. This legal construction weakens the capacity of the Civil Servants Agency to fully perform its relevant role. Accountability to parliament not only entails the Agency's independence from the rest of the state administration, which is necessary, but at the same time takes the Agency out of the government's hierarchical chain of instruction and control.

³¹ Official Gazette, no. 49/2009

Legally and factually (politically), the Agency stands to a certain extent “beside” the government system, without any legally effective instruments to instruct or control other ministries and administrative bodies. The Agency has no authority to execute the measures it has taken on the basis of the Law on Civil Servants and can only hope that these measures will be “benevolently” accepted by central bodies and municipalities.

The current legal set-up of the Agency raises concerns about its constitutionality. In effect, article 66 of the Constitution states that the Assembly is to carry out political monitoring and supervision of the government. Putting the Agency under the Assembly indicates that the Assembly is not only performing political monitoring of the activity of the government, but also administrative monitoring, which would go beyond the competences constitutionally attributed to the Assembly. This constitutionality problem is corroborated by articles 88 (“the executive power is vested in the government”), article 91 (“the government is responsible for the functioning of the administration”), article 95 (“the state administration consists of ministries and other administrative bodies”), and especially article 96, which establishes that the state administration is accountable to the government. How will the state administration be accountable to the government if the civil service is under the responsibility of parliament? This question would well deserve a pronouncement by the Constitutional Court.

As long as this structural problem is not addressed, the almost irrelevant role of the Civil Servants Agency in imposing common civil service management standards across the state administration will continue.

Conclusion

Despite all efforts of the Civil Servants Agency, its weak position, arising from its legal status as an “independent body accountable to parliament”, is a major reason for the still incomplete implementation of the Law on Civil Servants by numerous administrative authorities.

1.6 Are staff numbers and personnel costs controlled and published?

Control over staff numbers is carried out by means of the annual budget and “systematisation”, which is information on staff that every state body (and local administration) has to gather and submit to the Civil Servants Agency for approval.

In 2008 the Civil Servants Agency issued 151 written consents for the rulebooks on internal organisation and systematisation of jobs for central state-level bodies and 158 written consents for the rulebooks on internal organisation and systematisation of jobs for municipalities. At central level 51 of these consents and 93 at local level were completely new rulebooks/decisions on internal organisation or systematisation of jobs.

Furthermore, based on the data provided in the Civil Servants Agency’s 2008 Annual Report, the Agency issued 450 consents for employment of 2624 new civil servants in 2008. These consents are required by the Law on the Budget prior to the approval of salary funds for new employees by the Ministry of Finance. In 2008 a total of 332 consents were provided for the employment of 1673 civil servants at central level and 118 consents for the employment of 951 civil servants in municipalities.

However, in Macedonia there is no centralised or at least co-ordinated “planning” of staff needs, either for the short term (next fiscal year) or for the medium-to-long term. Every organisation may carry out its own planning, but central control of the staffing situation and staffing needs takes place in the course of the processes of approval of the “systematisation” and elaboration of the state budget. Ministries and other state bodies are obligated to adopt three-year strategic plans and to publish them on their websites by 15 January each year. According to the Methodology on Strategic Planning and Preparation of the Government Annual Programme of Work adopted by the government in October 2008³², all bodies are required to include in their strategic plans data on the personnel needed to implement these plans as well as data on the professional development and training that the personnel

³² Official Gazette, no. 124/2008

will need. This requirement may help to develop personnel planning skills and, if done properly, may represent a co-ordinated staffing plan, especially in view of the fact that the draft-strategic plans are analysed by the Ministry of Finance and adjusted to the proposed budget.

A serious problem (already mentioned above in a different context in section 2.2, subsection on “Recruitment”) is the recruitment of staff on the basis of temporary contracts. Neither the Civil Servants Agency nor the Ministry of Finance has reliable data on this group of staff. The perception is that the number of temporary staff is increasing to proportions that are out of any effective control.

Conclusions

Mechanisms and instruments for controlling (permanent) staff numbers are in place, under the joint co-ordination of the Ministry of Finance and the Civil Servants Agency. These mechanisms allow a relative degree of control of overall personnel costs in the state budget as well as in every individual ministry or institution funded by the state budget.

The lack of data and information on temporary staff opens the door to uncontrolled use of this instrument.

1.7 Do staff representatives participate in decision-making and control concerning personnel management matters?

The Law on Civil Servants recognises that civil servants have the right to establish and be members of trade unions “under the terms and in a manner defined by law” (art. 33).

Therefore, the staff representation rules applying to civil service bodies are the same as those applying to any other employer or employment centre (Labour Law). Based on these rules, there is a tradition whereby the government and the trade unions negotiate nationwide collective labour agreements for the entire public employment. The last agreement was signed in January 2008 between the government and one of the trade union confederations in Macedonia, the Confederation of Free Trade Unions. This agreement was strongly contested and rejected by the Trade Union of Administrative Workers (which belongs to another confederation – the CCM).

The provisions of two articles of the agreement, which actually accorded lesser rights for public sector employees than those established in the Law on Labour Relations, were abolished by the Constitutional Court in July and September 2008³³.

Trade unions have complained that they were not informed about amendments to the Labour Law concerning working conditions, such as annual leave and night-shift conditions.

Apparently, the public employer very often puts pressure on employees to leave/change the trade union. One of the trade unions received 800 notices of resignation within two days, signed by members on identical, prefabricated resignation forms.

Conclusion

Social dialogue within the public sector (between central and local governments and trade unions), leading to a fair balance of both sides’ legitimate interests, is extremely underdeveloped.

2. Recommendations for Assistance

For the continuation of the public administration reform process in the area of public service, Macedonia would require further external assistance. Three priority areas should be addressed:

- Review of the Law on Civil Servants with respect to creating a satisfactory legal framework for a unified, rather than fragmented, civil service, including scope, management, incompatibilities and conflict of interest;

³³

Official Gazette, nos. 88/2008 and 122/2008

- Strengthening of the capacity of the Training Department of the Civil Servants Agency (short-term perspective);
- Establishment of a truly empowered central capacity to ensure that common civil service management standards are applied across the state administration.