

**CIVIL SERVICES AND STATE ADMINISTRATIONS (CSSA)**

**COUNTRY REPORT: LITHUANIA**  
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# LITHUANIA

## A. PUBLIC SERVICE CHARACTERISTICS

### 1. LEGAL STATUS OF PUBLIC SERVANTS

#### ◆ Legal provisions defining the status of public servants

**1.1** The Law on the Officials of the Republic of Lithuania (adopted April 1995) is at the moment the main document regulating the status of public employees at both central and regional/local levels. The law was intended to determine the concept of civil service, the procedure of employment in the service, compliance with the procedure, the rights, duties and responsibilities of officials, and termination of employment relations.

The law describes civil service as the performance of duties in the *Seimas* (Parliament), the institutions of the presidency, the government, other state institutions, and structural divisions of local authority in accordance with the list of offices of the civil service, which is kept by the government.

Employees of offices and organisations (with the exception of politicians) whose salaries are paid from the state budget or municipal budgets are considered state or local authority employees. According to the contents and character of their principal duties, employees are divided into professional corps (teachers, police, medical workers, diplomats, officials, etc.).

Employees who fulfil business-technical functions, whose activities have no effect on the activities performed by the institution according to its competence, are not considered officials.

**1.2** According to Lithuanian laws, all public servants are subject to the Lithuanian Labour Contract Law. However, this will change with the adoption of the Civil Service Law, which is scheduled for parliamentary vote in May 1999.

*[NB The Civil Service Law was passed in July 1999.]*

**1.3** The Law on Officials (Article 6) defines two categories of civil servants, thus drawing the line between political appointees and career civil servants. The law defines that officials are divided into officials of "A" and "B" levels. State officials of "A" level are the employees appointed by the *Seimas*, the president, the government and other employees specified in the list of offices who assist state politicians in fulfilling their functions. The service of the above officials is connected with the duration of the term of office of their respective head officers. State officials of "B" level are the employees, appointed by the *Seimas*, the president, the government, their structural divisions, ministries, government institutions (departments, agencies, inspectorates), departments originating from the

ministries, and agencies, inspectorates, other institutions of state government, as well as employees specified in the list of offices. The service of these officials is not connected with the term of office of the institutions which appointed them.

**1.4** Police, customs officials, teachers, tax administration, diplomatic corps, medical workers and state control officials constitute, according to the Law on Officials, separate professional corps within the civil service<sup>1</sup>. They are divided according to the character of their functions. The main differences in recruitment/dismissal, etc. exist due to the different level of qualifications necessary to fulfil their tasks, which influences performance appraisal standards, probationary period, retirement conditions, etc. For example, the probationary period for regular public officials is limited to three months, while for customs officials it is longer and may last up to six months, but on the other hand the latter have the right to retire earlier. Provisions for dismissal differ from group to group as well. For example, state and local authority officials and employees performing educational functions may be dismissed from work if their conduct, even outside employment hours, is immoral and consequently incompatible with their position, which is a much stricter rule than for an average civil servant.

◆ **Current status of implementation**

**1.5** Due to the fact that the Law on Officials was too vague, had many deficiencies and was not comprehensive, the decision was taken to prepare new legislation on the civil service. Some of the serious faults were the lack of guarantees and incentives for civil servants, lack of clarity in defining the corps of civil service, lack of understanding of the need for effective human resources management, etc., which lead to the situation where the Ministry of Public Administration Reforms and Local Authorities faced serious difficulties in implementing legal acts and conceptual documents.

Another problem was the volume of legislation to be enforced. Various documents regulating different issues concerning the civil service were passed at the same time (however, they still did not cover all necessary issues!) without first thinking through the course of reforms and establishing priorities. Naturally, under such circumstances it was hardly possible to implement legislation in its entirety.

◆ **Arrangements where laws/regulations are not yet in operation**

**1.6** ---

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<sup>1</sup> NB Military officers occupying a position of a B-level civil servant within the administration (e.g. Ministry of Defence) are not considered to be civil servants.

## **2. RECRUITMENT, SELECTION AND DEPLOYMENT**

### **◆ Selection procedures for entry**

**2.1** The procedures to be followed in selecting for entry to the public service are defined in the government decree, “Competition and examinations for B-level officials’ admission to the civil service”, passed in September 1995.

A position in the civil service may be filled only through open competition or by passing qualification examinations. Open competition (public advertisements have to be published) or examinations are the main tools for the manager to select the best candidate to a vacant position. During an open competition or examinations candidates have to demonstrate their knowledge, skills and abilities, personal and professional qualities. Qualification examinations are held if only one candidate expresses a wish to fill the vacancy, or in cases marked in the B-Level Officials List.

The rules for the competition or examinations and criteria for the candidate evaluation are defined and adopted by the organisations themselves, based on their sphere of competence and specific tasks. They are prepared by a special commission [see 2.2 below] and signed by the head of the organisation.

**2.2** By decision of the head of the institution, a commission of no less than three and no more than five members is created. The chair of the commission is either the head or deputy head of the institution. If there is no deputy, then the commission may be chaired by the head of one of the departments. The members of the commission consist of a representative of the personnel department, the head of the department where the vacancy is situated, and representatives of other departments of the institution. The head of the personnel department is responsible for the organisational work. A representative of the Ministry of Public Administration Reform and Local Authorities may be included in the commission as well.

The head of the institution (or a representative appointed by him/her) is personally responsible for the organisation of an open competition or qualification examinations.

The Ministry of Public Administration Reform and Local Authorities prepares the methodological framework and controls how competitions and examinations are organised within the administration.

### **◆ Qualifications**

**2.3** During an open competition or examinations, candidates have to demonstrate their knowledge, skills and abilities, personal and professional qualities. The commission may decide on the coefficient which should be applied, within the scale of their assessment, for experience gained outside the civil service.

**2.4** An open competition may involve three types of screening procedures:

- oral interview;
- written interview;
- test.

In addition, candidates must fill in a specific form defined by law, responding to some of the questions and signing the whole document. Every institution prepares the list of questions based on its needs, area of work and specific requirements. Discriminating questions regarding gender, age, nationality, etc. are not allowed. In addition to the official form mentioned above, the head of the personnel department has the right to request a short (1-2 page) action plan if the vacancy is that of a manager. Those candidates are provided with the by-laws of the institution or department, the job description and other necessary information.

The commission may ask additional questions and based on the cumulative results evaluate the candidate on a scale of ten points. The points given by each commission member are added up. The candidate who receives the most points is selected. If there are no candidates exceeding the minimum of 15 points, the competition results are cancelled and the whole process is repeated. If there are several candidates who have received the same number of points, it is the responsibility of the head of the department where the vacancy is situated to select the chosen candidate.

If there is a need, the commission may request the candidate to provide additional documents in order to confirm his/her professional experience, biography, health status or ethical standards, or may request additional information from other state institutions of the Republic of Lithuania.

#### ◆ **Probation**

**2.5** The period of probation may not exceed three months. In cases specified by law, the period of probation may be extended. During the probationary period, absence from work shall not be recorded. If an employer is not satisfied with the results of a probationary period established to assess the employee's competence, he or she may discharge the employee before the end of the probationary period without adhering to the procedures established in Articles 33 and 34 of this Law, and without paying severance pay to the employee. If a probationary period is established to ascertain if the work is suitable for an employee, the employee shall be free to assess the results of his/her probation. During the probationary period, the employee may terminate the employment contract with three days' notice. If the employee continues working upon expiry of the probationary period, the employment contract may then be terminated only in accordance with established regulations.

#### ◆ **Transitional arrangements**

**2.6** All pre-transition officials became public servants without any qualification requirements imposed on them.

**2.7** The only requirement for pre-transition officials to become public servants was the language requirement (e.g. required level of proficiency in the Lithuanian language). The law prohibiting this status to those persons who in the past had co-operated with or were on the payroll of the foreign secret service or other oppressive agencies was adopted by parliament; however, it has not been signed by the president and still is under discussion. *NB However, after this report was finalised this law was confirmed by the Constitutional Court to be constitutional and thus it came into force.*

#### ◆ **Mobility**

**2.8** The legal framework neither provides for nor prohibits the transfer of public servants between institutions (secondment). However, the Labour Contract Law regulates cases in which civil servants may be transferred to another branch of the administration or to another geographical locality.

**2.9** There are no legally defined mechanisms in place to allow for and to stimulate temporary secondments of public servants in order to improve institutions' capacities to deal with EU accession.

#### ◆ **Appeal**

**2.10** The law states that a commission session considering an open competition must be completed in one day. The candidates are informed of the results as soon as the deliberations are over. In the presence of all commission members each candidate must sign the proceedings.

If a candidate refuses to sign, this event must be documented in the proceedings. In case the candidate is not satisfied with the procedure or the results, he/she may submit a written appeal to the chancellery of the institution on the same or the next working day. The head of the institution must review the appeal within three working days after its submission. If he/she finds that the law or specific regulations were abused or that the rights of the candidate were violated, he/she has the right to cancel the results of the competition or examination and announce a new competition. In such cases, at least two members of the commission must be replaced.

An appeal regarding the decision of the head of institution may be submitted to the Ministry of Public Administration Reforms and Local Authorities in written form on the next working day. The ministry is obliged to review an appeal within five working days. The ministry has the right to cancel the results of the competition or examination on the same grounds as the head of the institution.

### **3. CONDITIONS OF SERVICE, PAY AND CAREERS**

#### **◆ Employment system**

**3.1** The system is position-based rather than career-based. The law states that the position in the state or local government administration may be filled only via public competition or by passing a qualification test.

**3.2** According to the Law on Officials, only two categories of civil servants are defined; however, the notion of grades is introduced in connection with salaries for public officials. The Government Decree on Government Officials' Pay establishes 35 categories of government employees. Annex 2 of the decree, which lists positions and corresponding categories, includes some A-level government officials (political appointees) and employees of deconcentrated governmental agencies and units. The Law on Government Officials' Pay, which will be effective only after the new Civil Service Act is adopted, establishes 25 categories with three grades within each (the first being the lowest and the third the highest). An official, when starting his/her job in the administration, automatically receives the first grade within the category; other grades may be awarded only through performance appraisal.

#### **◆ Rights and duties of public servants**

**3.3** According to the Law on Officials public servants must:

- a) observe the Constitution and laws of the Republic of Lithuania;
- b) implement government decrees, other legal acts which regulate their functions, as well as tasks and instructions given to them by their chiefs;
- c) take decisions provided for in the laws determining their competence and in office regulations, and insist that decisions are timely and accurately carried out;
- d) comply with established regulations of professional ethics;
- e) perform their duties faultlessly and in a cultured manner;
- f) improve their qualifications in accordance with the procedure established by the government;
- g) keep confidential state and official secrets established by standard acts;
- h) guarantee the open character of their work, present information on their work to the public in the manner established by law;
- i) defend the lawful interests of the state and local authority;
- j) declare their property and income in accordance with the procedure established by law;
- k) for B-level officials, when quitting the civil service to take up employment in private business enterprises, offices and organisations, compensate the state or local authority for expenses incurred in connection with the improvement of their qualifications within the last three years;
- l) for B-level officials, refrain from engaging in public and political activities within the office premises and during working hours;
- m) give notice to the head official and, upon his consent, refrain from fulfilling a task in

the event of a conflict between personal property interests and the task, or if there are arguments to the effect that personal circumstances of a private character may undermine the prestige of the civil service.

Officials have the right to:

- a) refuse to fulfil a task or an instruction if, in their opinion, the given task or instruction is not in conformity with the law; the official shall notify the head of the institution thereof and shall fulfil the task or instruction only if so requested in writing by the head of the institution, except in cases where the fulfilment of the task or instruction would constitute a criminal act or an administrative violation; the official must no later than on the next working day present the superior head official with a justified statement declaring that he/she disagrees with the task or instruction. The head official who gives the task or instruction is responsible for the effects resulting from fulfilment of an unlawful task or instruction;
- b) at the expense of the institution, improve their qualifications for 15 to 30 days over a period of two years, in accordance with the qualification requirements set for their post, and receive official salary during that period;
- c) receive in-service training in other institutions and abroad in accordance with the procedure established by law.

Officials are prohibited from:

- a) being employed in other enterprises, offices and organisations, being members of their managing bodies (unless the law provides otherwise), being employed in another elective or appointive post, receiving any other salary, with the exception of payment for creative activities;
- b) being the owner of a personal enterprise, or general or limited member of a partnership, acquiring or holding in trust more than 10% of securities of one enterprise;
- c) representing the interests of other domestic and foreign enterprises, offices and organisations, and traveling abroad on their invitation;
- d) going on strike;
- e) using the office property for other than official business;
- f) using working hours and the opportunities provided by the office for other than official purposes;
- g) receiving presents for the performance of official duties, unless this is provided for by international protocol.

#### ◆ **Career development and promotion**

**3.4** There are no special arrangements in place enabling public servants with special skills and qualities to progress in their career.

**3.5** Since the Lithuanian system so far is position-based, i.e. for each new opening there has to be an open competition, it is difficult to talk about criteria for promotion. However, in order to succeed in a competition a candidate must have a certain grade or qualifications. The main criteria awarding grades are experience, knowledge, qualifications, seniority and performance record.

**3.6** The result of performance appraisal may be a recommendation to transfer an official to another position, to follow a professional development course, etc. Officials must go through the process of performance appraisal every three years. In addition, the head of the institution where the civil servant works, or the Ethics Commission, has the right to request a performance appraisal of a specific official if he/she does not follow the Law on Officials, other laws and regulations, or breaks other ethical rules. Basic pay, grade, and bonuses of the official also depend on the results of performance appraisal.

Different rules regulate the performance appraisal of:

- Finance Ministry B-level officials;
- customs officials;
- state control B-level officials;
- officials of the Lithuanian Bank;
- Prosecutor's Office officials;
- Internal Affairs system officials.

#### ◆ **Training**

**3.7** Public officials, according to the law, have the right:

- a) at the expense of the institution, to improve their qualifications for 15 to 30 days over a two-year period in accordance with the qualification requirements set for their post, and to receive official salary during that period;
- b) to receive in-service training in other institutions and abroad in accordance with the procedure established by law.

The Law on State and Municipal Budgets for the year 1999 provides that no less than 3% of the funding for salaries should be allocated by each state and local government institution for professional development purposes.

**3.8** Special training programmes for public servants in key areas for implementing the *acquis communautaire* are available only through international aid programmes, such as Phare, etc.

The Ministry of Public Administration Reforms and Local Authorities, together with the Ministry of Foreign Affairs, has prepared an EU training strategy for civil servants. The strategy includes time frame, methods and content of training for each target group, trainer preparation, administration and implementation mechanisms of such a strategy, funding and other issues.

The European Integration Commission has authorised the European Committee to create a joint committee, including staff representatives of the Committee, the Ministry of Public Administration Reforms (MPARLA) and the Ministry of Foreign Affairs. The commission will co-ordinate implementation of the strategy during its first stage. The first task for the commission is to assess the current situation in the area of EU training.

MPARLA, with the assistance of German institutes, has started a training of trainers

programme for the implementation of this strategy.

**3.9** Every official is obliged to continuously develop his/her qualifications according to the requirements of his/her position. Professional development financed by the employer cannot exceed 30 days in two years and must last no less than 15 days in the same period of time. The official still receives an average salary for the time spent in professional development events and courses if a course/event does not exceed 15 days at a time. In those cases where the course exceeds 15 days at a time, the salary for the official may be reduced corresponding to the number of excess days.

Besides continuous professional development, an official who was engaged in the civil service but has had no previous professional experience in state administration is entitled to a professional course during his/her first year of employment, but no earlier than six months after he/she was hired.

◆ **Right to join a union and to strike**

**3.10** Civil servants' participation in the activities of unions is not prohibited; however, the Law on Officials prohibits civil servants from striking (Article 16).

**3.11** There are no unions for employees of the core administration. However, they may be members of unions of professional orientation, such as the teachers' union, social service employees' union, etc.

◆ **Pay components**

**3.12** The Government Decree on Government Officials' Pay defines the following components:

- basic pay (either position-based or hourly);
- allowances (payment for extra work, changes in working conditions, etc.);
- bonuses for professionalism and qualifications (categories, grades, ranks, etc.);
- premiums (for excellent performance, emergency work or significance to the organisation's activities).

**3.13** Since the pay, including bonuses and premiums, is calculated based on the minimum monthly salary, the amount of which is approved by the government across the board for all Lithuanian institutions, it is difficult to specify what portion constitutes basic pay and what portion bonuses, allowances and premiums. However, current legal documents define that all additional monthly pay cannot exceed 100% of the basic salary.

**3.14** There are no fringe benefits for B-level public servants. Only political appointees, e.g. ministers and vice-ministers, are entitled to housing, cars, etc.

**3.15** There are no special pay arrangements in place for public servants or groups of public servants in key areas for implementing the *acquis* or in otherwise strategic functions related to EU accession.

◆ **Termination of service**

**3.16** Officials of "B" level who disagree with the policy implemented by the *Seimas*, the president or the government, or with their decisions or actions, may resign. If these officials declare their disagreement in the mass media, at political and other public events (except when such declarations are made during the election campaign to the *Seimas*, the office of the president or municipal councils), they must resign within 14 days. If such officials refuse to resign, they are dismissed from office according to the procedure established by labour legislation and are considered dismissed from the civil service.

Officials' employment relations may be terminated in the following cases, as determined by labour legislation:

- a) when it appears that state or local authority officials have been under investigation for major crimes or crimes against the civil service;
- b) when state or local authority officials do not declare their property and income in accordance with the procedure established by law;
- c) when state or local authority officials violate the provisions of laws prohibiting them from being employed in other enterprises, offices and organisations or from being members of their managing bodies (unless the law provides otherwise), from being employed in another elective or appointive post, or from receiving any other salary, with the exception of payment for creative activities;
- d) when state or local authority officials violate the provision of laws prohibiting them from being the owner of a personal enterprise or general or limited member of a partnership, or from acquiring or holding in trust more than 10% of securities of one enterprise;
- e) when state or local authority officials do not comply with the provision of the Law of the Republic of Lithuania on Officials, which requires that they resign;
- f) when the conduct, even outside employment hours, of state and local authority officials and employees performing educational functions is immoral and consequently incompatible with their position.

**3.17** Severance pay is applicable to B-level officials if the labour contract is terminated on the initiative of the employer, except for the following cases:

- a) when the employee refuses to be transferred together with the enterprise (its unit) to another locality;
- b) when the employee refuses to work after the introduction of changes in working conditions set forth in Article 22 of the Labour Contract Law [an employer has the right to change an employee's working conditions (to change the working place within the same enterprise and locality, or to assign work with another machinery or device), or to change other conditions (benefits, work regime, amount of material liability, posts, etc.), only when this change is related to changes in production or technology, or when the organisation of labour is being changed and the employer has to change the working conditions of certain employees as a result];
- c) when the medical commission or the commission for the establishment of disability concludes that an employee is unable to hold his/her post or work in such an occupation;

d) when, in cases provided for by law, the former employee returns to work.

**3.18** Neither the Law on Officials nor the Labour Contract Law provides any legal guarantees for public servants who are made redundant to enable them to reintegrate the public service. One would think that limited budgetary resources and the amounts that would have to be paid as severance pay do limit the possibilities of public agencies to get rid of redundant officials. Although in the case of reform implementation or reorganisation severance pay is obligatory, common practice among managers (as stated by the interviewed civil servants) was to force “unnecessary” officials or “talk them into” submitting resignation papers. Such tactics have made it possible to dismiss quite a few redundant public servants.

## 4. PERSONNEL MANAGEMENT STRUCTURES AND CONTROL OF STAFFING

### ◆ Co-ordination of personnel management

**4.1** The civil service is administered by the government, which gives instructions to the ministries. The government, while administering the civil service, performs the following functions:

- a) compilation of a database concerning officials;
- b) elaboration of the basic provisions of the qualification requirements for officials, and establishment of the procedure for determining qualification categories;
- c) submission of recommendations to state and municipal institutions on the transfer of officials in the civil service in accordance with the procedure established by law;
- d) co-ordination of the improvement of officials' qualifications.

The Ministry of Public Administration Reforms and Local Authorities (MPARLA) was established:

- a) to form a rational state government in accordance with the Constitution of the Republic of Lithuania, with democratic government principles and with EC law requirements;
- b) to prepare and implement the state service and officers' corps responsible for policy-making.

With regard to the improvement of central state administration, MPARLA has been assigned the following tasks:

- a) to work with the government on improvement of state government policies;
- b) to implement the improvement policy of the state government and co-ordinate activities of other government institutions in this area;
- c) to take part in the preparation of legal acts connected with the reorganisation of the government system and structure;
- d) to organise projects for discussion of laws and other legal acts, provide conclusions concerning their influence on the government system and the governing process, and to take part in the enforcement of these laws and other legal acts regulating the civil service;
- e) to analyse and summarise information on state government reform activities and provide conclusions and suggestions to the government;
- f) to investigate government improvement trends throughout the European Union and the world and provide conclusions and suggestions to the government;
- g) to co-ordinate international aid programmes supporting state government reforms and make appropriate suggestions to the government.

In the civil service area, MPARLA is responsible for:

- a) creating and strengthening the Lithuanian civil service, and implementing policy on the improvement of civil servants' performance efficiency;
- b) initiating the creation of the state service system, preparing legal acts for persons engaged in the state service, developing regulations for civil service posts and

- dismissal, determining qualification requirements and establishment of categories;
- c) co-ordinating public officials' training and professional development, rendering methodological support to state officials' professional development centres established at MPARLA, which constitute a comprehensive civil servants' professional development system;
- d) controlling the process of defining officials' qualification requirements, preparing public competitions and qualification examinations and officials' certification, and organising performance appraisals;
- e) controlling the implementation by state and local authorities' institutions of laws and other legal acts regulating state service activities;
- f) co-ordinating foreign aid in the area of civil service development and public administration reform;
- g) managing the Republic of Lithuania civil servants' register.

**4.2** All regulations governing personnel management of core civil servants are common to all branches of the administration.

**4.3** MPARLA is responsible for developing policy on personnel management, setting standards to be followed by public servants and preparing and issuing regulations on personnel matters. However, no comprehensive personnel management policy has been developed so far, although several attempts have been made to do so.

**4.4** Besides legal provisions, there are not many resources or mechanisms for human resources management co-ordination in the Lithuanian civil service. Several years ago there was an initiative to establish a personnel management network among Lithuanian state and local administration agencies, but this was not implemented.

To a certain extent the Public Officials' Register could serve as a collector and provider of information on the human resources situation in the Lithuanian civil service, thus helping to create a general understanding of what exists and what is needed in this area. The staff of the Register and other concerned officials have expressed the opinion that it will take a while before the Register starts functioning as a credible source of complete information on human resources in the Lithuanian state administration. At the moment the Register has data for the year 1998 only, and the data is not complete due to the lack of co-operation on the part of various branches of the administration.

◆ **Staff involvement in personnel decision-making**

**4.5** According to the comments of civil servants, personnel representatives (e.g. trade unions) and/or joint groups of personnel and management are not involved in decision-making related to public servants, their management and conditions of service. All decisions depend on the will and priorities of political level officials. However, in several areas some progress has been made, e.g. the law states that commissions for performance appraisal or open competitions when hiring new employees should involve staff representatives.

◆ **Management and control of staffing**

**4.6** Staffing ceilings are established by government decrees and depend on the funding allocated to each branch of the administration in the annual budget for that particular fiscal year.

**4.7** Secretary-generals of each ministry are responsible for preparing a structure of the ministry and a list of positions, without exceeding budgetary allocations for such purposes. Budgetary allocations are the main criteria when establishing staffing ceilings in state administration.

**4.8** The money saved by not filling a position can only be used for bonuses, allowances and premiums for other civil servants within the institution. The use of the money allocated for salaries for other purposes is prohibited.

◆ **Job evaluation and classification and job descriptions**

**4.9** The currently effective Government Decree on Government Officials' Pay stipulates that job evaluation in connection with salary calculations is the responsibility of the head of the public agency, who establishes categories and levels of salaries (coefficients) according to:

- scope of work;
- area of responsibility;
- significance;
- required qualifications and personal qualities of the person occupying the post.

The Law on Government Officials' Pay adopted in 1996 establishes a more detailed scheme for job evaluation in connection with salary calculation. It defines 25 categories with three grades in each category. Four sets of criteria are used in job evaluation:

- complexity 45 points or 45%;
- social significance 22 points or 22%;
- level of responsibility 18 points or 18%;
- difficulty of work and conditions 15 points or 15%.

Each set of criteria consists of various other factors, such as education, professional experience, scope of work, level of management, level of position, significance, influence (on security or well-being of other people), material and moral responsibility, inter- and intra-organisational relations, mental, physical or emotional pressure, place of work (incorporates changes and local cost of living).

**4.10** For the creation of schemes for job evaluations and descriptions, commissions with representatives of the *Seimas*, President's Office, Constitutional Court, Supreme Court, Prosecutor's General Office, State Control, state administration and local governments had to be established. Experts, academics and organisational consultants had to be involved in this work as well. Responsibility for job descriptions lies with the heads of the respective departments. However, practice has shown that quite often it was the employee himself/herself who had to draft the job description for his/her own position, which was later reviewed by the manager.

**4.11** Job descriptions include:

- job evaluation results;
- description of duties;
- description of rights;
- subordination.

The form of job descriptions is common to all branches of the administration.

◆ **Management and control of pay and salary payments**

**4.12** The Government Decree on Government Officials' Pay, passed in November 1991 and amended several times afterwards (Annex 2 covers employees of state administration and de-concentrated units of the government), regulates the amount of salaries and is common to all civil servants.

**4.13** The Government Decree on Government Officials' Pay establishes basic salaries and coefficients for the various categories of civil servants. However, allocations for premiums and allowances are confirmed by a separate government decree and are within the competence of managers.

**4.14** The system for administering the payroll is computerised, but it is not compatible throughout the administration.

◆ **Appeal against personnel decisions**

**4.15** Individual public servants have the right to appeal against a decision on a personnel matter. Non-judicial process is more or less the same in all instances as in performance appraisal or selection cases, discussed previously in this report. If the head of the state administration institution is unable to resolve the issue, the public servant's complaint may be transmitted to the Ministry of Public Administration Reforms and Local Authorities. One of its structural divisions, the Civil Service Department, is directly responsible for co-ordination of various personnel management issues, such as training and development, performance appraisal, job description preparation, organisation of open competitions for entry into the civil service, etc.

◆ **Evaluation of use of resources**

**4.16** The State Control supervises the lawfulness and efficiency of state property management and use, state budget performance, and observance of financial discipline by state institutions and gives recommendations for ensuring financial discipline. Among its functions are periodic audits of:

- a) economic and financial activities of the *Seimas* Office, institutions accountable to the *Seimas*, and divisions providing services to the *Seimas*;
- b) economic and financial activities of the Office of the President of the Republic and

- divisions providing services to the President;
- c) economic and financial activities of the Constitutional Court;
- d) lawfulness of the management and use of state-owned assets by the Bank of Lithuania;
- e) economic and financial activities of courts, bailiffs' offices, prosecutors' offices and the police;
- f) economic and financial activities of the Office of the Government, ministries, government institutions and other institutions financed from the state budget;
- g) economic and financial activities of state institutions of the Republic of Lithuania operating in other states.

**4.17** When performing its functions, the State Control may evaluate the performance of state and municipal institutions and economic entities under inspection with respect to the objectives of economical management, productivity and efficiency.

**4.18** In addition, State Control salary payments may be audited by the Tax Inspection. Tax administrators have the right to carry out staff inspections, inventories of property and other inspections, or to request necessary documents from the heads of all organisations in Lithuania.

## **B. PUBLIC SERVANTS: PROFESSIONAL ROLE IN POLICY FUNCTIONS AND DECISION-MAKING; RELATIONS WITH THE PUBLIC AND WITH POLITICIANS**

### **5. LEGAL COMPETENCE, ABILITIES AND ACCOUNTABILITY MECHANISMS**

#### **◆ Legal basis for actions of public servants**

**5.1** State institutions responsible for the preparation of specific legislation in the area of their competence assign the members of law drafting commissions. Whether assigned by the institution or by winning a competition, civil servants participating in such activities operate under the Law on Officials. There are no special regulations for B-level civil servants who carry out executive actions or administrative activities.

#### **◆ Requirements to carry out government policy and to obey orders**

**5.2** Hierarchical subordination within public institutions is defined in their statutes, by-laws and system of positions. Hierarchical subordination at an institutional level is defined by the Constitution, Law on Government, Law on the President's Office, *Seimas* Statute and other laws.

**5.3** The Law on Officials states that officials have the right to refuse to fulfil a task or an instruction if, in their opinion, the given task or instruction is not in conformity with the law; the official must notify the head of the institution and must fulfil the task or instruction only if so requested in writing by the head of the institution, except in cases where the fulfilment of the task or instruction would constitute a criminal act or an administrative violation. In those cases, the official must, no later than on the next working day, present the superior head official with a justified statement declaring that he disagrees with the task or instruction. The head official who gives the task or instruction is responsible for the effects resulting from fulfilment of an unlawful task or instruction.

In addition, public officials are expected to resign if they disagree publicly with the official politics of their minister. In those cases where such officials do not resign on their own initiative, they are forced to resign by their superiors.

#### **◆ Lines of accountability**

**5.4** Only elected public officials have the authority to act independently under the law in policy-making. Career civil servants are under strict scrutiny of political appointees.

**5.5** The Prime Minister or the minister, when questioned about the actions of the government, specific ministry or other governmental institutions by the members of

parliament, must reply in written or oral form according to the *Seimas* Statute. In addition, representatives of ministries are obliged to participate in sessions of the standing committee when discussions concern their area of activity in order to provide explanations and answers to the questions of *Seimas* members.

◆ **Ability to innovate**

**5.6** At the moment it is difficult to describe the influence of a professional public servant upon political decisions. However, it is known through research that professional civil servants do have some input and influence on decision-making due to their professional expertise. One of the few ways for professional civil servants to suggest innovations or participate in policy-making processes is to participate in the work of an advisory board to the minister. However, as it is up to the minister to decide who will be the members of the board, even this possibility is rather limited.

◆ **Management practices**

**5.7** Formal possibilities to motivate staff and reward good performance in order to increase efficiency and improve service delivery are the following:

- message of appreciation;
- incentive bonuses for professionalism and qualifications (categories, grades, ranks, etc.);
- premiums (for excellent performance, emergency work, significance to the organisation's activities);
- gift with the official's name inscribed on it;
- for special merit or for long-term faultless work in the civil service, officials may be recommended for a national award.

The most common tool is awarding monthly premiums in addition to basic pay.

◆ **Management control**

**5.8** The understanding of personnel management and managerial control in the Lithuanian civil service is not very well developed. The key word here is “control” rather than “management”. Therefore, all mechanisms for the supervision and control of performance, productivity and expenditure are rather primitive and formal. Evaluation and other tools of civil service performance assessment are novelties in Lithuania. On the other hand, since the management of public institutions is quite centralised, the development of a more modern managerial control is not encouraged by the existing conditions. The main means of feedback regarding performance and quality of a civil servant's work are citizens' complaints or complaints by higher-level political or public officials.

◆ **Parliamentary accountability**

**5.9** *See under 5.5 above.*

**5.10** Most of the time, as public officials have indicated, public servants are the ones who are considered at fault once the administration is criticised, especially since the Law on Officials does not provide civil servants with guarantees or protection in such cases and labour contract laws do not deal with such issues.

◆ **Non-judicial accountability**

**5.11** There are several independent institutions with power to investigate actions taken by public servants. First of all, it is *Seimas* Ombudsmen who analyse complaints of citizens regarding the abuse of power and other breaches of the rules of conduct of civil servants. *Seimas* Ombudsmen, however, do not investigate complaints against the president, *Seimas* members, the government (as a collegial institution), State Control, the Constitutional Court and other courts. Also, issues falling under labour laws, etc. are not under the jurisdiction of the *Seimas* Ombudsmen either.

Every citizen has the right to submit a written complaint regarding actions of a specific official. However, *Seimas* Ombudsmen have the right to initiate an investigation based on a telephone call.

Besides the *Seimas* Ombudsmen Office, an independent Clean Hands Commission was established in January 1997 by government decree. Members of the commission are vice-ministers of various ministries. The commission investigates actions taken by officials, prepares recommendations and suggests amendments to laws in order to improve the functioning of the state administration and to eliminate grounds for charging the intentional breach of rules of ethics or the abuse of power. Ministries and other executive government institutions are obliged to provide necessary information to the commission as requested.

**5.12** *Seimas* Ombudsmen, after analysing a complaint, may decide to:

- a) pass the complaint over to prosecutors if criminal elements in the conduct of the civil servant have been established;
- b) challenge the guilty party in court for the wrongful action, with the intent to dismiss the official or to oblige him/her to cover the cost of moral or material harm caused by his/her actions;
- c) to suggest to a collegial institution the adoption or rejection of decisions which were passed or not passed due to the abuse of power and/or maladministration;
- d) to suggest penalties to be applied to the guilty official, etc.

◆ **Judicial accountability**

**5.13** At the moment proceedings challenging the actions or decisions of the administration can be brought to the general court; however, practice has shown that such proceedings take a long time and it is difficult for one judge to make a decision against the administration. Therefore, as of 1 May 1999 special administrative courts have been established. A group of

three judges will decide on the outcome of each case.

**5.14** The Code of Administrative Transgressions states that proceedings in court may be brought against officials who have broken the rules of public safety, conduct or other rules while in office. However, if public safety or other conditions required that such an action be taken, it is not considered a breach of administrative law.

**5.15** Administrative cases are analysed in:

- administrative councils of local governments;
- district courts;
- police, state inspectorates, etc.

State Control analyses cases related to financial activities. The state controller, his/her deputies and heads of departments are authorised to analyse such cases and assign penalties

Persons who are under administrative investigation have the right to be aware of the materials accumulated during the course of the investigation, and have the right to legal aid. The court or another institution has no right to hear the case in the absence of the charged person. Only in those cases where the person against whom the proceedings are being brought had been notified of the time and place of court hearings, and did not submit a request to change the time or place, may the case be heard without his/her presence.

## 6. PUBLIC SERVANTS AND POLITICS

### ◆ Legal provisions defining the principle of professional independence of public servants

**6.1** There are no provisions in the Constitution specifically emphasizing the importance of the political impartiality and professional independence of public servants. However, the Law on Adjustment of Public and Private Interests, passed in 1997, provides a framework for the adjustment of private interests of persons employed in the public service to the public interests of the community, ensuring that holders of public office make decisions solely in terms of public interest, securing the impartiality of decisions and preventing the emergence and spread of corruption in the public service.

### ◆ Political affiliation and activities of public servants

**6.2** The Law on Officials explicitly requires that B-level officials refrain from engaging in private and political activities (or from carrying out work for NGOs or other types of institutions, societies, associations, etc. in which they may be members) within the office premises and during working hours.

### ◆ Contacts with political parties/parliamentary organisations

**6.3** At the moment interaction between public servants and political parties (lobbies) is defined in such laws as the Law on Officials and the Law on Adjustment of Public and Private Interests, both of which are covered in other parts of this report. However, the draft Law on Lobbying has been prepared and will be discussed in the *Seimas* during the spring 1999 session.

### ◆ Role of public servants in policy-making

**6.4** Although the Law on Officials provides that officials of "B" level may not be dismissed by reason of the resignation *in corpore* of the *Seimas*, the president, the government and the municipal council, or because of the expiry or change in term of office of the politicians (heads) of the above institutions, it makes no mention of dismissal for other political reasons. The law also defines that if a B-level official publicly declares his/her disagreement with official policies, he/she may be dismissed or asked to resign.

The Law on Officials, in defining rights or duties, obviously puts greater emphasis on duties than rights, therefore providing disincentives rather than incentives for civil servants to participate in policy-making processes.

**6.5** Research has shown that, although some mechanisms for policy input from professional civil servants have been defined in regulations and by-laws of public institutions, there is not much willingness on the part of ministers to make use of such advice due to the high

degree of politicisation of the Lithuanian state administration.

◆ **Changes of officials on changes of government**

**6.6** According to comments of public officials on this issue, although the Law on Officials established the difference between A-level and B-level officials, and although permanent civil servants are subject to the Labour Contract Law, quite a few professional civil servants have been dismissed following the announcement of the reorganisation of institutions or of changes in job titles and job descriptions, thus making unwanted officials redundant and subject to dismissal without receiving a severance fee. (Article 29. Termination of an Employment Contract on the Initiative of the Employer: “An employment contract may be terminated on the initiative of the employer for the following reasons: 1) liquidation of an enterprise at the employer's will; 2) reduction of the number of employees due to changes in production or production organisation.”)

**6.7** The Law on Officials establishes the difference between political appointees and permanent public servants. The service of A-level officials is connected with the duration of the term of office of their respective head officers. The Labour Contract Law states that “employment contracts with employees who are appointed to their posts by elected bodies in accordance with the law shall be concluded for the term of office of the elected bodies.”

## **7. STANDARDS OF CONDUCT; MECHANISMS FOR ENFORCEMENT; SANCTIONS**

### **◆ Regulation of administrative functions**

**7.1** There was an attempt to pass a law regulating service provision in the public sector and rules of conduct for civil servants when dealing with the public. However, these were not passed. Therefore, rules of conduct are imposed by other laws, each covering a specific area, such as Public vs. Private Interests Law, Law on Provision of Information, and Law on Officials.

**7.2** Laws defining the relations of public servants with the public state that civil servants, in fulfilling their duties, must:

- a) comply with established regulations of professional ethics;
- b) discharge their official duties impartially, honestly and competently;
- c) avoid conflict of interest pursuant to law and by legal means;
- d) refrain from using their official position for personal gain;
- e) perform their duties faultlessly and in a cultured manner;
- f) keep confidential state and official secrets established by standard acts;
- g) guarantee the open character of their work, and present information on their work to the public in the manner established by law.

### **◆ Transparency in decision-making**

**7.3** The idea of transparent civil service and the need for it were realised a while ago. This idea was implemented to some extent by passing such laws as the Law on Competition, Law on Information Provision to the Public, and Law on Public Procurement, and by establishing such institutions as the Clean Hands Commission, Public Procurement Agency, etc. Therefore, the formal framework for transparency in administrative actions is in place, but there is still a great deal to be done in the area, since the adoption of one law or another is not enough. Reports of the Public Procurement Agency and of the Clean Hands Commission show that many problems remain in this area.

**7.4** The Law on Information Provision to the Public states that:

- a) Every individual in the Republic of Lithuania has the right to acquaint himself with all of the official documents of the state, municipal governments and government institutions and other budgetary organisations, with the exception of those which are classified according to laws.
- b) In refusing to provide information to an agency/institution providing information to the public (i.e. mass media, reporters, writers, etc.), state officials must, no later than on the next working day, put this in writing, indicating the reason for the refusal.

**7.5** Administrative decisions, e.g. personnel decisions, decisions of open competition commission meetings, or decisions made in the public procurement area, must be

documented in writing, giving reasons and identifying the public servants involved in the process. In each case, separate laws define the period during which such proceedings of meetings and other documents have to be kept in the archives in order to prove the legality and impartiality of decisions.

**7.6** Civil servants stated that there were no arrangements in place for encouraging reporting by public servants of wrongdoings and maladministration in the state administration. Although the need for it has been declared, no mechanisms to encourage reporting have been created.

◆ **Standards of conduct of public servants**

**7.7** There were several attempts to prepare codes of ethics and laws on official ethics, as well as rules of conduct in the office, but these were not adopted. At the moment there is no legal document regulating issues of ethics in the civil service other than the Law on the Adjustment of Public and Private Interests, which is discussed in the following section.

**7.8, 7.9 and 7.10** The negative answer to the previous question 7.7 prevents any responses to this question and to questions 7.9 and 7.10.

◆ **Mechanisms preventing incompatibilities and conflict of interest**

**7.11** According to the Law on the Adjustment of Public and Private Interests, in order to ensure the supremacy of public interest, public officials must:

- a) discharge their official duties impartially, honestly and competently;
- b) avoid conflict of interest pursuant to law and by legal means;
- c) refrain from using their official position for personal gain;
- d) in the process of decision-making, be guided by law and by the principle of equality of all persons;
- e) refrain from using, and prevent others from using, in a manner other than that laid down by law or to the extent not prescribed by law, official or other information acquired in the course of their official duties;
- f) not use, and prevent others from using, directly or indirectly state-owned property or any property leased by the state for purposes other than those related to the exercise of their official duties.

On resignation, retirement or dismissal from office, public servants may no longer make use of the benefits of employment in the office.

This law also introduces a duty of self-exclusion: “A public servant is prohibited from participating in the preparation, consideration or passing of decisions or from otherwise influencing decisions which may give rise to a conflict of interest situation.”

In addition, declarations of private interests, identical in form, must be filled in by:

- a) persons employed in central or local public service on a permanent basis who have to

present an annual declaration for the previous calendar year and, in the case of disclosure of new circumstances, an additional declaration;

- b) candidates who have to declare their interests for the period from the beginning of the calendar year until the day of their election/appointment to a certain office in central or local public service or the day of approval for the office, or have to fill in a declaration for the previous calendar year where less than one month has passed from the beginning of the calendar year.

Heads of administrative institutions (departments, agencies, services, inspectorates) of the government, department services, and inspectorates established at ministries, and heads (general directors, directors, chiefs) and deputy heads of other state administration institutions, as well as other officials listed in the Law on the Adjustment of Public and Private Interests, must also fill in an annual declaration of income and property. Annual declarations of some officials (the list is provided in this law) are published in a newsletter, *Valstybes žinios*, by 1 May; the deadline for submitting declarations is 1 March.

**7.12** A public official must notify the institution head or his/her authorised representative of all new job proposals which may cause for the person a conflict of interest situation. In addition, an official must forthwith notify the head of the institution or his/her authorised representative of his/her acceptance of a new employment offer. In the event that it is ascertained that the official has a close personal relation to the future employer, the head of the institution or his/her authorised representative must promptly take measures to avert the threat of a conflict of interest.

After leaving office in central or local public service, a person has no right, within a period of one year, to take up employment in management or audit institutions of another organisation, if during the period of one year immediately prior to the termination of his/her service in public office, his/her duties were directly related to the supervision or control of the business of that enterprise or organisation.

After the official termination of public employment, a former official who personally holds, or whose close relatives hold, more than 10% of the authorised capital or material contribution of an enterprise, or who is employed, or whose close relatives are employed, in the management or audit institutions of such an enterprise, has no right, for a period of one year, to enter into contracts with or to seek individual privileges from the institution in which he/she held office for a period of one year immediately prior to his/her leaving the service.

Limitations prescribed in the previous paragraph do not apply where the contract has been concluded prior to the person's entry into office in central or local public service, or when the contract is extended, nor with respect to a contract awarded by public tender nor a contract of a value not exceeding 10 000 Litas (2348 EURO) per year.

#### ◆ **Mechanisms for combatting corrupt activities**

**7.13** The government, ministries and other state institutions must within five working days

present to the State Control the standard acts which regulate the accounting, distribution, use and control of financial and material resources which have been passed by the above bodies but are not subject to publication in the *Valstybės žinios* (state newsletter).

Chief managers of state budget appropriations must annually present to the State Control expense budget performance accounts.

**7.14** The Clean Hands Commission, State Control and *Seimas* Ombudsmen (described in other sections of this report) are the institutions analysing various aspects of actions of civil servants, including corrupt activities. In addition, a Special Investigations Agency, an apolitical organisation, has been established for the preparation and implementation of an anti-corruption programme, investigation of corrupt activities, etc.

**7.15** The State Control supervises the lawfulness and efficiency of state property management and use, the state budget performance, and the observance of financial discipline by state institutions, and gives recommendations for ensuring financial discipline.

When performing its functions, the State Control supervises:

- a) the performance of the state budget;
- b) the implementation of state programmes financed from the state budget;
- c) economic and financial activities of the *Seimas* Office, institutions accountable to the *Seimas*, and divisions providing services to the *Seimas*;
- d) economic and financial activities of the Office of the President and divisions providing services to the President;
- e) economic and financial activities of the Constitutional Court;
- f) lawfulness of the management and use of state-owned assets in the Bank of Lithuania;
- g) economic and financial activities of courts, bailiffs' offices, prosecutors' offices and the police;
- h) economic and financial activities of the Office of the Government, ministries, government institutions and other institutions financed from the state budget;
- i) economic and financial activities of state institutions of the Republic of Lithuania operating in other states;
- j) activities of state-owned enterprises;
- k) activities of enterprises, institutions and organisations in which no less than half of the voting shares are owned by the state;
- l) use by local authorities, religious, and public organisations of funds received from the state budget efficiently and for the purpose intended;
- m) formation and use of state funds and reserves, etc.

The State Control conducts inquiries into the investigation of crimes assigned to its competence. When performing its functions, the State Control may evaluate the performance of state and municipal institutions and economic entities under inspection with respect to the objectives of economical management, productivity and efficiency.

The State Controller, his deputies and heads of control departments have the right to:

- a) point out to heads of state and municipal institutions and economic entities which are under inspection any deficiencies in their activities, warn them, and charge them to eliminate the identified deficiencies;
- b) present proposals to heads of state and municipal institutions and economic entities which are under inspection that they should revoke their decisions which violate lawful interests of other state and municipal institutions and economic entities, and should suspend the manifestly unlawful decisions and actions of officials of state institutions and economic entities which are under inspection if said decisions and actions may cause material damage to the state;
- c) impose cash deductions on officials for the recovery of unauthorised expenditure in the amount equivalent to the damage inflicted on the state, municipality, state or municipal enterprise, institution or organisation, but not in excess of six average monthly wages; impose cash deductions of the equivalent amount on the state and municipal public servants and other employees if the damage inflicted through their fault in the exercise of their official duties has been indemnified for under the Civil Code;
- d) bring an action to court and propose dismissal of the guilty officials from their respective posts, with the exception of those appointed by the President of the Republic or appointed or elected by the *Seimas*, for violation of laws or government decrees or for substantial damage inflicted on the state, municipality or state or municipal enterprise, institution or organisation;
- e) recommend to heads of state and municipal institutions and economic entities which are subject to inspection or to heads of their superior institutions that they dismiss employees subordinate to them from their respective posts for violation of economic and financial activities;
- f) demand from heads of state and municipal institutions and economic entities which are under inspection or from heads of their superior institutions that disciplinary penalties be imposed on employees who committed violations or that these employees be held materially liable therefor;
- g) give instructions to banks to suspend for up to one month's period the payment and transfer of money from the accounts of state and municipal institutions and economic entities which are under inspection if extensive damage to the state is established in the course of the inspection. Upon receiving such instructions, banks may not open a new account for the state or municipal institution or economic entity;
- h) charge heads of state and municipal institutions and economic entities which are under inspection to repay into the state or municipal budgets or state funds the resources, grants, budgetary appropriations allocated, received or used in violation of laws or other legal acts as well as to pay the amounts due under economic sanctions;
- i) recover without suit from economic entities which are under inspection into state and municipal budgets and funds the resources, grants and budgetary appropriations allocated, received or used in violation of laws or other legal acts as well as the amounts due under economic sanctions;
- j) bring an action to court in defence of property interests of the state;
- k) submit proposals to cancel, in accordance with the procedure established by law, the enterprise registration for violations established by the laws of the Republic of Lithuania;

- l) give instructions to state and municipal control institutions to carry out inspections in state and municipal institutions and economic entities which are assigned within their jurisdiction;
- m) obtain from institutions conducting expert examinations the findings of their inspections;
- n) enlist the aid of specialists for conducting inspections;
- o) impose administrative penalties in accordance with the procedure established by law;
- p) obligate tax administrators to recover in the manner established by the Law on Tax Administration the amounts of taxpayers' tax arrears disclosed in the course of the inspection by the State Control and the amounts due under economic sanctions.

**7.16** The Special Investigations Agency, an apolitical organisation, has been established for preparation and implementation of an anti-corruption programme and for investigations of corrupt activities, etc. The agency has the right to conduct criminal and intelligence investigations and interrogations.

## C. PUBLIC SERVICE DEVELOPMENTS AND CONSTRAINTS

### 8. PUBLIC SERVICE DEVELOPMENT

#### ◆ Government action on public service development

**8.1** The first laws regulating the Lithuanian Government structure were passed in 1990, replacing Soviet-era documents. However, before 1995 reforms in the civil service sector were quite scarce and poorly co-ordinated. Economic reforms and privatisation were the top priorities on the political agenda. Therefore, all administrative reforms were viewed as part of one or another sectoral reform in the Lithuanian economy.

In 1993 the government programme for the development of the Lithuanian state administration was addressed from the perspective of economic reforms. The programme states: “While reorganising the Lithuanian economy, government institutions were reorganised several times as well. Such changes destabilised their activities, especially since continuous reduction of staff levels and lack of social guarantees for civil servants discouraged them from working efficiently and effectively. In addition, there were many problems in decision-making and control over their implementation.”

In order to cope with these problems, the government expressed its commitment to:

- a) prepare suggestions for a comprehensive government reform at all levels (government, ministries, departments and agencies), while emphasizing the fields of price control, property management, competition guarantees, and education;
- b) improve the performance of the government apparatus, especially in formulating a macroeconomic strategy and its implementation, and prepare the Law on Government Officials, thus striving to guarantee the stability of state administration;
- c) define the functional division of responsibility between local and central levels and transfer some of the functions, such as social services, trade, etc. to the local level.

The programme for 1994 was not very different from the government programme for 1993 in that government reforms were still viewed as part of economic reforms, stressing economic, social and investment policies. However, in 1994 much more attention was given to the definition of functions within the administration, regulation of the lines of accountability among the *Seimas*, the government and the president. Again, the need to finalise local government reform and the necessity to complete the division of functions among the different levels of the government structure was one of the top priorities of the programme. As a result, a new Law on Government, replacing the one adopted in 1990, was passed by parliament in May 1994.

In addition, the government for the first time expressed concern for the quality of the civil service corps' performance and committed itself to the elimination of corruption and the development of quality control mechanisms. As a result of such decisions, the Law on

Officials was prepared and passed by parliament in April 1995, together with other secondary legislation regulating civil service issues.

The government programme in 1996 further emphasized its commitment to comprehensive civil service reform, outlining the following priorities:

- a) adapt central government functions and operating rules to the new economic and social conditions;
- b) encourage service orientation and further develop transparency and democracy mechanisms within the administration;
- c) review the functions of the state administration in order to eliminate overlaps;
- d) optimise the structure in order to improve intergovernmental relations and reduce costs;
- e) increase the effectiveness of civil servants' performance and their responsibility for the results of their decisions and actions;
- f) impose strict ethical norms and performance standards for civil servants;
- g) prepare a professional development strategy for civil servants;
- h) further decentralise the Lithuanian economy by reducing the amount of government control over certain market issues.

The Ministry of Public Administration Reforms and Local Authorities (MPARLA), in its report on civil service reform presented to the *Seimas* in November 1998, stated that despite the policy document on state administration development, the government was slow in implementing the reform. This was noted in the European Commission's report of 1997. One of the reasons for this situation was that political decisions were made without analysing their impact in advance, which resulted in poorly co-ordinated central administration reorganisation efforts during the 1995/1996 period. Another problem was the lack of political support.

**8.2** The current government's programme outlined its commitments to state administration development:

- a) reduction in the number of ministries (from 17 down to 14) and clearer definition of their functions by assigning to ministries the duty of preparing development strategies, state policy formulation and law enforcement;
- b) creation of a unified information system for all governmental institutions;
- c) development of mechanisms for obligatory declaration of income and of family and business relations for all public servants;
- d) establishment of accountability mechanisms for all decision-making, including collective decision-making;
- e) elaboration of recruitment and hiring procedures for civil servants.

The Prime Minister particularly emphasized the importance of public administration reforms, starting with the establishment of administrative courts and finishing with the adoption of a comprehensive Civil Service Act and a Law on Public Administration.

However, in his evaluation of past public administration reforms, the minister of MPARLA outlined the following problems in strategy implementation:

- a) lack of efficiency in organising the work of the Prime Minister's Office and of the

- government apparatus;
- b) lack of attention to the effectiveness and quality of state administration performance;
- c) lack of attention to drafting processes and enforcement of legal acts and secondary legislation;
- d) lack of horizontal co-ordination of activities at all levels of the government;
- e) ineffective human resources management and deficiencies in the public administration reform process.

**8.3** The Ministry of Public Administration Reforms and Local Authorities, established in 1995 as part of the reform process, prepared a policy document, “Public Administration Reform Strategy”, in which the main goals of public administration reform were outlined:

- a) alignment of public administration functions with the requirements of the new political, economic and social conditions;
- b) reorganisation of state administration institutions;
- c) strengthening of local government;
- d) consolidation of the professional development of the civil service and of information systems;
- e) improvement of legislative drafting processes;
- f) rational use of fiscal public administration resources.

While assessing the implementation of the strategy in the fall 1998, the minister of MPARLA redefined the strategy and outlined five priority areas:

- a) legal framework development;
- b) organisational changes;
- c) development of public personnel management;
- d) improvement of relations between civil servants and citizens;
- e) professional development of civil servants.

**8.4** In the area of public administration reform, the parliament has scheduled the following drafts to be voted on during the spring session 1999:

- Civil Service Act, the main objective of which is to improve the performance standards of the civil service, establish a career system, principles of political neutrality, stability and professionalism of public officials;
- Law on Public Administration, the main objectives of which are to develop the internal management of public institutions, establish standards of public service provision, and arbitration of conflicts between civil servants and citizens, etc.;
- Law on Lobbying, the objective of which is to establish a procedure for civil servants’ interaction with interest groups and lobbyists.

**8.5** In July 1997 the Law on the Adjustment of Public and Private Interests was adopted. The main objectives of this law are to guarantee the neutrality of civil servants’ decisions and to prevent corruption in public organisations. In addition, a Clean Hands Commission was established to analyse cases of conflict of interests and maladministration. Also in 1997 a law regulating the funding of election campaigns was passed by parliament, and in April 1998 the government passed a decree on a strategy to combat organised crime and corruption in Lithuania.

The government has adopted the following programme of action against corruption in public organisations:

- 1st stage: years 1999-2001 – assessment of the situation and definition of the main tools to control and prevent corruption, and consequent preparation of legislation;
- 2nd stage: years 2002-2004 – establishment of the main elements of a corruption control and prevention system: legal basis, establishment of appropriate institutions, creation of legal, social, financial, organisational, informational and analytical systems;
- 3rd stage: year 2005 – establishment of a new strategy for action against corruption and evaluation of previous efforts.

By decree of the Prime Minister, a commission for the creation of a detailed plan of action against corruption has been established, involving representatives of various state institutions and with the State Chancellor as chairman of the working group.

In addition, the Baltic Assembly, a joint institution of the three Baltic States, has prepared a document explicitly stating the commitment of the three governments to combat corruption and to establish mechanisms guaranteeing the transparency of civil service activities, with public procurement, privatisation, tax administration, customs systems, licensing and recruitment to the civil service as top priorities.

#### ◆ **Staffing strategies to facilitate EU accession**

**8.6** MPARLA, together with the Ministry of Foreign Affairs and in co-operation with the Finnish Public Management Institute, prepared a comprehensive European Integration (EI) training strategy for Lithuanian civil servants, which was confirmed by the European Integration Commission.

The strategy defined target groups for the EI training. The main groups include negotiation delegation members and civil servants who will be directly involved in the EI processes over a longer period of time (approximately 1500 civil servants). Another group consists of approximately 100 top public managers from various ministries, departments and other public agencies, and ministers and vice-ministers who are currently involved in the integration processes. The third group – heads of European Integration departments of ministries and other governmental institutions – totals 160 persons. Legal staff, judges and top officials of county and local administrations constitute the fourth group (600 persons). The rest of the staff (approximately 19,000 officials) is supposed to receive basic training on various EI issues.

**8.7** The processes of European integration are co-ordinated by the newly reorganised European Committee (previously the Ministry of European Affairs), which has 65 employees and is responsible for the supervision of EI processes and in particular for NPAA (National Programme for the Adoption of the Acquis) implementation. In addition, the European Integration Commission under the Prime Minister's Office has been enlarged to include all ministers responsible for the key *acquis* implementation areas. Besides these two bodies, there is a European Law Department under the government and a standing *Seimas* Committee on European Affairs. These are the only structures so far supervising EI processes, including the preparation and implementation of staffing and training strategies.

Other structures and mechanisms for ensuring staffing stability still have to be created.

#### ◆ **Resourcing public service development**

**8.8** The Ministry of Public Administration Reforms and Local Authorities (MPARLA), which is the main institution co-ordinating public administration reforms and civil service development, has a staff of 50 persons. This number represents the only numerical data which can be provided regarding staff resources allocated for reform implementation at a central level. Of course, there have also been other people involved in training programmes, law drafting, etc., but many of them were not civil servants, and therefore more exact numbers cannot be provided.

**8.9** The European Committee, the main executive government institution co-ordinating European integration processes, has a staff of 65 persons. In addition, all ministries and other state administration agencies have European integration departments. Based on the data provided in the policy document on the EI training strategy, the main group of approximately 8,090 civil servants includes negotiations delegation members and civil servants who will be directly involved in the EI processes over a longer period of time.

#### ◆ **External assistance and conditions**

**8.10** The main provider of assistance to civil service development has been the EU/Phare Programme. Lithuania has been a beneficiary of the Phare Programme since 1991 and has received 170 MECU in assistance, of which 2.0 MECU have been exclusively devoted to public administration reform.

In addition to Phare, other organisations have been extensively involved in programmes to assist in the development of the public administration in Lithuania. The other two most influential organisations with regard to the length and funding of the development programmes are UNDP and USAID.

UNDP focus is on assistance in the area of administrative reforms dealing with the issues connected with:

- improvements in the government's responsiveness to meet the public's basic needs;
- achievement of sustainable development.

USAID programmes concentrate on four general areas:

- development of the private sector;
- stabilisation of the energy sector and protection of the environment;
- strengthening of democratic institutions;
- training and education.

Since 1992 the World Bank's assistance to Lithuania has also strongly supported the country's transition to a market economy. World Bank-assisted projects have concentrated on reforms in key areas, such as maintaining macroeconomic stabilisation measures to build investor confidence, reducing government involvement in business activities, and enforcing the basic legal tenets necessary for private activity. Moreover, the World Bank is working

with the government to strengthen key financial institutions in order to facilitate the appropriate provision of credit and movement of capital, as well as assisting in the reorientation of the social safety net, strengthening of the public services infrastructure, and adaptation of the energy sector to the needs of a market economy.

The British Know-How Fund has provided some assistance to public administration capacity development through its PADBAS (Public Administration Development in the Baltic States) programme, which has included training/study visits for top civil servants, training for trainers and development of a top civil servant training programme.

Several other support programmes are provided by Canadian, Finnish and German donors and consulting institutions in such areas as training, institutional development, creation of internal control mechanisms, drafting of legal acts, etc.

The Minister of Foreign Affairs is the National Aid Co-ordinator. The Technical Assistance Division of the European Integration Department of the Ministry of Foreign Affairs executes day-to-day technical assistance co-ordination functions.

The Multilateral and Bilateral Technical Assistance Co-ordination Commission, composed of representatives of ministries and other state institutions responsible for technical assistance co-ordination in their sectors and chaired by the responsible Vice-minister of the Ministry of Foreign Affairs, assists in the overall co-ordination.

**8.11 ---**

## D. NUMBERS AND TABLES

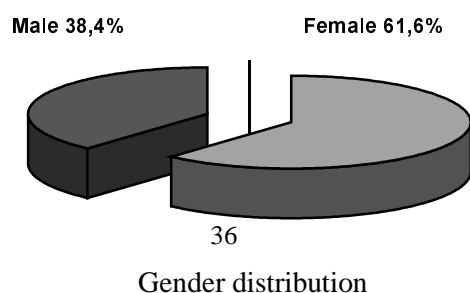
### 9. DATA

Statistical data on the Lithuanian civil service is gathered and stored by the Civil Service Registry. During an interview officials stated that full data from the majority of public institutions had been received for only the year 1998. They were therefore unable to provide statistics for the periods prior to 1998. The Civil Service Registry has provided the following general numbers and their breakdown among various branches of the administration.

#### State administration, regional and local governments A- and B-level officials

*Data: December 1998*

	<u>Number</u>	<u>Female</u>	<u>Male</u>
State administration:	10087	5840	4247
- <i>Seimas</i> , President's Office and Government Chancelleries	443	234	209
- Ministries	1725	1041	684
- Institutions under <i>Seimas</i> and Government	1036	662	374
- Institutions under ministries	1275	529	746
- State Tax Administration and agencies	2928	2305	623
- Customs Department (with territorial customs offices)	2680	1069	1611
Regional government	2617	1389	1228
Local government	5450	3953	1497
Total:	18154	11182	6972



## E. THE JUDICIARY

### 10. DATA ON THE JUDICIARY

#### ◆ Branches; hierarchical structure; distribution of officials

**10.1** The court system in Lithuania consists of district and county courts, the Court of Appeal of Lithuania and the Supreme Court of Lithuania. For the hearing of administrative, labour, family and other categories of cases, specialised courts may be established by adopting special laws.

**District Courts:** A district court consists of a chairperson, vice-chairpersons and other judges. Vice-chairpersons are appointed in a court in which at least six judges are employed. A district court has jurisdiction over the territory determined by law.

**County Courts:** A county court consists of the chairperson, division chairpersons and other judges. County courts have civil case divisions and criminal case divisions. A county court has jurisdiction over the territory determined by law.

The Court of Appeal of Lithuania consists of the chairperson, division chairpersons, and other judges.

The Supreme Court of Lithuania consists of the Chairperson of the Supreme Court, chairpersons of divisions and other judges. It includes divisions for civil cases and for criminal cases and the Supreme Court Senate.

In order to facilitate hearings of economic cases, an Arbitrary Court was established in 1998, thereby abolishing the economic courts. In addition, administrative courts are to be established by the Law on Administrative Courts, which should come into force as from May 1999.

*[NB: This law did in fact take effect in May 1999.]*

The Constitutional Court is an independent court established by the Constitution and regulated by a separate Law on the Constitutional Court. The primary duty of the Constitutional Court is to ensure the supremacy of the Constitution in the legal system as well as constitutional legality by deciding whether the laws and other legal acts adopted by the *Seimas* are in conformity with the Constitution, and whether the acts adopted by the president or the government correspond with the Constitution and laws.

**10.2** A district court is the first instance for:

- a) civil cases;
- b) criminal cases;
- c) administrative cases;

- d) cases relative to the enforcement of decisions and judgements;
- e) passing of decisions (rulings) relative to the application of coercive measures established by laws;
- f) investigation, in cases established by laws, of complaints concerning the actions of an investigator or prosecutor.

The county court is the first instance for civil cases or criminal cases assigned to their competence by law, the instance of appeal for decisions, judgements and rulings of district courts, and the annulment instance for decisions, judgements, rulings of district courts which have not been examined according to the appeals procedure.

A county court, during visits to district courts, also provides advice to judges on issues concerning the application of laws within the territory of their jurisdiction, as well as on any other matter.

The Court of Appeal is the appellate instance for cases which have been heard by county courts as the courts of first instance, as well as the annulment instance for decisions, judgements and rulings of county courts passed according to the appeals procedure.

The Supreme Court of Lithuania is the annulment instance for:

- decisions, judgements and rulings of the Court of Appeal passed in the appellate instance court;
- decisions, judgements and rulings of county courts passed in the first instance court.

The Supreme Court Senate, on the proposal of the Chairperson of the Supreme Court, hears cases relative to the effective rulings of the collegiate bodies of the Supreme Court or annulment decisions of the Court of Appeal, if the decision of the Senate is important for the formation of a uniform judicial practice in applying laws.

**10.3** At this time the number of judges in all courts has increased to 518, which means that there are 101 vacancies.

**10.4** ---

#### ◆ **Integrity of judges**

**10.5** Article 109 of the Constitution of Lithuania states: “In the Republic of Lithuania, the courts shall have the exclusive right to administer justice. While administering justice, judges and courts shall be independent. While investigating cases, judges shall obey only the law.”

In addition, the Lithuanian court system and the status and rules of conduct for judges are regulated by a separate Law on Courts. Article 46 of this law states that “a judge and courts shall be independent while administering justice. While hearing the cases, the judges shall obey only the law. While adopting the decision, the court shall be governed only by the laws that do not contradict the Constitution of Lithuania, the government decrees that do not

contradict the laws, and other legal acts that do not contradict the laws and government decrees. The interference of government authorities and institutions, members of the *Seimas* and other officers, political parties and public organisations or individuals with the work of judges or the court shall be prohibited and shall incur responsibility provided by laws.” Further, the Law on Courts defines the status of immunity and property protection rights for judges as well as termination procedures, social guarantees, etc.

**10.6** The Law on Courts is one of the Constitutional laws, which are adopted by a simple majority vote. However, these laws can be amended only by at least a three-fifths majority vote of all *Seimas* members. The *Seimas* has established a list of constitutional laws amended by a three-fifths majority vote of *Seimas* members.

**10.7** Prior to becoming judges, all persons must pass a special examination given by the six-member Examination Commission, formed by the Chairperson of the Supreme Court and the Minister of Justice for a term of three years. For Supreme Court judges, the five-member Examination Commission is formed by the Supreme Court Senate, also for a term of three years.

The contents of the examination for judges in district or county courts and in the Court of Appeal has to be approved by the Chairperson of the Supreme Court and the Minister of Justice. The contents of the examination for judges of the Supreme Court has to be approved by the Chairperson of the Supreme Court.

The Minister of Justice designates the candidates for positions as judges of district and county courts and their chairpersons. Judges of district and county courts are appointed by the President on the proposal of the Minister of Justice, with the recommendation of the Council of Judges. Chairpersons of district and county courts are appointed by the President from among the appointed judges on the proposal of the Minister of Justice, with the recommendation of the Council of Judges. Deputy chairpersons of district and county courts or court division chairpersons are appointed from among the appointed judges by the Minister of Justice based on the proposal of the Chairperson of the respective court.

The Minister of Justice designates the candidates for positions as judges of the Court of Appeal and its chairperson. Judges of the Court of Appeal, and from among them its chairperson, are appointed by the President based on the proposal of the Minister of Justice and the recommendation of the Council of Judges, with the approval of the *Seimas*. The Minister of Justice appoints division chairpersons of the Court of Appeal from among the appointed judges based on the proposal of the chairperson of this court. The chairperson and division chairpersons of the Court of Appeal are appointed for a term of eight years.

The Chairperson of the Supreme Court designates the candidates for positions as judges of the Supreme Court. The judges of the Supreme Court, and from among them its chairperson, are appointed by the *Seimas* based on the proposal of the President. Division chairpersons of the Supreme Court are appointed from among the appointed judges by the *Seimas* on the proposal of the President and the recommendation of the Chairperson of the Supreme Court. The Chairperson of the Supreme Court and division chairpersons are

appointed for a term of nine years.

The President, based on the proposal of the Minister of Justice and on the recommendation of the Council of Judges, may transfer judges of district and county courts, with their consent, to another court of the same type. In the event of illness of a district court judge or in his absence for another reason, the President may, on the proposal of the Minister of Justice, temporarily assign his duties to the judge of another district court.

The Council of Judges provides recommendations to the President relating to the appointment, promotion, transfer or dismissal from office of judges. The Council of Judges has a term of five years and consists of fourteen members: the Chairperson of the Supreme Court, chairs of the departments of the Supreme Court, the Chairperson of the Court of Appeal, two judges appointed by the President, two judges appointed by the Minister of Justice, five judges elected by a general assembly of judges and one judge elected by the Lithuanian Judges' Association. The Council of Judges elects a chairperson and a secretary from among its members. A general assembly of judges takes place at least once every two years and is organised by the Chairperson of the Council of Judges.

**10.8** The basic pay levels for judges and other key officials in the judiciary depend on the basic monthly pay established by government decree. Currently the basic pay is 105 Lit (0.24 EURO). The government has established the following coefficients to be applied to the basic pay for judges:

Position	Coefficient			
	Supreme Court	Court of Appeals	County courts	District courts*
Chairman	43	40	38	35-33
Deputy chairman				32-30
Division heads	40	38	36	
Judges	38	36	34	30-28

\* District court judges are paid differently according to the location: judges in major cities receive higher salaries, while judges in smaller cities and towns are paid less.

**10.9** ---

**10.10** ---

◆ **Court proceedings**

**10.11** ---

**10.12** ---

**10.13** The Law on Courts states that all citizens of Lithuania, as well as foreigners, enterprises and organisations, have the right to legal aid in court proceedings.

◆ **Training of judges**

**10.14** The Court Department, recently established within the Ministry of Justice, and the Judges Training Centre (established in September 1997) are responsible for the preparation and implementation of a strategy for the legal training of judges. In order to meet training needs related to EU accession, the two institutions, together with the Legal Training and Education Department of the Ministry of Justice, have prepared and implemented training programmes for Lithuanian judges. During the first half of the first year (September-December 1997) of the functioning of the Centre, 27 seminars and conferences were organised, in which 495 judges of various levels participated. In 1998, 45 seminars (eight of which were long-term) were organised, and 1330 judges and court bailiffs participated (two seminars targeted the latter group).

Although the Judges Training Centre continuously organises various training seminars, conferences and other events, the EC Law training programme still has to be included in the overall training programme. In any case, it would be difficult to assess the capacity of the Lithuanian judicial system to apply EC law, since at the moment only Lithuanian law is being applied and EC law is not applicable in the country. There has not been a single instance of EC law application so far, and officials of the Ministry of Justice have refused to speculate as to whether the capacity to do so exists or not.

## **Annex I**

All legal acts, together with their translations into English, may be found on the Lithuanian Parliament Internet page ([www.lrs.lt](http://www.lrs.lt)). Other policy documents used for this report can be found on the Internet page of the Ministry of Public Administration Reforms and Local Authorities ([www.vrsrm.lt](http://www.vrsrm.lt)). A list of A-level officials follows. All other government employees, with the exception of those carrying out technical duties (janitors, drivers, etc.), are considered career officials.

## **A-level Officials**

### ***Seimas* and *Seimas* Chancellery**

*Seimas* public relations representative  
Advisor to the Chairman of *Seimas*  
Advisor to the Vice-Chairman of *Seimas*  
Advisor to the *Seimas* Chancellor  
Referents of political fractions  
Referents-advisors of *Seimas* members

### ***Seimas* Ombudsman Office**

*Seimas* Ombudsman  
Advisor to *Seimas* Ombudsman

### **Elections Commission**

Chairman of the Commission  
Members of the Commission

### **President's Office and Chancellery**

Head of the Chancellery  
Deputy Head of the Chancellery  
Public relations representative;  
Senior referent  
Advisors  
Referents  
Office manager

### **Government Chancellery**

Secretary to the Prime Minister  
Advisor to the Prime Minister  
Government representative for relations with *Seimas*  
Government representative for public relations  
Government consultant  
Government representatives in counties  
Advisors-aides to government  
Consultants to government representatives in counties

**Ministries and other governmental institutions and agencies**

Referents, advisors and aides to ministers

Public relations representatives of ministries