



## SIGMA

### Support for Improvement in Governance and Management

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

## ALBANIA

### PUBLIC SERVICE

### ASSESSMENT MAY 2008

## INTRODUCTION

In its last assessment of June 2006, SIGMA had already pointed out the major staff turnover that occurred after the current government took office in July 2005. Many civil servants were either dismissed or demoted to lower positions, or they resigned. In many ministries a large number of employees were hired (often to replace dismissed civil servants) under labour contracts, thereby contravening the Civil Service Law. The government tended to wrap the dismissals either under the cover of poor performance<sup>1</sup> or because of restructuring needs.

Nevertheless, the current civil service legislation in Albania, passed in 1999, has been a decisive instrument, in spite of its shortcomings, in initiating the development of a professional civil service and in improving the quality of work of the public administration. In view of the developments since July 2005, it is undeniable that much more needs to be done in terms of practices, as the system is still fragile. In fact, the civil service system did not withstand the 2005 government changeover, and the still incipient merit system was damaged. Currently the credibility of the government seems to be low with regard to future civil service developments.

Whatever the case, the government began in August 2007 the preparation of a public administration reform strategy, which will include a chapter on civil service reforms. This strategy is being drafted without any early involvement of the opposition. This move of the government may further stave off the necessary political consensus that is needed to reform the civil service in accordance with the Constitution. The government nevertheless expects to approve the strategy by June 2008. If adopted, the government will have less than one year to implement it before the 2009 legislative elections.

## 1. Legal Status of Public Servants

### 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?*

#### *Constitution*

The 1998 Constitution outlines (article 107) the main characteristics of the civil service by requiring that public employees apply the law and work to serve the people. Employees in public administration are to be selected through competitive examinations, and guarantees of tenure and the regulation of public employment are to be provided by law. The Constitution also requires (article 81) the regulation of the status of the civil service by an organic law.

---

<sup>1</sup> The high number of civil servants dismissed is highlighted by the number of decisions of the Civil Service Commission (CSC) related to disciplinary measures: some 61% in 2006 and 42% in 2007. The majority of these decisions were in favour of the dismissed civil servants, and the Court of Appeals generally ratified the CSC's decisions. In 2006 and 2007 the Court of Appeals confirmed the CSC's decisions in 92% of the cases, transforming all of the decisions into mandatory acts for the government. In spite of this, the government has enforced only a small number of these decisions (Source: CSC Annual Reports of 2006 and 2007).

## **Ordinary legislation**

Prior to the Constitution, a Law on Civil Service was passed in 1996 by parliament (Law no. 8095 of 21 March 1996 “For Civil Service in the Albanian Republic”); the law was never applied to civil servants, but is still in force for political appointees. The main legal instrument currently regulating the civil service is the Law on Civil Service (LCS or CSL) of 11 November 1999, which entered into force on 15 January 2000 (Law no. 8549 on the Status of Civil Servants). During the first semester of 2000 the law was complemented with by-laws (nine in total), detailing the procedures established in the law. Other laws are also applicable to various aspects of the civil service. These are detailed below in the relevant section of this report.

The Labour Code applies to public employees who are not civil servants and to civil servants as supplementary legislation to the CSL. The Labour Code is the general legislation to which all other legislation refers in the event that no specific provisions are foreseen in those pieces of legislation.

## **Scope**

The CSL defines the scope of the civil service as including “positions exercising public authority” or directly involved in policy-making at central and local self-government levels. The law enumerates the institutions or type of institutions that are included within its scope. Regarding central government, the law does not apply to either subordinated institutions (i.e. autonomous agencies that depend on ministries or on the Prime Minister’s Office) or to the prefect administration. At local government level, the “basic” unit – the commune – is left outside the scope of the law, but municipalities (*bashkite*) and regions (*qarqet*)<sup>2</sup> are included. There are 65 municipalities, 308 communes and 12 regions in Albania. Municipalities are deemed to employ some 2500 civil servants all combined and regions some 600. The Civil Service Law does not seem to provide sufficient protection to civil servants in the state, municipalities and regions. Civil servants are easily dismissed from office, and although the administration is legally obliged to provide illegally dismissed civil servants with a severance pay, it is not obliged to reinstate them. The situation of local civil servants is aggravated because the salaries of municipal civil servants are much lower than those of state civil servants (the Association of Municipalities reckons that salaries are 50% lower), even though the Council of Ministers (CoM) decides the ceiling for salaries of municipal civil servants and mayors.

Civil servants in the executive branch currently number about 2600. Other central institutions that are independent from the government, all combined, employ some 2800 civil servants. The total public employment is 104,716-strong, according to a February 2008 decree of the Council of Ministers. However, according to the World Bank (2006)<sup>3</sup>, there is no single, updated published source of information on the size of either the civil service or the public service. Information is only partially available in the various institutions and must be pieced together from the budget laws and from the databases of DoPA, the Ministry of Finance and several other institutions. The size of employment in local governments is known only in the aggregate and no information exists about its evolution and composition.

The World Bank data provided in the report mentioned above show that the civil service represents only a small proportion of government employment. Only 3.4% or 3500 central government employees are civil servants, while in municipal governments civil servants represent more than 27% of all local government employees.

When the 1999 Civil Service Law was adopted, the strategy envisaged by the government was to adopt a narrow concept of the civil service so as to allow institutions to learn the practice of the constitutional mandate of recruitment through meritocratic mechanisms. The status of civil servant was meant to be extended later on to other groups of public employees. The exclusion of subordinate institutions from the CSL came as a natural interpretation of this strategy, even though there were discussions at juridical-theoretical level on the actual legal notion of these institutions.

As from 2003-2004 the government took some legislative initiatives to extend *de facto* the scope of the civil service, by awarding to other categories of public employees the same set of rights and obligations as those of civil servants. The legislation passed to create institutions usually tended to include a cross-reference to

---

<sup>2</sup> According to data provided by the Albanian Statistics Institute (INSTAT), the local government in Albania numbers 9613 employees.

<sup>3</sup> World Bank, *Albania Public Expenditure and Institutional Review: Restructuring Public Expenditure to Sustain Growth*, December 2006.

the regulation of the working relationships within institutions to the Civil Service Law. This trend was encouraged by the European Commission<sup>4</sup> and other international organisations<sup>5</sup>.

That trend was reversed with the government's changeover of 2005, as all of the new institutions created or new legal frameworks adopted since then have expressly excluded the new institution from the scope of the CSL by applying the Labour Code instead<sup>6</sup>, thereby opening more possibilities to return to the old ways of politicisation and patronage.

The CSL draws a clear dividing line between political and professional civil service positions. Only university graduates can be civil servants in the professional staff group. Support and clerical staff are under the Labour Code. According to the CSL and the secondary legislation, the Secretary General is the highest civil service position in an institution and serves as a linking position between politicians and technical staff. Decree no. 325 of the Council of Ministers of 21 February 2003 established in detail the responsibilities of secretaries general in ministries, which include human resources management. According to the 2008 statistics of the Department of Public Administration (DoPA) on ministries, 19.6 % of the total staff are support staff, 9.6% are political appointees, and 70.6% are civil servants.

However, the civil service is politicised and is hindered by a pervasive lack of understanding of the need for, or by a willingness to implement, a real separation between political and administrative levels. The highest civil service positions are the secretaries general of the CoM and ministries, department directors and general directors. All of these positions involve policy-making, monitoring of policy implementation and interdisciplinary areas. In the majority of ministries, political appointments below the director level are still the rule. Notably, as the appointment of secretaries general remains political, their role is severely compromised.

With the government's changeover of 2005, all of the secretaries general were replaced (except the secretaries general of the ministries of Economy and Environment). As a rule, all of the new appointments were made with temporary contracts. For some of the secretaries general, an examination procedure was organised, but some 53% of them are still bound by temporary labour contracts<sup>7</sup> (out of 15 secretaries general, eight are under temporary contracts).

Given the situation that was thus created and the turnover in high management positions after the change of government, there are discussions in government on lowering the upper dividing line between politics and administration and including the positions of department director and above in the sphere of political appointments. This change, if adopted, would compromise the overall structure of the civil service by further increasing the instability of the system and the prospects for individuals to make a professional career in the civil service, thereby further diminishing the already limited attractiveness of the civil service.

Employees in the education system (teachers), police<sup>8</sup>, army<sup>9</sup> and professional health services are not civil servants under the CSL. For these categories special statutes apply. These four categories constitute 77% of the Albanian public employment. The CSL is not applicable to the judiciary either<sup>10</sup>, but special statutes and regulations apply. Diplomats in the foreign service<sup>11</sup> are civil servants. They are recruited as civil servants but the mobility (promotion and transfers) and disciplinary provisions are governed by the Foreign Service Law, which basically establishes a career system.

***Albania's legal framework regulating the civil service complies with many generally accepted European standards and principles, but not with all. The main problems faced in recent years have been implementation-related, where commitment, especially political, and capacities have been and still are***

---

<sup>4</sup> See European Commission, *Stabilisation and Association Report 2004 – Albania*, page 3.

<sup>5</sup> World Bank, *Albania: Restructuring Public Expenditure to Sustain Growth – A Public Expenditure and Institutional Review*, December 2006, page 87.

<sup>6</sup> Examples are numerous: ALUIZNI agency (CoM Decree no. 289 of 2006); Concessions Agency (CoM Decree no. 150 of 2007); National Centre of Registrations (Law no. 9723 of 2007, which expressly denies employees the right to lodge a complaint with the Civil Service Commission, even though they are considered as civil servants); National Agency for Information Society (CoM Decree no. 248 of 2007); National Authority for Exports Control (CoM Decree no. 43 of 2008), etc.

<sup>7</sup> Source: DoPA.

<sup>8</sup> Law no. 9749 of 4 June 2007 “on the State Police”.

<sup>9</sup> Law no. 9210 of 23 March 2004 “on the Status of the Armed Forces”.

<sup>10</sup> Law no. 8436 of 28 December 1998 “on the Organisation of the Judiciary”; a new law is under discussion in parliament (already passed end-February 2008).

<sup>11</sup> Law no. 9095 of 3 July 2003 “on the Foreign Service”.

*either lacking or weak. Shortcomings in the legislation have also played a significant part in the defective implementation that has been carried out. Exceptional legal remedies, such as retrenchment and restructuring, have been wrongly used to get rid of existing civil servants, thereby hampering the meritocratic principles that should govern civil service management.*

## **2. Professionalism of the Civil Service**

### **2.1 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**

In addition to the Constitution, which establishes the principle of competition for employment in the public sector, both the Civil Service Law (CSL) and the special statutes require, as a general rule, competition for filling vacancies (article 13 of the CSL and Decree of the CoM no. 231 of 11 May 2000 on Recruitment and Probationary Period in the Civil Service). The principles of publicity and equality of chances for candidates are also recognised by law.

The employer of civil servants is the institution in which they are working, not the state. This arrangement weakens the sense of serving the state and undermines the system of allegiance of civil servants, even if recruitment is organised centrally by the DoPA for line ministries and separately by each of the "independent institutions"<sup>12</sup>.

Following the advertisement of a vacancy and the pre-selection of candidates, the DoPA creates an *ad hoc* committee to administer the examination procedure. The committee consists of five members: two from the institution where the vacancy is located, two from the relevant university or two specialists in the field, and one representative of the DoPA. The examination is carried out in two phases: written examination and oral evaluation. The members of the *ad hoc* committee prepare the topics for the written examination one hour before it begins. The written test is worth 70% of the total mark. In the oral evaluation, the committee evaluates the job experience of the candidates, their academic qualifications (university degree, masters or PhD), and their publications and special skills (basically communication). The *ad hoc* committee has discretion to award marks to candidates, and a shortlist of three candidates is submitted to the future direct superior of candidates.

In December 2006<sup>13</sup> the government brought about some changes to the structure and score of the evaluation to attract to the civil service those individuals holding postgraduate university diplomas, such as masters or doctorate degrees. As a result, candidates with masters' degree are awarded almost 50% of points in oral evaluation and for candidates with a PhD degree the award is automatic of 100% of the points in oral evaluation. Currently there are no statistics available to assess the outcomes of this initiative.

The intended direct superior subsequently interviews the three best candidates selected by the *ad hoc* committee in order to choose one of them, but not necessarily the candidate who scored the highest. In making a choice, the direct superior is supposed to take into consideration the principles of equality of chances between candidates, non-discrimination and good faith. After the direct superior makes a decision, the DoPA issues the formal act of appointment to the civil service.

The civil servant is placed on probation for one year. At the end of this probationary period, and according to the results of the performance appraisal, the civil servant is confirmed, dismissed or extended in the probationary period for an additional period of up to six months.

Candidates have the right to appeal to the Civil Service Commission (CSC)<sup>14</sup> at each step of the procedure. The CSC may re-examine the procedures to see whether mistakes have been made or whether the *ad hoc* committee has disregarded relevant CV data or scientific publications of candidates. However, vis-à-vis the

---

<sup>12</sup> "Independent institutions" are the autonomous entities reporting to parliament, e.g. Supreme State Audit, Ombudsman, Parliament Administration and Energy Regulatory Entity. The CSL also defines local government entities as independent.

<sup>13</sup> CoM Decree no. 838 of 13 December 2006.

<sup>14</sup> The Civil Service Commission (CSC, see below) is an independent body reporting to parliament. It is a quasi-judicial institution that examines the complaints of civil servants regarding the protection of their rights. It also has a supervisory role and can exercise control over the legality of the management of the civil service.

written examination the CSC has decided, as a matter of principle, not to question the authority of the *ad hoc* committee. This practice is now well established.

The competition is announced in various ways, usually through newspapers and on the information bulletin board of the institution concerned. Since mid-2004 all recruitment notices have also been published on DoPA's website<sup>15</sup>. Unfortunately, this good practice, which really contributed in the past to increasing the transparency of the recruitment procedure and offered a better service to the public, has encountered several infrastructure problems within the DoPA and is no longer functioning properly. The lack of IT investments, the moving of the DoPA to other premises, and the continuous problems with Internet connections in Albania have led to a situation whereby the website is almost unusable and the information provided on the website is no longer regularly updated. In addition, the DoPA changed the choice of newspapers where vacancies are published and is now using some newspapers that do not have a high circulation. What is more disturbing is that the DoPA uses the various newspapers on a rotating basis, making it more difficult for the public to follow up or trace the vacancy developments since successive steps concerning a given vacancy are published in different newspapers. This situation is considered to be contributing to the decrease in the number of applications for vacancies. The other and more important cause is the proliferation of temporary contracting without competition.

The competitive nature of the recruitment procedure has been further hampered by the profuse utilisation of "temporary contracts". The Civil Service Law does not allow for temporary recruitment of civil servants to fill vacancies on an urgent basis. Based on specific needs and on the excuse that the time required (approximately 90 days) for a competitive recruitment procedure is long, institutions conclude individual contracts under the Labour Code. This procedure, tolerated by the DoPA, contravenes the law and is not new. In 2004 an initiative was launched to supervise the phenomenon, and the DoPA succeeded in reducing by the end of 2004 the number of temporary contracts to 2.2% of the total number of positions<sup>16</sup> (38 positions in total). However, this practice was taken up again as from 2005, with the result that temporary contracts reached about 11% by the end of 2006<sup>17</sup> and 7% by the end of 2007 (97 positions in total).

These numbers show that an exceptional, pragmatic way of providing for the staffing needs of institutions has become the regular recruitment mechanism, circumventing the competitive procedure established in law. The situation seems more worrying in certain institutions and bodies. In the Ministry of Finance, 42 positions were filled by using contracts. Of the 42, 23 positions were filled, following a formal testing procedure, by the already contracted incumbent, while the remaining 19 positions continue to be filled by using contracts. In the Ministry of Agriculture, 27 vacancies were initially filled by contractual employees, all of whom succeeded in the subsequent examination procedures. In the General Department of Taxation, out of 228 positions initially filled by using contracts, 178 positions were filled, following the organisation of an examination procedure, by the person already occupying the post; a total of 50 positions continue to be filled by using contracts<sup>18</sup>.

Recruitment based on temporary contracts is also influencing also the length of the examination procedure and the actual application of these procedures. In the majority of cases, when a position is already occupied by an incumbent under a labour contract the examination procedure is always delayed and in some cases postponed *sine die*.

An increasing number of competitions are annulled or delayed because of a curious rule establishing a required minimum number of four candidates. As many vacancies are publicly perceived to be destined for the incumbent, the number of applicants is more and more often below the four required by law. Data analysis has shown that the number of recruitment procedures successfully completed, as a percentage of the number of announced places, has marked a substantial decrease, which means an increased weight of failed competitions and thus a decline in the efficiency of the system of competition. The analysis has shown that the number of temporary contracts is in negative correlation to the number of successful recruitments, i.e. the greater the increase in the number of temporary contracts, the greater the increase in the number of incomplete recruitments. Temporary contracts seem to not only decrease the number of successful competitions, but also to affect the quality of recruitment due to a decrease in the average number of

---

<sup>15</sup> [www.pad.gov.al](http://www.pad.gov.al).

<sup>16</sup> Source: DoPA, *Annual Report 2004*.

<sup>17</sup> Source: DoPA, *Annual Report 2006*.

<sup>18</sup> Source: CSC, *Annual Report 2007*.

competitors for each position<sup>19</sup>. Temporary contracting also negatively affects the attractiveness of the public service and diminishes public trust in a transparent and impartial competition procedure.

On the other hand, recruitment procedures have legal design shortcomings. First, the discretion of direct superiors to choose any one of the three best-ranked candidates contributes to the degradation of the true competitive nature of the procedure and of the constitutional right of equal access to the civil service. Direct superiors (employers) often make decisions that cannot be considered to have been taken in good faith or with respect to the principle of equal opportunity among candidates. It has happened that direct superiors have chosen the second or even the third candidate when the first one had 20-30% more points. This has also created a situation whereby the *ad hoc* committee has been forced to include on the three-candidate shortlist the superior's favourite for a position. This is one of the reasons why recruitment is unfair, not totally aligned with the merit system and mistrusted by the public.

In addition, the fact that competitions need to be organised separately for each vacancy makes the system costly and cumbersome. Recruiting institutions are obliged to reiterate separate testing procedures for positions that have the same or almost the same job description, whereas by pooling all of them together into a single procedure the system would be more economical. The existing pattern should be reformed so as to allow for "pooled recruitments" for similar positions. In order for this to work properly, it would also be necessary to improve the management of recruitment through better staffing planning.

The competition structure could be further streamlined. The topics for the written component of the examination procedure are based on a bibliography that is published with each vacancy and from which the *ad hoc* committee prepares the topics one hour before the examination. The examination usually turns out to be a reproduction of the chapters of relevant legislation because the *ad hoc* committee has had little time at its disposal to compose proper and relevant subjects. Likewise, there is insufficient time to create case studies or multiple-choice questions. As a result, the quality of the written examinations does not offer sufficient guarantees for selecting the best professionals available.

An additional problematic point is that the same scoring system is used for all categories of civil servants, from executive to managerial and top managerial positions. If for junior and executive positions the written test should have the same weight in terms of points allocated, for managerial positions the experience of the candidate should be given greater weight. The more senior the position to be filled, the more relevant are the candidate's experience and prior achievements. For these positions what is really important is the candidate's vision and the capacity to innovate and manage change; his/her academic knowledge, although relevant, is less important. However, to bring about such a reform of the scoring system there is a need, in addition to certain amendments to the law, to increase the capacities of the *ad hoc* committee members, who are usually not trained in human resources management and do not have the proper interviewing skills.

### ***Rights and Obligations***

The CSL establishes the rights and duties of civil servants. The obligations and rights of civil servants provided in articles 19 and 20, together with the principles of the civil service as defined in article 3, constitute a legal framework that overall adequately balances the working discipline-related obligations with the constitutional role that the civil service is called upon to play and with the inherent obligations associated with that role, such as impartiality, political neutrality, transparency, service to the public and integrity. Other laws and regulations may establish other rights and duties that may be general (for all civil servants) or special (only for a category of civil servants). In the event that a civil servant is denied the rights guaranteed under the law, or should the individual's rights be infringed upon, an appeal in writing may be filed with the CSC.

Violation of duty may result in the commencement of a disciplinary procedure against a civil servant. In that case the law recognises the right of the civil servant to be notified of the beginning of the procedure, the causes and evidence; he/she has the right to be heard, to submit counterevidence, and to be assisted by a lawyer in the hearing organised by the direct superior. In instances where a disciplinary measure is taken, the civil servant may lodge an appeal with the CSC. The disciplinary scheme is not working well, however. Direct superiors have often misused their legally awarded discretionary powers and, in the majority of cases, the disciplinary measures did not respect the principle of proportionality. The CSL is unclear in setting limits

---

<sup>19</sup> *Review of Civil Service Law Implementation Challenges in Albania*, an unpublished report carried out by PAI and ISB for the World Bank and delivered to the DoPA on 10 February 2008; the report was reviewed by SIGMA at the request of the DoPA.

to discretionary decisions by the administrative hierarchy. This creates uncertainty and may lead to an excess of authority and arbitrariness. In the last two years, respectively 80% and 79% of the disciplinary measures were dismissal from the civil service. In 2006, 78% of the disciplinary measures of the administration were either replaced by a milder one or repealed<sup>20</sup> by the CSC. The same situation was observed in 2007 as well<sup>21</sup>.

### ***Duty of Integrity***

All Albanian governments, including the current one, have stressed the importance of the issues of anti-corruption and ethics and have set them as priorities. Considerable efforts have been made at institutional and legal levels. Since 1998, various anti-corruption policies and action plans have been drafted and monitored by the government. Former governments included a minister responsible for anti-corruption policies. However, despite these efforts the Transparency International Corruption Perception Index did not show any considerable improvement for Albania in the past year. Corruption still persists in the country and political parties keep accusing each other of supporting corruption. Albania is ranked in 105<sup>th</sup> position, with a perception index of 2.9; in 2005 the perception index was 2.4<sup>22</sup>.

The Law on the Rules of Ethics in Public Administration (Law no. 9131 of 8 September 2003), also known as the Code of Ethics, and the Law on Prevention of Conflict of Interest in the Exercise of Public Functions (Law no. 9367 of 7 April 2005) complete the legal framework for ordinary civil servants and public employees and for those involved in administrative decision-making respectively, namely managers in public administration and other state institutions and in customs and tax offices (articles 29 and 32 of Law no. 9367).

Law no. 9131 of 2003 on the Rules of Ethics in Public Administration establishes ethical standards for all public employees and mandates the Council of Ministers (CoM) to develop them. For this purpose, in 2004 a Decree of the CoM was adopted prohibiting the acceptance of gifts for rendering services to the public. The law also regulates some procedures related to conflict of interest, secondary employment, the use of public property and so forth, and pronounces the first official definition of conflict of interest in Albania. This law is applicable to all public employees except those in the judiciary, who are regulated by special statute. The law does not apply to elected officials either.

According to Law 9131, all public employees, from the moment they are appointed to a position – and taking into consideration the job description and attached legal obligations — must declare that they do not have interests that might interfere with their public duties. Since 2004 the DoPA does not issue the appointment act if this declaration has not been attached (with the signature of the employee, the direct superior and the representative of the HR unit in the ministry). Law 9131 also states that public employees cannot be hired in the private sector for a period of two years after leaving office if that employment entails using information gained during the term of public duty. Likewise, a former public employee cannot act as a representative in a case against the public administration when the case refers to the job previously performed in the public service by that former employee.

The 2005 Law on Prevention of Conflict of Interest in the Exercise of Public Functions (Law no. 9367 of 7 April 2005) applies to elected officials (members of parliament, ministers, mayors, etc.) and to certain civil servants, such as managers in public administration and other state institutions and customs and tax offices (articles 29 and 32). According to this law, public employees should not be directly involved in economic activities in the area(s) of their public engagement, and for some categories of high officials this prohibition is limitless. This law, which was drafted in close co-operation with civil society, is complicated, unclear and liable to result in many legal interpretation conflicts, consequently creating implementation difficulties as well as opening up possibilities for abuse. Even the roles and powers of the bodies responsible for the implementation of the law are unclear, especially the roles of the units in public institutions that will be the first to be asked to interpret various situations.

The 1999 Code of Administrative Procedures regulates cases of incompatibility, namely the obligation of a decision-maker to withdraw and the right of any person to ask for the withdrawal of a decision-maker from

---

<sup>20</sup> CSC, 2006 Annual Report.

<sup>21</sup> According to the CSC's 2007 Annual Report, in the General Department of Taxation a number of civil servants were given the hardest disciplinary measure (dismissal from the civil service) following an audit carried out by the Supreme State Audit (supreme audit institution – SAI). In a number of cases, however, the SAI reports had recommended further evaluations and controls, but the institution nevertheless immediately imposed a disciplinary penalty on the civil servant.

<sup>22</sup> Data from Transparency International's website [www.transparency.org](http://www.transparency.org).

the decision-making process when the incumbent has an interest in the outcome of the procedure. The Code sanctions with nullity an administrative act adopted in conditions of incompatibility and sets out the possibility to undertake disciplinary procedures against the relevant official. The Code also establishes the procedure for declaration of incompatibility and the procedure for the replacement of public officials who have been declared incompatible.

In order to enhance the understanding of ethical standards by public employees and of the procedure to be followed to avoid conflict of interest and other procedures established by legislation, the Training Institute for Public Administration (TIPA) organises training sessions on ethics and anti-corruption. In the period 2003-2006, a total of 24 training courses on this topic were provided to 404 public employees. In 2007 the training was extended to local government institutions and combined with training on conflict-of-interest issues. A total of 501 public employees<sup>23</sup> were trained last year on these topics in local government institutions.

Law no. 9508 of 3 April 2006 “On the Co-operation of the Public in the Fight against Corruption” aims to stimulate whistle-blowing by denouncing public employees or civil servants for corrupt behaviour. The law provides the possibility of a monetary reward if the information provided is true and the public servant is convicted. This law was passed following significant debate in parliament and was commented upon by the opposition as not being in compliance with the Constitution, with the principles of “fair judicial process” and with the transparency requirements established by the Constitution and the Code of Administrative Procedures. The main concern was that the draft law contemplated the possibility of initiating an investigative and administrative proceeding without first notifying the employee and without giving him/her evidence pertaining to the case. In the approved version of the law this problem was resolved. However, to date no examples of implementation of the law or of cases uncovered due to the incentives provided by the law have been released by the government.

The present government was able for the first time to investigate and arrest on the grounds of corruption some very high officials, such as a deputy minister, a secretary general, a director of a general department and other officials at medium and low levels. In addition, the opposition formally accused a minister, a deputy minister and some other high officials of corruption and state capture, resulting in the lifting of the minister’s immunity by parliament. At the time of writing, the Prosecution Office has yet to formally charge that minister and no judicial verdict has been pronounced in the other cases.

According to the Union of Chambers of Commerce and Industry (UCCI)<sup>24</sup>, the public administration is clearly mistrusted, mainly due to corruption. The UCCI usually recommends its affiliated businesses to avoid direct contact with civil servants and public employees and thus to avoid opportunities for them to ask for bribes. The popular mentality among ordinary citizens – that nothing can be obtained from the administration without paying a bribe – also plays a role. The UCCI considers, however, that corruption in the judicial system is worse, due to its effects, than corruption within the public administration.

The UCCI considers that progress has been made in the fight against corruption in the customs administration in the past few years. However, in the tax administration corruption remains, which seems to affect more the small and medium-sized enterprises. This situation is deemed to be due to a large extent to the complexity of tax procedures<sup>25</sup>.

Other areas where corruption is a real problem are property registration (despite recent improvements) and urban planning and construction permits (at the level of municipalities), where the absence of plans for several years has left room for arbitrariness and corruption. It is often heard that “it is more important in terms of business priorities to get a construction permit in Tirana than to have the capital to build”.

Inspections and audits do not suffice to prevent corruption, and audit institutions look towards the administration, as they are not legally open to relationships with businesses. This situation makes audit institutions rather insensitive to businesses concerns. The supreme audit institution and judges are often seen as “abusing their independence” and as being largely unaccountable.

Dissatisfaction with the public administration, arbitrariness, illegal and unjustified decisions, and the lack of standardised licensing procedures are some of the reasons why the UCCI believes that it is necessary to legislate so as to render civil servants and public employees personally responsible for damages caused to

---

<sup>23</sup> Source: TIPA annual reports and website [www.itap.gov.al](http://www.itap.gov.al).

<sup>24</sup> Interview with SIGMA on 3 March 2008.

<sup>25</sup> However, for the Department of Internal Administrative Control and Anti-Corruption, customs and taxes are no longer areas of concern with regard to corruption (Interview of SIGMA with the Department on 4 March 2008).

businesses by their decisions. This sentiment and the proposal to legislate direct, personalised responsibility clearly show a lack of understanding of the role of the state. It is nevertheless the state's responsibility to make sure that its employees, organs and services work properly and according to the law. This situation also shows the weakness of the state and of the rule of law in their various expressions, including the administrative system and the judiciary. In essence, what all of these considerations demonstrate is that corruption and other weaknesses in the Albanian civil service and public administration stem from a culture of weak accountability, disrespect for lawful and responsible behavior, and the relative absence of sound and workable accountability mechanisms.

The Department of Internal Administrative Control and Anti-Corruption was established in early 2006 in the Council of Ministers to control ministries and their dependent institutions or agencies as well as the deconcentrated administration under the prefects. Complaints about local governments are outside the remit of this department. The department may receive complaints from citizens by mail; it is also possible for citizens to refer to the public relations department of the Prime Minister's Office and to a special telephone hotline. These complaints are then transmitted to the Anti-Corruption Department, which has discretion in handling these complaints. It does not intervene automatically but sets its own priorities. It recommends measures to be taken and follows their implementation. It may also refer the problem to the relevant authority, respecting the responsibilities of other institutions. The Ombudsman may also refer cases to the Anti-Corruption Department. The department also has a role in co-ordinating the gathering of information from other departments on corruption-related problems.

When there is an important case that may constitute a criminal offence, it is referred to the Prosecutor. Since the Anti-Corruption Department's creation, some 200 persons have been referred to the Prosecutor. There are internal inspection and audit bodies within ministries (e.g. General Directorate of Internal Audit in the Ministry of Finance), which operate independently, without having to go through the Anti-Corruption Department (e.g. in order to refer the case to the Prosecutor). However, the department may collaborate with them and sometimes it recommends improvements in their way of operating.

The Anti-Corruption Department is the counterpart to the GRECO of the Council of Europe. The third evaluation of anti-corruption policy by GRECO is to take place at the end of 2008. A number of suggestions previously made by GRECO have been adopted and implemented, such as the criminalisation and seizure of assets stemming from corruption. Political party-financing rules are in the process of being prepared in view of the upcoming GRECO evaluation. According to the department, the main corruption-risk areas include property restitution and registration and public procurement, although efforts have been made to reduce corruption, consisting principally of streamlining the relevant procedures to narrow the room for abuse (e.g. bribery, forgery of titles). Both public procurement and property restitution and registration procedures need simplification and streamlining to prevent risks of corruption.

Law no. 9663 on Concessions was passed on 18 December 2006, but it is too early to assess its positive or negative effects on corruption.

## ***2.2 Does the law fix the salary scheme and is the determination of individual pay transparent and predictable?***

### ***Classification of the Civil Service***

Article 11 of the Civil Service Law (CSL) makes a clear classification of civil service positions in institutions falling within the scope of the law. There are four general classes that may have different categories: a) civil servant of high-level management; b) civil servant of middle-level management; c) civil servant of low-level management; and d) civil servant at implementing level. In January 2008 approximately 4% of civil service positions within ministries were of high-level management, 13% were of middle-level management, 21% were of low-level management, and the remaining 62% were civil servants at implementing level<sup>26</sup>.

Each of the above four classes has two to three categories of civil service positions. The criteria used for this classification are as follows: a) resource management responsibilities; b) decision-making responsibilities; c) complexity and creativity; d) contacts and representation; e) required knowledge, skills and experience. As from 2006 the same categories of positions started to be used in all subordinated institutions. The government adopted a positions' grid that allows the comparability of all positions in almost all of the

---

<sup>26</sup> Source: DoPA.

institutions in the executive branch. The positions' nominations were also unified, giving more space for a future interchange and mobility of employees between institutions.

### ***Salary System and Pay Determination***

The salary system is centralised. Individual institutions have little leeway to adopt separate or different salary schemes and levels. The state salary levels and the salary ceilings for local government civil servants are approved by the CoM. There are three different salary schemes applying to different groups of public employees: a) salary based on class; b) salary based on grade; c) salary scheme of the CSL.

The class-based salary scheme is the old salary scheme that was applied until the new civil servants' salary scheme was put in place at the beginning of 2002. It remains in vigour only for ancillary and auxiliary positions (they are not civil servants) within ministries and public institutions. It is composed of the basic salary and various incentives applied on top of the basic salary, e.g. working conditions, working with dangerous material, and management supplement. In some cases the incentives are set by the head of the institution and may reach up to 100% of the basic salary<sup>27</sup>. On average, incentives range from 40% to 60% of the basic salary. This system is opaque and arbitrary and creates internal imbalances and inequity, as persons working under the same conditions and in the same type of job may be paid differently. Currently the DoPA is working to review the system and to ensure more transparency and coherence with the other systems, but the work is proceeding very slowly.

The grade-based salary applies to the armed forces, the police and diplomats (for each of these categories specific provisions exist). In these cases the employee is paid according to his/her grade regardless of the position he/she occupies in the organisational structure. These institutions have a career system.

In December 2001 the CoM approved a new salary scheme for the civil service, which began to be applied in 2002. This scheme is based on article 18 of the CSL. There are four salary components: 1) the basic salary (or salary group), which is a fixed component rewarding the pre-entry required qualifications for the job; 2) the seniority supplement, which is a percentage supplement applied each year to the basic salary (2% of the basic salary per year, up to a maximum of 25 years); 3) qualification supplement/special working condition supplement. Under the previous government this supplement was not in use, but in recent years it has started to be utilised for some categories of employees in various sectors. First it was applied to IT positions in order to face competition from the private sector, where the demand and pay for these positions are more attractive than in the civil service. Then it was extended to some other categories sensitive to corruption, such as Property Registers, Tax Administration, ALUIZNI Agency<sup>28</sup>, General Department of Prisons, and Public Procurement Agency); 4) position supplement, which is the largest part of the salary (in very high positions it constitutes up to 80% of the total salary) and represents the importance of the position within the hierarchy. The value of the position supplement is supposed to be determined by means of a job evaluation exercise.

This salary scheme is relatively transparent and leaves little leeway for discretion in determining individual salaries. The only variable part of the salary is the seniority supplement, which varies depending on the years of service of the person. This scheme has been applied to all civil service positions, including in local governments and in education and health care systems. It has been gradually extended to almost all subordinated institutions in 2006-2007, including the majority of public employees in the executive branch. Only support staff will continue to use the old system based on classes.

In 2006 and 2007 the government increased the salaries in some institutions, especially in the education and health care sector. In the health care sector the increase was 20-25% in 2006 and 22-26% in 2007. In the education sector the salaries were increased by 27% in 2006 and 22% in 2007. In the year 2006 the overall salary increase for the public administration was 19.8%<sup>29</sup>. The increases for civil service positions were a mere 5.5% in 2006 and 7% in 2007. Further salary increases are expected as from July 2008 in certain areas of public employment.

---

<sup>27</sup> The CoM decides the ranges/bands of the supplements, and the head of the institution decides the exact percentage to be applied for a specific employee.

<sup>28</sup> Agency for the Legalisation of Informal Zones.

<sup>29</sup> Source: DoPA, *Annual Report 2006* and *Annual Report 2007*.

In the civil service salary scheme no bonuses are paid, except for performance bonuses<sup>30</sup>. Institutions used to take the savings from unfilled vacancies to pay this bonus, but the Supreme State Audit considered that this practice was not in conformity with the law. It is suggested that institutions acted like this because the budgetary funds to cover the performance bonus represented only 5% of the wage bill, an amount that was not sufficient to develop a proper performance bonus system. As from 2006 the state budget includes a supplement of 15% of salary funds to be used to pay performance-appraisal bonuses. Unfortunately, by the end of the year, the government decided to apply a unique bonus system of 10,000 ALL (80 EUR) per public employee, regardless of the employee's performance<sup>31</sup>.

In 2007 the 5% threshold was legally reinstated. This is a shortcoming in the system, given the lack of necessary management mechanisms and capacities to effectively run a performance-related pay scheme, in addition to the current insufficiency of financial means to support the process. The way in which the government adopted these decisions is worrying, as it did not consult the DoPA and disregarded the need for developing workable performance management systems, which amounts to reintroducing more arbitrariness in the salary system.

Law no. 9584 of 17 July 2006 (i) regulates the salary levels of positions of high state officials by linking them to the salary of the President, which is the highest salary in the public sector; (ii) generalises the use of the same categorisation system and the positions titles of the civil service in independent institutions; (iii) delegates to the Council of Ministers the approval of the salary levels for these institutions, linked to the salary levels of civil service positions; and (iv) reserves to parliament the approval of the salary structures of institutions reporting to parliament.

However, due mainly to the fact that the government did not sufficiently explain this law, many institutions opposed it. In addition, the law was presented in a period of intense political conflict in parliament and the so-called "independent institutions" (autonomous entities reporting to parliament) and the opposition parties interpreted the law as showing the government's intention to exert pressure on the independent institutions' activities. As a result, the required parliamentary majority of 3/5 was not reached.

In addition, some of the provisions of Law 9584 were declared unconstitutional by the Constitutional Court, which considered that the double contradictory regulation gave prevalence to the original regulation of special organic laws. As a result, the new legal framework is only applicable to some institutions, leaving some other institutions of the same category outside the general regulation. This situation adds further fragmentation to the system and creates discontent within some institutions. In addition, parliament delayed for a long time its approval of structures for institutions within the scheme, which resulted in a situation of uncertainty in the concerned institutions and in some cases made it difficult or even impossible to pay staff salaries. Only in December 2007 were the salary structure and salary levels in these institutions finally approved.

The civil servants' salary scheme has other shortcomings. The CSL establishes a position-based system in which a civil servant has to be promoted in order to receive a higher salary. Few promotion possibilities exist as higher vacant positions are less and less available up towards the top of the institution. For that reason, a horizontal career development system was designed in 2005 with the assistance of a project financed by the European Commission in the framework of the CARDS programme. If applied, a civil servant can be promoted – depending on his/her performance – but only in terms of salary while staying in the same position. This system was expected to be introduced in some institutions on a pilot basis before being implemented on a larger scale. Recently the government abandoned the implementation of this system, mainly because of the limited results of the performance appraisal process, but also due to the lack of capacities in the DoPA, Ministry of Finance and other institutions.

As pointed out in Sigma's June 2006 assessment report, the largest anomaly in the system was the utilisation of "secondary revenues" (revenues produced by the activity of institutions that were not apportioned by the state budget) to pay personnel. The legal regime of "secondary revenues" had been established by CoM Decision no. 421 of 1998. The scheme allowed for "secondary revenues" to be spent on investments, operations and personnel. Each institution had to agree with the Ministry of Finance on which percentage was to be spent respectively on each of these expenditure items. The part spent on personnel was used to pay supplements on top of the regular salary, even though there were no established criteria for such payments. This regime was abolished by CoM Decision no. 432 of 28 June 2006, which repealed CoM Decision

---

<sup>30</sup> For more details, see below in the section on Performance Appraisal.

<sup>31</sup> Idem.

no. 421. Currently, 5% of the total payroll may be used as a fund for cultural and social purposes, and also still for paying certain personnel bonuses.

Based on the available data, it appears that civil service pay is reasonably competitive compared to the private sector<sup>32</sup>. The salary scheme needs to be unified for all public employees and made more transparent. The discretion of managers in determining individual salaries needs to be reduced in some sectors or institutions. Although a Salary Strategy was approved in 2004, government interventions with regard to salaries have been erratic, sometimes approved in a rush without proper consultations. Political distrust between the various parties in parliament has negatively influenced some major decisions in this area, where interventions produce long-lasting effects stretching beyond political election cycles.

### **2.3 *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?***

#### ***Promotion and Mobility***

According to article 15 of the CSL, there are two ways for career development: lateral transfer and vertical promotion. In either case the procedure requires competition. In addition, for vertical promotion examinations are required as well as the competition of at least four candidates who are in positions immediately below the vacant position in the hierarchy. In practice when a vacancy is opened and published, the first step is lateral transfer. If there are no applications for the transfer procedure, then the promotion procedure begins. If there are no applications for the vertical promotion procedure, then the competition is open to any interested candidate from inside the civil service.

According to the DoPA, vertical promotions and lateral transfers have been scarcely used, however. This is mainly due to the fact that civil servants are unaware of the possibilities offered by the CSL and because these procedures start with the application of the civil servant to a vacancy rather than from any initiative of the institution. On the other hand, in some cases the institutions have rejected proposals for lateral transfers, preferring open competition on the grounds that it offers more possibilities for choosing the best candidate. However, the widespread use of temporary contracts influences the application of mobility procedures. The prior decision concerning the person to be employed in a vacant position, even before the vacancy is announced, inhibits the desire or opportunity of existing civil servants to apply for promotion.

The lateral transfer procedure presents a shortcoming regarding the probationary period. A transferred civil servant will again undergo a probationary period for one year. This requirement is useless and meaningless, because the incumbent has already passed the probationary period in the previous position and in this case there are not many additional functions since the positions are at the same level. Also, in the case of vertical promotion there is the requirement of a minimum number of candidates for the procedure to go forward. This requirement is a useless barrier for existing civil servants and has the effect of lowering the number of promotion procedures. In addition, the system allows vertical promotion only from a position at the level immediately below that of the vacancy. The system does not allow a promotion of two or three steps in the career scale, and thereby places candidates from inside and outside the service in the same situation.

The CSL also establishes the rules for a transfer resulting from institutional needs. In this case a civil servant can be temporarily transferred to another position at the same level for a maximum of six months. The institution submits the transfer proposal to the DoPA for approval. The civil servant is entitled to all of the rights of the new position, but these may be fewer than those of his/her permanent position. The civil servant can refuse the transfer only if the location of the new job is further than 30 km. from his/her current workplace.

Suspension without salary from the civil service is possible in cases where a civil servant has been appointed to a political position, has been granted permission for long-term training, is under investigation for a criminal offence, or is serving in the armed forces. Once the suspension period is over, the civil servant has to be reinstated in his/her previous position or in a similar one.

#### ***Public Service Attractiveness***

The public service seems to be attractive to young people, who consider that some years of experience in the public sector will be productive for their future careers. Usually employment in the public sector is seen as

---

<sup>32</sup> See World Bank report cited above.

being the first step towards future employment in the private sector because the public sector offers fewer career advancement possibilities and political and personal relations are crucial for that progression. In 2004, the Albanian Government decided to lower the barriers for participation in recruitment competitions in order to attract recently graduated students from universities. This decision, together with the review of salaries, produced an increase in the average number of participants in recruitment procedures, and few competitions were cancelled due to a lack of candidates. However, this situation has now changed, mainly due to the proliferation of temporary contracting (see above).

Another reason for public service attractiveness is the informality of the private sector and the instability of the Albanian internal labour market. Many Albanians have chosen to leave the country to find gainful employment. The remittances flowing from this offshore employment are a critical source of income, but migrants also represent a “brain drain” for the country. Both informality and migration are consequences of the fundamental problem that employment is not growing overall and especially not in the formal sector<sup>33</sup>.

To face the “brain drain” process, the government with the support of UNDP launched in 2007 a “brain gain” initiative. This project is intended to attract into the public administration Albanian professionals who are working abroad or who graduated from renowned foreign universities. Within this framework, the regulation on recruitment in the civil service was amended with regard to the points for university postgraduate candidates (see above). In addition, the government decided to award a “qualification bonus” for all civil servants working in central institutions if they possess a post-university qualification (masters or doctorate degree). If this is the case, a consistent bonus is to be added to the monthly salary of the civil servant. However, even though the government approved the “qualification bonus” scheme in July 2007, at the time of writing the bonus has yet to be applied. In any case, it is far from clear whether the “qualification bonus” would have any positive effect. It is likely that it would only add more distortion to the salary system. The introduction of this salary supplement shows once more the erratic decisions of the government on personnel policy and the lack of proper consultations.

According to a recent report produced within the framework of the above-mentioned “brain gain” programme<sup>34</sup>, “the most important shortcoming is the fact that this system does not offer clear career development opportunities. Actually there is not any element of manpower planning wherefrom the system could be piloted and managed as a whole, in order to attract, test, identify, appraise and promote outstanding individuals. There are legal provisions in the CS Law, such as article 15, which could open some ways for such a management if the possible combination of lateral transfer with the vertical promotion mechanism was more comprehensively understood. With some more anticipation and planning than the personnel data base may now permit, vacancy opportunities could be combined in an individual and collective movement based on performance appraisal and long term vision of the needs for more experienced practitioners”.

Despite these initiatives it seems that the civil service is not attracting the public the same as before. Among the reasons are the highly politicised recruitment process and the use of temporary contracts for recruitment. The employment of civil servants with contracts, without passing a competitive process, and the organisation at a second stage of a formal recruitment procedure to legalise the existing situation have severely damaged the trust of the public in a professional and impartial civil service. Only for 2.7% of the competitions organised in 2007 has a complaint been lodged with the CSC, showing that in most of the cases the competition procedure was a mere formality.

Another indicator that shows the system’s decrease of credibility is the average number of applicants per vacancy<sup>35</sup>. The variation of this indicator is reflected in the variation of the percentage of civil servants employed with temporary contracts. The number of candidates has decreased significantly in the last two years<sup>36</sup> as has the number of applicants:

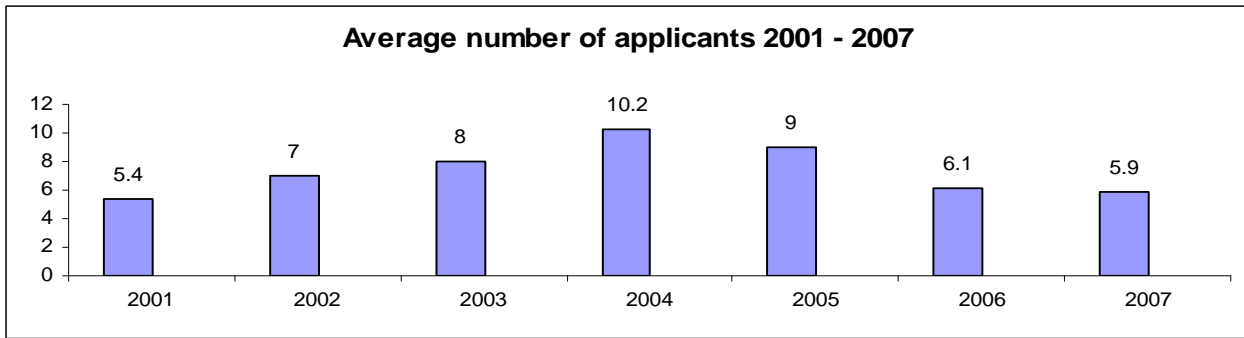
---

<sup>33</sup> See World Bank, *Albania: Labour Market Assessment*, Report no. 34597-AL, May 2006.

<sup>34</sup> Jean Marie Roussignol for UNDP / Albania Brain Gain Programme, *Rapid Assessment of Critical Capacity Gaps in the Albanian Public Sector: Enabling the Brain Gain Programme (BGP) to Identify Diaspora Expertise*, report delivered to the DoPA on 25 January 2008. This report was made available to Sigma by courtesy of the DoPA.

<sup>35</sup> Source: DoPA.

<sup>36</sup> It should be borne in mind that competitions are cancelled if there are not at least four candidates.



### 3. Management of the Civil Service

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

The CSL (articles 4 and 5) created two institutions, charged respectively with the tasks of managing and monitoring the management of the civil service at the state level. The Department of Public Administration (DoPA) has the task of managing the civil service in central institutions, while in independent institutions the human resource units fulfil this function. The Civil Service Commission (CSC) supervises the legality of management decisions concerning the civil service and judges the appeals of civil servants in all areas connected to the civil service statute: recruitment, administrative proceedings, probationary period, performance appraisal, functional review, etc. The CSC is an administrative body with adjudicating powers, preceding recourse to the courts.

The DoPA, with 18 staff, is entrusted with developing civil service policies and issuing general instructions related to recruitment, performance appraisal, job description and job evaluation, functional review and salary structure. The DoPA supervises the implementation of civil service regulations by ministries, and proposals of institutions regarding the above-mentioned issues must be agreed by the DoPA prior to approval by the CoM. Ministries have been strictly controlled by the DoPA, whereas HRM information from other institutions is lacking.

The 1999 CSL established the DoPA within the Prime Minister's Office (PMO) so that it would have a general overview and control of the civil service in all ministries. At the end of 2005 the government transferred the department to the Ministry of Interior on the grounds that the public administration was an internal issue, and thereby diminished the centrality of the institution. In parallel, the DoPA's regulatory and monitoring capacities have been de facto weakened. Staff changes and the replacement of the director five times in the last three years have negatively affected the work of the department. Under the Ministry of Interior the DoPA lost the oversight capacity of all the system and as a result many legal acts in the areas covered by the DoPA were approved without the department having been consulted<sup>37</sup>. This situation may lead to the fragmentation and deconstruction of the still fragile Albanian civil service system, which runs the risk of disintegrating. In addition, the DoPA was moved to totally inappropriate premises, which negatively influenced the performance of its everyday duties. The institution was not supported with the supplies and services that were necessary to maintain the same quality of service to the public. As a result, the website has not been working properly and, what is more important, the HRMIS risks failure (see the sections below for detailed information).

The Civil Service Commission (CSC) is an independent body that reports yearly to parliament. Its main task is examining complaints of civil servants regarding their statutory rights. Decisions of the CSC are mandatory for institutions, although they may appeal to the courts. In fact, quite often ministries and institutions delay the implementation of CSC decisions until they are confirmed by the courts. Even in these cases the ministries are reluctant to apply CSC decisions, making it necessary for the Bailiffs' Office to intervene in order to enforce them.

The CSC has control powers over the management of the civil service. This competence has resulted in some disputes with the DoPA. A Memorandum of Understanding was signed in 2004 to resolve these disputes. The CSC should focus its supervisory role on independent institutions and local governments, areas in which the DoPA has no competence. The CSC, despite some efforts, has failed to do so, mainly because of lack of

<sup>37</sup> EC, *Albania Progress Report 2007*.

staff and capacities. Legal procedures in the CSL to enforce CSC recommendations are long and ineffective, but the main problem is the refusal of institutions to comply with the CSL regulation. There is not a single example of an institution enforcing a CSC decision without passing through the court. Parliament and the government have influenced the activity of the CSC by exerting pressure in order to obtain favourable decisions. In addition, difficulties and unjustified delays have occurred in replacing members of the CSC at the end of their mandate<sup>38</sup>. This situation of uncertainty has caused internal conflicts in the CSC, which have negatively affected its activity during the second half of 2007.

In ministries and institutions, units for human resources management have been created. Their main responsibility is the day-to-day management of human resources. One issue is that the personnel in these units not always have the skills to communicate their findings and proposals effectively, with the result that they are hardly listened to by higher managers. However, the DoPA has organised several training sessions for them, but to little avail due to the high turnover in these units.

Secretaries general are responsible for personnel within ministries. There is a problem in that the authority of secretaries general is not recognised by the entities subordinated to the ministry. The consequence is that if a secretary general issues an instruction to ministry staff, the minister has to issue a similar instruction to the ministries' subordinated entities as they will not act on an order from the secretary general. The high turnover of staff in these positions since 2005 has had a negative effect on the activities of institutions and the sustainability of civil service professionalism.

### ***The DoPA and the CSC***

The Civil Service Commission (CSC) and the Department of Public Administration (DoPA) are important institutions for civil service policy, but their co-operation has not always been optimal and needs to be developed, especially to resolve issues on which they hold different viewpoints. Such is the case, for example, of the temporal validity of waiting-lists. According to the DoPA, the right to be rehired expires at the end of the year of salary coverage, while the CSC dissociates these two and considers that the right to be re-employed continues for a reasonable period of time. The CSC's position on this issue would undoubtedly better protect this right and prevent it from being circumvented.

The CSC, as an independent institution, is not easily accepted by politicians. As could be expected, there are problems in the interpretation of the Civil Service Law (CSL) and the role of the CSC. Furthermore, as a collective organ, the CSC experiences disruptions in the efficiency of its operations. This is due in part to the lack of experience concerning the operation of collegiate organs and the law on collective bodies (e.g. relationships between the chairman and the other members).

Although the quality of CSC decisions is generally good and they are generally confirmed by the courts (in the case there is an appeal to the court), these decisions –as well as the decisions of the courts -- have little impact, as most often they are not respected by the administrative bodies that have to enforce them. This situation has limited remedies under the current circumstances, as the existing redress mechanisms are rather weak. CSC decisions face enormous implementation problems and their acceptance and respect by the public administration seem to be more the exception than the rule (only in two or three cases in the whole history of the CSC was the decision of the CSC immediately enforced by the administration).

The CSC should gradually develop “jurisprudence”, a body of doctrinal principles contributing to the shaping of a professional civil service. This jurisprudence could serve as a basis for recommendations (not only to the DoPA but also to politicians) on civil service policy, together with the court's jurisprudence, which could be incorporated later on in the CSL as employment guarantees and other features. To do this, the CSC has to co-operate with the DoPA, whose authority should also be strengthened as the competent government agency on civil service policy and management.

### ***3.2. What are the main management tools used in practice?***

#### ***Performance appraisal***

The CSL (article 16) sets the obligation of institutions to appraise their civil servants yearly. A CoM Instruction in this regard was approved in 2000, but the first appraisal process did not take place until the end of 2002. The performance appraisal has three important consequences for a civil servant: 1) At the end of the

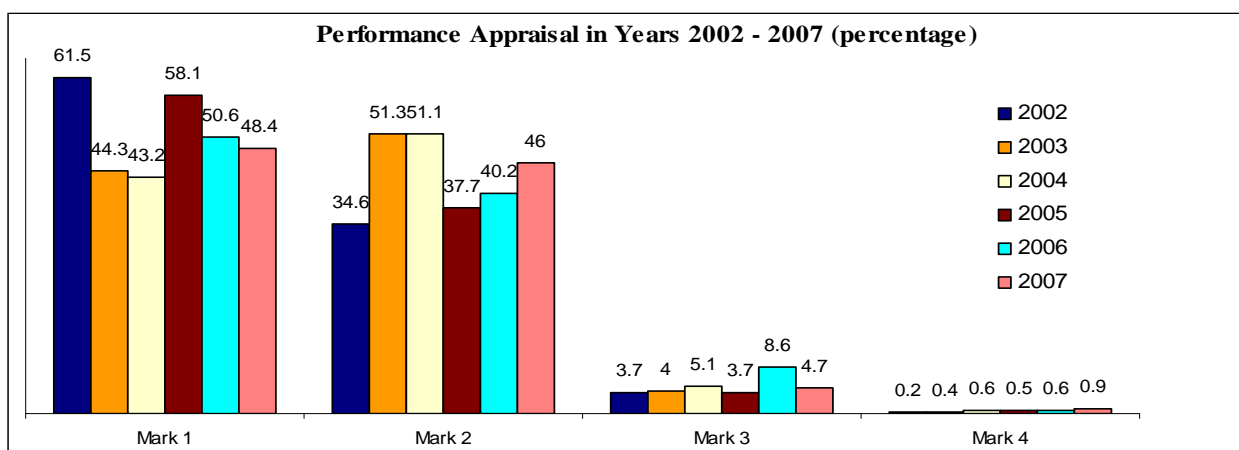
---

<sup>38</sup> In one case the replacement period lasted for more than eight months.

probationary period, the suitability of a civil servant depends on the appraisal. A negative appraisal may lead to the dismissal of a civil servant from the position. In practice this situation has occurred very rarely<sup>39</sup>. 2) A positive appraisal is a factor favouring promotion or lateral transfer. In cases where a civil service position is abolished and a civil servant is declared redundant, the performance appraisal results are one of the factors that are taken into consideration for selection of those civil servants who will stay. 3) A performance-related pay scheme (performance bonus) has been established. The civil servant appraised with the mark of 1<sup>40</sup> is paid a bonus of one month's salary for good performance. Civil servants appraised with marks 2 and 3 are respectively paid 70% and 50% of one month's salary as a performance bonus. In the CSL it is established that this bonus is to be given if there is budgetary affordability. The amount of the performance bonus was changed in December 2007<sup>41</sup>. Previously the performance bonuses had been the equivalent of three months, two months and one month of salary for performance marks 1, 2 and 3 respectively.

In practice, however, the performance appraisal scheme has not achieved the expected results. Reliable data on appraisals exists only for ministries. In local governments and other small institutions within the scope of the law, the scheme has not been applied. In ministries performance appraisal was formally carried out from 2002 to 2007, with the exception of 2005, when the process was followed only in a few ministries because of the change of government, the merger of some ministries<sup>42</sup> and the instability in the administration that occurred at that time.

The following chart<sup>43</sup> shows that a majority of civil servants was given high marks. As a consequence, the bonus was applied only in selected cases because the financial means were insufficient to pay the bonus in the way it was established by the CoM Instruction. The bonus was proportionally reduced or in some cases employees received across the board the same amount. At the end of 2006 the government decided that all public employees should receive the same bonus, regardless of their performance (approximately 80 EUR, which is less than 30% of the minimum wage in the civil service). In a way, this decision made the performance appraisal process useless by hollowing out its incentive-giving purposes.



In practice the exercise was very subjective. No links with the general performance of the institution were made. For example, in spite of the fact that many of the government's engagements in the framework of the EU Stabilisation and Association Process were not fulfilled, the civil servants in charge were appraised as having performed excellently. This shows a poor understanding of the reasons for and philosophy of the performance appraisal; the process was done only formally, without a genuine assessment of whether objectives had been achieved. Instead the personal relationship between the civil servant and the direct superior took prevalence. The assessment interview took place in rare cases and even then it was again a mere formality. The DoPA tried to raise awareness of the process by organising training for civil servants, but to little avail due to the high turnover of civil servants.

<sup>39</sup> According to the DoPA, only in three cases was a civil servant dismissed after a negative appraisal mark.

<sup>40</sup> Mark 1 is the highest in a scale of 4.

<sup>41</sup> CoM Instruction n 5 of 19 December 2007.

<sup>42</sup> The current government reduced the number of ministries from 17 to 14 at the end of 2005 by merging several of them.

<sup>43</sup> Source: DoPA, *Annual Report 2007*.

With the amendments to the regulation approved in December 2007, the DoPA tried to improve the legal and theoretical bases for the appraisal process. Unfortunately, these amendments turned out to be a legalisation of the existing bizarre situation. Previously, “mark 1” corresponded to the civil servant whose performance was excellent, having achieved not only all of the pre-set objectives but also results that were beyond expectations. With those criteria, very few civil servants should have been appraised with the mark 1. In the amendments approved in December 2007, mark 1 corresponds to the civil servant who has simply achieved the pre-set objectives, thereby lowering the level of expectations of civil servants’ performance and eliminating the possibility of distinguishing between civil servants whose performance is excellent and civil servants whose performance is good. At the same time, this set-up diminishes the incentives for a civil servant to perform well.

Another negative factor of the appraisal process is the insufficiency of funds accorded by the government for this purpose (see above, in the section on salaries). Likewise, the new limits for the bonus decided in December 2007 are too low to stimulate the good performance of civil servants. These financial means are not sufficient to support a proper performance management exercise.

Civil servants may challenge the appraisal’s results before the Civil Service Commission, but since appraisals have in general been positive, few complaints have been lodged with the CSC. Prior to going to the CSC, a civil servant may file an internal administrative complaint with the secretary general of the institution, but this intermediate step is not obligatory. In the most recent practice, cases have been observed of civil servants appraised negatively, but without any reason given in the form from the direct superior, just the marks. This leads one to think that the appraisal was carried out only formally, with the intention of exerting pressure on the civil servant and of using the results in future processes, such as restructuring. The fairness of the system is thereby also put in jeopardy.

### ***Job Description and Job Evaluation***

The introduction of job descriptions has begun in institutions falling within the scope of the CSL. The CoM approved an instruction on drafting job descriptions and designating the responsible persons in institutions. In each institution a position of job analyst was created within the human resources unit. The direct superior was responsible for establishing the principal tasks that a position is entrusted with, and the job analyst was responsible for the harmonisation of that position with the other positions in the institution. Since positions already existed and were occupied and the job-holders had a role in drafting the original job description, problems arose as the job-holders tended to “bias” the job description to fit their own particular skills.

From 2002 onwards the drafting of job descriptions was associated with job evaluation exercises. With the approval of the new salary scheme, the job evaluation exercises gained importance. The job evaluation exercise was decentralised at the very beginning. In this way institutions were to propose descriptions and evaluations of their positions and the DoPA had to monitor and agree on the proposals before they were submitted to the CoM for final approval.

This process failed. Ministries proposed categories that represented an inverted pyramid. Almost 60% of the specialist positions were categorised at the first salary level, 30% at the second salary level and only 10% at the third salary level. This situation was the result of the work of non-trained personnel combined with the desire to take maximum advantage of the salary increase. After one year of negotiations, coupled with training, the situation remained unchanged. As a consequence, the DoPA decided to recentralise the system and to carry out job evaluations on its own if ministries did not fulfil certain conditions. First of all, fixed percentages of the positions within the salary levels were established, and only in very exceptional cases were they not respected. The DoPA clustered similar positions in various ministries and applied the fixed percentages to all of them. As a result, supporting positions were set at the same salary levels in all ministries. Ministries had the liberty of distributing job positions in the established categories, although the DoPA intervened in cases where a policy-making position was categorised at a lower level. Later on the DoPA and the Ministry of Finance also maintained their decision-making power in the distribution of positions among salary levels<sup>44</sup>.

According to the approved methodology in each institution, special evaluation commissions were to be created, but in reality that never happened, or if it did happen their work was insufficient. Although a large

---

<sup>44</sup> The proposal of job evaluation for the ministry is made by the minister, and prior to the approval of the Prime Minister the proposal must be reviewed by the DoPA and by the Ministry of Finance. Without their consent the proposal is not submitted to the Prime Minister.

training initiative took place, in the end capacities were not in place and job analysts were not able to fulfil their functions. Furthermore, a point-ranking system was never put in place and no points were awarded to positions. In 2006 a project financed by the EU within the CARDS programme tried to develop an analytical point-ranking system, but with no tangible results. Institutions and the DoPA have practical difficulties in implementing this system because of the lack of capacities, limitations of financial resources, and the centralisation of the system. The existing system does not allow differences between positions of the same denomination in similar institutions, i.e. department directors are paid the same across all ministries, regardless of their real tasks.

In 2005-2006 a large-scale functional review process took place and ministries were organised around four main areas: policy-making, regulation, service delivery and support services. During the implementation phase, the DoPA imposed on ministries the evaluation of positions in policy-making departments at the higher salary level. The financial expenditure was controlled by the Ministry of Finance.

However, with regard to subordinate institutions, the general categorisation of public employment positions in the executive branch was carried out in mid-2006. The positions' titles were unified. This process occurred in parallel with the salary increase. This general categorisation now allows the comparability of all public positions in ministries and subordinate institutions. In view of a likely future expansion of the CSL's scope, this unification will facilitate the mobility and career prospective of public employees. The subordinate institutions were divided into three categories, according to the importance and functions of the institutions, with distinctions in terms of job evaluation and salary levels.

The general categorisation was carried out based on the principle of hierarchy of institutions, which could lead to unfair and untenable situations for staff. Furthermore, even taking this categorisation at face value, it does not bring about sufficiently consistent institutional analyses, as the actual importance of a given institution is difficult to determine. Sometimes these subordinate institutions are created as separate entities because they grow too large, in terms of budget and personnel, becoming unmanageable within a ministry, as happened with the General Department of Roads. Another example is the recently created Concessions Agency, which was intended as a specialised institution offering professional advice to all institutions on concessions issues. Its placement under the Ministry of Economy, however, automatically decreased the level of evaluation of positions, regardless of the important decisions that this institution may take.

The DoPA justifies this strategy by the functional division between institutions, giving prevalence to ministries as policy-making and regulatory bodies and allocating to subordinate institutions second-class regulatory and service-delivery functions. This approach, which may be seen as correct from a certain viewpoint, should not be taken as a principle for personnel-related matters. The DoPA's rigidity in allowing exceptions to the rule is considerable, which is understandable given the weaknesses of the job evaluation process. The use of the supplement for special working conditions to address the situation is improper and negatively affects the overall system.

Job description and job evaluation continue to be centralised and the problems of job evaluation in subordinate institutions will soon surface due to the possible extension of the scope of the CSL and the *de facto* weakening of the DoPA. The process is anticipated to be difficult, as ministries and institutions will have no possibility of establishing separate salary structures and levels. Fortunately, the system as it is currently designed does not permit flexibility to address specific needs and requirements. If eventually the tight control of the DoPA over the system is further loosened, which is already happening, the whole civil service construct runs the risk of crumbling. Examples of pressure exerted on the DoPA to change the categorisation of an institution from a lower category to a higher one are evident every day.

Another issue observed is the personalisation of the process. Job description and job evaluation have always been seen as connected to the person occupying the position. Usually the job description has been drafted by the job-holder and in accordance with his/her qualifications or even preferences. Moreover, ministries tend to consider the person holding the position and not the position as such, which leads to a situation whereby civil servants with the same job description are paid differently. This situation, although foreseen at the beginning and considered as temporary, still persists and few efforts have been made to redress it.

### ***Restructuring of public institutions***

In 2005-2006 a large-scale functional review took place in ministries, followed in 2006-2007 by a review of the majority of subordinate institutions. The ministries were organised in pillars, corresponding to the functions allocated to each department, according to the principle of ministries performing policy-making

functions (but not only) and subordinate institutions performing regulatory and service-delivery functions. This division of functions, although useful with regard to the policy-making function, should not be extended in all cases to other functions, such as personnel management. However, the functional reviews helped public institutions better define their roles and functions.

The functional review exercise coincided with the staff reduction initiative adopted by the government. From 2005 to 2008 the overall staff reduction in the public administration resulted in a diminution from 110,000 to 104,700 public employees. The number of civil servants in ministries decreased from 1667 in 2005 to 1470 in 2008, with a net reduction of 197 civil servants, or almost 12%.

However, the restructuring of ministries and the staff reduction were not carried out for the purpose of improving performance and making savings from the budget allocated for salaries and operational expenditure, but mainly for political reasons, i.e. to enable the employment of politically connected candidates. The shortage of staff was accompanied by the registration on a waiting-list of all of the civil servants who had been declared redundant. In 2006, 367 civil servants or 27% of all civil servants<sup>45</sup> were registered on the waiting-list and were paid the same salary as they had received before being declared redundant. At the same time, 339 positions became vacant in 2006, and that year the DoPA organised 140 competition procedures for recruitment in ministries, ignoring the legal requirement of appointment without competition of civil servants registered on the waiting-list. Only 21 appointments concerned persons on the waiting-list. The government accepted to pay the salaries of all civil servants on the waiting-list for one year, instead of reintegrating them in vacant positions. The situation was the same in 2007, although by the end of the year there were 330 vacant positions.

Another issue concerning the organisation of the administration and the sustainability of the civil service is the frequency in changing organisational structures. In 2007 the structures of the 15 ministries were changed 26 times in total, which indicates that the interventions were made erratically, without a thorough analysis of all factors and functions.

Duplication of structures and functions is manifest across the administration, and despite some recommendations resulting from the functional review exercise no efforts have been made to redress the situation. On the contrary, new institutions with overlapping functions were created only recently. The government also recently transferred the function of oversight for construction work in the territory to local government authorities, and the former “Construction Police” was also transferred to the local government level. However, in parallel under the Ministry of Public Works a “Construction Inspectorate” was created, with branches all over the country, clearly duplicating local authorities and creating the grounds for future disputes on material competencies. Another example is the Agency for IT and Communication Society under the Prime Minister’s Office, which has been given the functions of policy-making for the government in the IT area, thereby duplicating an entire department in the Ministry of Public Works, Transport and Telecommunications that has the same functions. Under the Ministry of Tourism, Culture, Youth and Sports, the National Agency for Tourism is functioning with 24 employees, whereas within the ministry there are two departments with 19 civil servants exercising the same tasks. When the ministry was reviewed, one of the recommendations was to abolish one or the other of these structures and to concentrate the functions and staff in a single entity. Other examples may be found. The government should take the necessary steps to eliminate these duplications, which negatively influence the activities and the implementation of functions allocated and increase significantly the number of staff and expenditures.

It should be noted that the lack of employment guarantees and the insufficiency of the system of waiting-lists are aggravated by the wide discretion in organisational restructuring, which usually leads to dismissals. The CSC cannot easily evaluate technically these restructurings and any abuses aimed simply at getting rid of certain staff members<sup>46</sup>. Nevertheless, the CSC’s decisions are generally based on very thin grounds, and the high numbers of decisions in favour of civil servants indicates that a great deal needs to be done in terms of employment guarantees for the civil service.

## ***Training***

The civil service legislation establishes the obligation of training for civil servants during the probationary period and in the case of a change in the job description following a functional review. In these cases the

---

<sup>45</sup> Source: DoPA, *Annual Report 2006*.

<sup>46</sup> For example, it is hardly believable that the Tax Administration required 118 dismissals because of restructuring in 2007, out of 150 complaints filed against that department before the Civil Service Commission.

institution is obliged to offer training to the civil servant<sup>47</sup>. However, promotion within the civil service is not linked to training for the time being, although this is a topic under discussion in connection with the public administration reform strategy currently being prepared.

To accompany the building of the civil service system, along with the passing of the CSL, the Council of Ministers (Decision no. 315 of 23 June 2000) created the Training Institute for Public Administration (TIPA) to train civil servants. TIPA is directed by an advisory board composed of the secretaries general of ministries and representatives of universities and runs its activities under the direct supervision of the DoPA. The DoPA approves the annual and multi-annual working programmes of TIPA and the annual reports on training that have been delivered by TIPA.

TIPA was created with the support of UNDP, which financed its first years of activity. TIPA started to deliver training in 2002 after a period of institutional consolidation during which training needs analyses were carried out. Since 2004 the activity of TIPA has been financed primarily from the state budget and only separate projects are supported by various donors. In 2005 a total of 65% of TIPA's activity was financed from the state budget and the remaining 35% by international donors<sup>48</sup>. As TIPA has built a considerable experience and credibility in delivering training, donors tend to rely on the Institute to facilitate training activities that they have financed in various areas and with various target groups. In 2008, according to oral data provided by the director of TIPA, funding by the state budget is 95%, whereas the remaining 5% comes from international donors.

TIPA staff are training managers, but not trainers; all of its experts and lecturers are contracted out. Trainers are recruited from public institutions [practitioners] (60%), universities (20%) and civil society (20%)<sup>49</sup>.

TIPA delivers two types of training, namely general and specific. The general training consists of general administrative law on the functioning of the public administration and is usually targeted to junior civil servants on probation (induction training). TIPA also delivers training to small target groups on very specific and technical issues, such as EU integration and public finance.

A unit on training in financial matters was created in 2005 as a part of TIPA. Another unit on training for local government was created in February 2008. These marked an important evolution of TIPA's role by stressing the importance of specialised training. Special attention is paid to EU-related training. A special training strategy was approved, covering a long-term period stretching from the Albanian EU association process up to EU membership. The training activities foreseen in this strategy started to be delivered in 2005. In 2007 a total of 328 civil servants were trained in EU-related matters. Statistics on the increasing number of participants in training activities (4489 in 2007 compared with 2360 in 2005) and the decreasing costs of training – while keeping the same quality standards (6.4 on a gradient of 1 to 7, with 7 indicating the highest standard) – can be found on the TIPA website ([www.itap.gov.al](http://www.itap.gov.al)).

The TIPA and the Association of Municipalities dispense training for local government employees. The former is more inclined to provide basic training while the latter contributes to more specialised subjects, such as new legislation. It also offers services such as dissemination of best practices and more general information (e.g. when a bill is drafted). Apparently TIPA is not seen by the Association of Municipalities as being sufficiently sensitive to local government training needs, despite the presence of local representatives on TIPA's board. The Association also provides training on subjects such as local economic development and project design, while TIPA collaborates on the organisation of training with the three existing associations at local government level (i.e. municipalities, communes and regions).

Training needs analyses have constituted a crucial exercise but have presented some shortcomings. At the beginning of TIPA's activity, these analyses were not that important, as public administration employees required training in various fields and all of the training offered by TIPA easily found "clients". In time, civil servants became increasingly interested in specific training related to the specific processes of their work. To meet their needs, TIPA carried out a training needs analysis implicating all institutions, but this was ineffective as the institutions were not able to properly perform the exercise or identify their real training needs. Furthermore, there was also an improper implementation of the performance appraisal scheme. With the support of the EU, a detailed process of training needs analysis was designed in 2006 but was never

---

<sup>47</sup> Paragraph 12 of CoM Decision no. 315 of 23 June 2000 and articles 14 and 24 of the CSL.

<sup>48</sup> Source: TIPA, *2005 Annual Report*.

<sup>49</sup> Source: TIPA website [www.itap.gov.al](http://www.itap.gov.al).

implemented. Institutions usually see the process of training as a complementary activity for their employees and do not devote the required attention to improving the capacities of their civil servants.

It needs to be stressed that training needs are largely influenced by the type of civil service in place (e.g. career vs. generalists). Therefore, the lack of clarity or awareness concerning training needs may be linked to the current structure and development of the Albanian civil service. Additionally, the high staff turnover in a mainly position-based system may lead to a waste of training resources, in the event that those trained move to other public or private organisations before they really make their contribution to the institution that had invested in their training.

Another negative aspect to be noted is the lack of impact assessment of training on the performance of civil servants. Almost none of the institutions has carried out post-training evaluation. Sometimes these institutions just sent employees to training because they felt obliged to do so and not because the employees really needed it. This situation has really decreased the interest of civil servants in participating in training because often their concerns did not fit with the training topic. TIPAs were obliged in some cases to shorten training sessions because of the lack of participation or because of the lack of interest and interaction from participants.

### ***Gender Equality***

The number of women working in the civil service is higher than the number of men, but men are dominant on the upper hierarchical levels. According to a DoPA survey of May 2005, women represent 55.8% of all civil servants in ministries and men 44.2%. In 2007 the newly recruited civil servants were 60% female and 40% male. Most managerial positions (56%) are occupied by men (all managerial levels combined). Only three secretaries general are women and the rest (12) are men. In the Council of Ministers there is only one female minister.

### **3.3 *Are staff numbers and personnel costs controlled and published?***

#### ***Information for HRM Management***

The CSL imposes an obligation on public institutions to develop staffing plans for the forthcoming year. However, due to the lack of institutional capacities to forecast future developments, this obligation is rarely respected.

General staff numbers are limited each year by the State Budget Law and are spelled out in a decision of the CoM (issued usually in March), which establishes limits to the number of personnel for each system (i.e. education, police) and for each institution. The Ministry of Finance supervises its implementation. Individual institutions have no possibility to exceed these numbers, except in cases where they have funds available other than from the state budget and with the approval of the supervising authority. Only through amendments to the decision of the CoM can institutions obtain a green light for adding staff. In the absence of this authorisation, the institution would not be able to pay the employees newly added to the payroll.

Accurate and reliable data on staff numbers is not readily available. The DoPA has reliable data only from ministries and the Prime Minister's Office, but not from other institutions because they do not report to anyone on their human resources management. The Ministry of Finance has data reflecting the total number of personnel in the institutions financed by the state budget, but data are missing for the institutions that are self-financed or that generate their own revenues (see "secondary revenues" above, under the section on the salary system).

The inexistence or inaccuracy of data related to staff reflects the absence of a functional central management personnel database and of a system concerned with analysing staffing needs. Since 2001, the DoPA has been developing a central personnel database of all public employees. This project, initially supported by the EU and after by the World Bank, is not yet functional, although some progress has been made. The system will be interactive with the Treasury (Ministry of Finance) for the calculation of the public employees' payroll. This system will allow for the development of better informed salary and personnel policies. However, the lack of qualified personnel and the half-hearted political will have delayed the completion of the database for some time now.

The transfer of DoPA premises to the Ministry of Interior and the lack of proper IT equipment and space for the servers caused the interruption of database activity for more than two years. As a result, all of the data

already inserted were not updated and therefore needed to be reinserted again, and in all ministries the process began from the start. Added to this problem was the high staff turnover, and IT equipment installed in the DoPA became obsolete. The government and the Ministry of Interior did not support DoPA's requests for new equipment, thereby jeopardizing the future of the project and the use of the personnel database in the near future. The use of the database is also linked to the treasury system in the Ministry of Finance, which is also facing a number of difficulties, and the timetable for putting the database in full operation is uncertain. The government should invest in equipment and staff capacities in these important e-government projects in order to achieve tangible results.

Law 9702 of 23 April 2007 on internal audit in the public sector provides sufficient instruments to monitor personnel expenditures in ministries and state institutions. The Directorate of Internal Audit operates within the framework of a treasury system that does not allow overspending.

### **3.4 *Do staff representatives participate in decision-making and control concerning personnel management matters?***

The CSL (articles 19 and 20) establishes the right of civil servants to be organised in unions and professional associations but prohibits strikes. The prohibition of striking is in conformity with article 51 of the Constitution. These legal provisions have been judged to be inappropriate by the European Committee of Social Rights, which considers that they are not aligned with article 6 of the European Social Charter, a critique that is questionable from a European comparative perspective. The Albanian Government decided to amend these provisions at the same time as amendments to the CSL are passed, in order to comply with the request of the Committee.

Although Albanian civil servants have the right to be organised in unions and to take part in negotiations on civil service issues, they do not take advantage of these provisions, as no union or professional organisation of civil servants is in place. Other public employees in education and health care have relatively powerful trade unions.

## **4. Conclusions and Recommendations**

4.1 There are important deficiencies in the Civil Service Law (CSL) and its implementation, which are reflected in the general lack of guarantees related to employment in the civil service, the way in which CSL provisions have been wrongly applied (such as the waiting-list for those dismissed and decisions on restructuring), and the fact that the Albanian labour market does not provide many candidates with the willingness and merit to serve the state.

4.2 While public administration is not uninteresting for talented people, nothing has been done to attract them to the civil service. On the contrary, many counter-incentives are in operation, starting with politicisation and patronage. In the current situation, the public administration cannot hire or keep people with the necessary expertise and talent.

4.3 It is recommended to reconsider some basic options concerning the Civil Service Law. The absence of a career pattern has a number of consequences that the new democratic Albanian public administration cannot afford. The "position system", which is based on job descriptions and filling positions in a fragmented and ad hoc way, does not seem to correspond to the actual needs of the Albanian public administration. This system better suits more developed administrative systems that at the same time operate in a more balanced relationship between the public and private sectors within the labour market.

4.4 In Albania today, the bulk of civil servants should be generalists who can move, evolve and develop within the civil service and keep pace with a fast-moving, transitional political context.

4.5 Such a context requires constant adjustment to changing needs, new positions, and new responsibilities. It likewise needs to accommodate political requirements without necessarily destroying the administration or severely disrupting it, etc. This would be easier in a system modeled fundamentally after a career system, which includes employment guarantees (tenure), prospects for promotion and career development, and sound in-service training. This is how the public administration can create the kind of human resources needed at this stage of its development. Furthermore, to strike a balance between continuity and adaptability should currently be the most important objective of the Albanian public administration.

4.6 Policy design – which has been singled out as an area badly in need of development – cannot be separated from the accumulated experience provided by previous policy design efforts and cannot disregard the knowledge of administrative specificities and requirements. Hence it cannot be dissociated from institutional memory and continuity. External experts in policy design may be hired to assist in certain aspects of policy formulation, but this makes sense only if their expertise is combined with the experience and expertise of permanent civil service staff.

4.7 Along with a generalist, nuclear area of the administration modeled and managed as a career system, a number of positions will need to be filled and managed on the basis of criteria of high specialisation, according to practical needs, i.e. modeled after position-based systems.

4.8 Even if public service salary attractiveness cannot always match the remuneration offered by the private sector, the actual provision of employment guarantees, fair treatment of individuals, full respect of social rights by the employer, and reasonable career prospects may still make the public service attractive for talented individuals, as is the case elsewhere in Europe and around the world. The current situation attracts young people who may accept to work in the civil service at the start of their careers in order to gain some experience and useful professional contacts but who soon move to other positions within the public administration or to the private sector. The current system is therefore not able to retain them when they acquire the necessary knowledge and expertise to become productive and efficient. This trend needs to be reversed through adequate legislation and management practices.

4.9 The salary scheme is too compressed. The current compression ratio is 1:3, which makes the acceptance of higher responsibilities unattractive and discourages good achievers from taking further steps towards promotion within the system.

4.10 The recruitment system, as it currently operates and under the existing conditions of the Albanian labour market, is fragmented, presents an ad hoc character and does not offer many alternatives in the event that some of the successful candidates move to other positions or to the private sector. In addition, ministries compete for personnel, creating an unhealthy mobility which at this stage seems harmful to the Albanian public administration. When promotion is practically impossible within the same ministry, it can only be sought outside, with the result that the promotion procedure operates almost as if it were a new recruitment procedure. This negative aspect of the promotion process adds to the high staff turnover based on political motives, which is in itself excessive.

4.11 While management by objectives may sometimes be a useful technique, its underlying requirements are not always available. When this is the case, evaluation based on the achievement of objectives becomes an issue of disagreement, complaints and, eventually, arbitrariness –even more so because it is linked to a salary bonus as well as to disciplinary procedures. Alleged poor performance is a frequent reason for disciplinary procedures and dismissals. Objections can be formulated on the evaluation form, which is addressed to the minister and to the Civil Service Commission, but it would be better to confine the application of this technique to areas where it may be easily applied, without applying it indiscriminately to the whole administration. Such a generalisation causes disruption and increases demotivation.

4.12 Emerging as an absolute necessity is the strengthening of the authority of the Civil Service Commission (CSC) as well as the effective protection of its independence, which is its most valuable asset in the current Albanian institutional context. The decisions issued by the CSC should be binding and respected by the public administration bodies unless the courts pronounce a different decision. However, even court rulings are not respected, which shows the difficulties in establishing the rule of law in the country. As a result, any legal protection or guarantee and the operation of the state as such are deprived of effectiveness and at times even of meaning.

4.13 The DoPA's authority should also be strengthened and its operational capacities streamlined as the competent government agency on civil service policy and management.

**4.14 To summarise, the HRM policy should start creating a career system for a significant number of positions in each ministry; organise recruitment in a more systematic, objective and open way based on merit; recruit generalists who are able to adjust to various functions within a career system; award and guarantee tenure, thereby ensuring stability in the event of political alternation; and co-ordinate HRM policies of various ministries (recruitment, status, salary, training). All of this would mean strengthening the role of the DoPA and organisations under its oversight (TIPA) as well as the role of the CSC.**