

CIVIL SERVICES AND STATE ADMINISTRATIONS (CSSA)

**COUNTRY REPORT: SLOVENIA
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SLOVENIA

A. PUBLIC SERVICE CHARACTERISTICS

1. LEGAL STATUS OF PUBLIC SERVANTS

◆ Legal provisions defining the status of public servants

1.1

In the Constitution, "public service" is mentioned only once: Article 122 states that "employment in the public service is possible only on the basis of public competition except in cases determined by law (statute)."

The status of public servants is regulated by the Law on Workers in State Organs (LWSO, 1990) and some secondary legislation (regulations) issued on the basis of this law. This law does not use the term "public servant" or "civil servant", but rather the term "worker in a state organ". Nevertheless, one can say that this law establishes a special legal regime for public servants (as this term is usually understood in theory and comparative law).

The pay system is regulated by the Law on Relations of Salaries in State Organs, Local Communities' Organs and Public Institutions (LRS, 1994) which regulates the salaries of all persons employed in the public sector.

Some sector laws regulate only specific questions of public servants' status (special pension scheme for policemen, special career development for diplomats, etc.). *See also 1.4 below.*

1.2

LWSO covers *all persons* employed in state administration, in the services of other state organs (Parliament, Ombudsman, Court of Auditors, etc.) and in local government administrations.

Only for some questions which are not regulated by LWSO (i.e. special protection of junior workers, pregnant women, etc.) does the general labour code apply.

1.3

There is a strict distinction between a public servant and a functionary. In state administration not only ministers but also state secretaries and heads of some governmental agencies attached directly to the government are functionaries.

There are no public servants performing political functions, but there is a category of contractual public servants whose tenure is dependent on the tenure of the minister. Contractual public servants are employed without a public competition procedure. Their

jobs are attached to the cabinet of the minister.

1.4

As explained in 1.2 above, there are some groups of public servants partly regulated by special laws. These are mainly the following: policemen, professional military officers and professional soldiers, diplomats. Some other groups (tax officials, custom officials, and prison guards) share some particularities as well, but not many (generally, these particularities refer to the pay system).

A brief description of the elements of special statutes:

- **p o l i c e m e n** (Law on Police):
 - special conditions for employment;
 - special periodical tests of psycho-physical condition;
 - simplified transfer to another town;
 - strike;
 - special supplements to salary;
 - pension scheme;
 - work accident insurance;
 - disciplinary responsibility;
 - training for recruitment;
 - in-service training.

- **m i l i t a r y** (Law on Defence):
 - special conditions for employment;
 - exceptions from public competition procedures;
 - training for recruitment;
 - special working conditions;
 - in-service training;
 - supplements to salary;
 - strike.

- **d i p l o m a t s** (Law on Foreign Affairs):
 - selection (examination procedure);
 - career development;
 - contractual diplomats;
 - salaries;
 - leave;
 - rights of husbands or wives of diplomats (pension insurance);
 - special duties;
 - right to reimbursement of costs.

◆ Current status on implementation

1.5

Yes, they have been fully implemented [laws/regulations defining the status of public servants].

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

1.6

As explained in 1.1 above, there is only one constitutional provision mentioning the public service. This provision guarantees equal rights to employment in the public service through the mechanism of public competition. This provision has not yet been fully implemented in legislation (see 2.1).

2. RECRUITMENT, SELECTION AND DEPLOYMENT

◆ Selection procedures for entry

2.1

LWSO provides for only a public announcement of a vacancy, which does not meet the constitutional standard of “public competition”. A public announcement has been carried out in the same way as in the public sector.

The new Governmental Decree (1) on Procedure of Employment for Permanent Tenure in State Organs (DPEPT, 1998) provides for a public competition procedure for the first time (Art. 15). The method of selection (interview, preliminary checking, tests) is chosen by the head of the administrative organ (Art. 15). It seems that the government has overruled the legislature by introducing public competition instead of a mere public announcement of a vacancy (2).

In our opinion, the regulation of public competition in DPEPT is an important step towards the fulfilment of the constitutional request. There are still some weak points, such as the absence of judicial remedy for those candidates who are not chosen.

(1) Decrees are issued by the government (collective political executive body and supreme organ of state administration).

(2) Such an “overruling” could be problematic from the point of view of the constitutional provision that executive decrees and regulations must be in accordance with statutes. But this time, it is a curiosity that a decree is more in accordance with the Constitution than the statute (LWSO).

2.2

Public servants are selected by the head of the body of an administration (minister, head of a semi-independent administrative body within a ministry, head of an administrative unit (3)) - DPEPT, Art. 17.

They are formally appointed (LWSO, Art. 19 and 21) as follows:

- senior officials: by the government on the proposal of a minister or head of another administrative organ (4);
- other officials: directly by a minister or other head of an administrative organ.

(3) Administrative units are deconcentrated bodies of state administration.

(4) By “another administrative organ” we mean: semi-independent organs within a ministry (bureau, inspectorate, agency...) and administrative units (deconcentrated organs of state administration). This is the right place to stress that state functions are not executed by local government; there is a strict distinction between local matters governed by local (municipal) councils and state administrative matters.

◆ **Qualifications**

2.3

Persons from the private sector can equally enter the public service in a public competition procedure. A public competition can only take place if:

- new employment is planned in the "plan of employment" issued annually by the government;
- there is a vacancy according to the employment scheme ("act of systematization") of the administrative body;
- the vacancy cannot be filled by transfer or promotion from within the organ or from another organ.

2.4

Prescribed qualifications are checked by a personnel service within the administrative organ or by an official appointed by the head of the administrative organ. Qualifications are checked on the basis of formal proof and, optionally, by a precursory checking (interview) carried out by a commission composed of three senior officials appointed by the head of the administrative organ.

◆ **Probation**

2.5

Yes, there is an obligatory probationary period for public servants with higher education (university degree). Duration: one to six months. Probation is assessed by a commission. Successful probation is a condition for employment on permanent tenure.

◆ **Transitional arrangements**

2.6

LWSO, enacted in 1990, did not affect the right of employees in state organs to keep their jobs. The principle of permanent tenure was in force even before LWSO and remained untouched.

2.7

Pre-transition public servants were not ineligible to continue in the public service.

◆ **Mobility**

2.8

Yes, transfer [of public servants between institutions] is provided for. A public servant can be transferred if such a need is expressed by the heads of both administrative organs. Transfer to another town can only take place if it does not severely aggravate the public servant's situation (LWSO, Art. 30).

2.9

There are no direct mechanisms for secondment, but provisions regarding transfer (see 2.8 above) could be used for such temporary transfers.

◆ Appeal

2.10

Appeal is open to the labour court. The appellant can only claim that the person who was chosen does not meet the conditions for employment. Even though the decree introduced a public competition and selection procedure, in our opinion the lack of judicial remedy for the candidates who are not chosen is still a weak point.

In other words, a candidate who was not chosen can claim in the labour court that the chosen candidate did not meet all the formal requirements but he cannot claim that under the criteria defined before the selection procedure he was the one to be chosen among all the candidates who met the formal requirements.

3. CONDITIONS OF SERVICE, PAY AND CAREERS

◆ Employment system

3.1

A career-based system and a position-based system are combined. Particular observations on different elements of the public service system:

a) Training for recruitment: there are no special training institutions for recruitment of public servants. The School of Public Administration is a part of the University of Ljubljana; there is no direct (automatic) recruitment.

There are some exceptions: policemen, professional soldiers and military officers are trained in special institutions.

b) Grades: in principle, grades correspond to posts (jobs) and not to a public servant's personal position (education, years of service, performance, etc.). In other words, there is only a classification of posts and no special classification of personal grades.

c) Openness to the private sector: as explained in (a) above, entry posts are open to graduates of different educational institutions. Middle-level posts are in principle reserved for cases of promotion and transfer. In other words, in case of a vacancy, promotion and transfer have priority over new employment from the outside (*see also 2.3*).

d) Promotion: there is no promotion within grades, only promotion to higher posts. LRS provides for so-called promotion to a higher salary bracket, but this is rather a combination of seniority and a performance bonus than promotion *in stricto sensu*.

3.2

As explained in 3.1, grades correspond to posts. There is a great number of so-called typical posts (grades). Employees in state organs and local organs are classified into three groups; the first and second groups encompass the category of officials (the third category encompasses technical staff). If we take into account only the first and second categories (public servants executing administrative functions) there are 12 grades (typical posts) of senior officials and 13 grades of officials. A more detailed list of typical posts (grades) is included in a governmental decree (Decree on Internal Organisation and Systemisation in Administrative Organs, DIOS, 1998).

According to the decree, the grades (posts) are the following:

a) senior officials:

- secretary general;
- under-secretary of state;

- adviser to the government;
- under-secretary;
- assistant to a minister or another head of an administrative organ;
- adviser to a minister or another head of an administrative organ;
- senior adviser;
- head of an administrative unit;
- assistant to the head of an administrative unit;
- adviser to the head of an administrative unit;
- head of an internal unit;
- head of expositure of an administrative unit.

b) officials:

- senior inspector;
- inspector;
- adviser I;
- inspector II;
- adviser II;
- senior referent;
- senior collaborator;
- referent I;
- referent II.

Each grade corresponds to a typical post described in the decree.

A public servant's grade is defined in the act establishing his/her employment, transfer or promotion.

◆ **Rights and duties of public servants**

3.3

Service rights:

- leave;
- unpaid leave;
- salary (regulated in LRS);
- right to promotion (as promotion means transfer to a higher post, this right is logically restricted by the actual situation -- existing vacancies, number of public servants fulfilling conditions for promotion to the same vacancy, etc.);
- other rights are subject to the general labour code.

Service obligations:

- duty to work extra hours when necessary (reasons are explicitly enumerated by the law; extra hours must not exceed eight hours a week -- LWSO, Art. 31);
- duty to accept a transfer (*see 2.8 above*);
- duty to perform tasks not included in the job (post) description (against extra payment determined by the head of the administrative organ); again, this duty can be ordered only in those cases enumerated by the law (LWSO, Art. 12);

- duty to perform tasks which do not correspond to the public servant's education, knowledge or capacity (possible only in a restricted number of urgent situations -- LWSO, Art. 32);
- duty to cover the cost of damages caused by an intentional or highly negligent act.

◆ Career development and promotion

3.4

Promotion is not limited to "step-by step"; there are no restrictions to a fast track. Promotion is restricted only by conditions that have to be fulfilled for a particular post (grade). For example, a public servant can be promoted from "adviser" to "under-secretary of state" if he/she meets the formal requirements for the post (conditions are defined by the decree mentioned above).

3.5

Criteria for promotion are defined by the law (LWSO, Art. 21): professionalism, capacity, results of work, and assiduity. However, there is no internal competition procedure, which makes these criteria quite inoperative.

3.6

Performance appraisal is combined with promotion, but only "horizontal" promotion, i.e. promotion to a higher salary bracket without real promotion to a higher post.

Promotion to a higher salary bracket is regulated by LRS. Regularly, promotion takes place every three years. The number of promotions is limited to five; in principle, a public servant can reach his highest salary bracket in 15 years working in the same post. Promotion is not automatic; it depends on certain conditions evaluated in points: knowledge gained by formal education or in-service training, interdisciplinary knowledge, reliability, creativity. The conditions are regulated in detail (and evaluated in points) in a ministerial regulation (Regulation on Promotion to Higher Salary Brackets, 1995).

All conditions are evaluated in an objective (numeric) way, except for performance appraisal. Performance is appraised by the head of an administrative body on proposal of the officer to whom the public servant is directly subordinated. Performance is appraised as "above average, average, below average". An "average" assessment is sufficient for promotion to a higher salary bracket if a public servant meets all the other requirements (that is, gathers enough points).

The appraisal system is, in general, the same for all branches of the administration, with some differences in details (the regulation includes separate chapters for policemen, professional soldiers, diplomats, prison guards and custom officers).

◆ **Training**

3.7

Training is centrally organised within the Administrative Academy, which is an organisational unit of the Ministry of Interior.

There is a conceptual dilemma as to whether the Academy should only be involved in programming, funding and organising training (and thereby engaging other training providers) or should provide training as well. At the present moment, the Administrative Academy is involved in programming and funding and also to a large extent providing training.

3.8

Yes, there is a general training programme carried out by the Administrative Academy (unit within the Ministry of Interior) covering the general institutional EU issues (institutions, system of EC law, etc.). This programme is aimed at all senior officials in the state administration.

Besides, there is a special programme on the preparation for EU accession aimed at so-called "coordinators of EU accession" from different ministries.

3.9

There is a mandatory course for apprentices given in preparation for a special obligatory examination that has to be passed after the apprenticeship.

Attending training is mandatory if the head of the administrative organ decides to send selected public servants to courses given by the Administrative Academy. At the present moment, a large programme of courses on the new General Administrative Procedure Law is being carried out, and there is an agreement between ministers that all officials who participate in adjudication will attend it.

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

3.10

The right to participate in unions and the legal position of unions are exactly the same in the public sector as in the private. LWSO states in Art. 2 that unions have the same position in state organs as they have according to the general labour code and to the collective agreement for the non-commercial sector.

The right to strike is intensely restricted by the Law on Strike. A strike must not "essentially endanger the execution of functions of state organs and organs of local communities" (Art. 11). The government is empowered to issue an act defining the scope of tasks which have to be fulfilled if a strike takes place. This means that a strike can hardly be effective. The provisions of the Law on Strike have not yet been challenged before the Constitutional Court. In our opinion, it is a difficult constitutional question as to whether restrictions would pass the test of proportionality (after balancing the infringement of constitutional rights on the one hand and public interest on the

other).

3.11

There is a union covering all persons employed in state organs and organs of local communities (Union of Workers in State Organs and Organs of Local Communities) with 13,500 members, which is about 45% of all persons employed in these organs.

There are also some sectoral unions, such as the Police Union (4,000 or 5,000 members), covering only public servants in the Ministry of Interior.

◆ Pay components

3.12

The pay of a public servant is composed of *basic pay*, *bonuses* and *performance incentive*.

Basic pay is determined by multiplying the "basis" (determined by the collective agreement for non-commercial activities) by a coefficient corresponding to the salary bracket (which again corresponds to the post and horizontal promotion).

Bonuses: working years (not only in public service), difficult conditions of work, unpleasant working hours, incompatibility of service with outside economic activities, management responsibilities, other special responsibilities, etc. In principle, bonuses should be introduced only for circumstances which are unusual for the post (and are therefore not covered by the coefficient, that is by the basic salary).

Performance incentive: maximum of 20%, but the total sum paid for performance incentives is limited to 3% of the total amount designated for salaries for each administrative organ.

Art. 65 of LWSO provides for *special supplements* for public servants performing the most responsible posts in the case of special ("above average") responsibilities and for an out-of-scheme raising of the coefficient by a government decision.

3.13

This proportion [of take-home pay provided by basic pay as compared to bonuses and allowances] varies from 100:0 to 30:70.

A public servant with few working years, no special responsibilities, no special working conditions and no performance incentive receives only the basic pay. On the other hand, many public servants receive bonuses (see 3.12 above). An official in the tax service, for example, can obtain the following bonuses and allowances:

- 20 years of work: 10 % of the basic pay;
- special responsibilities (a general bonus for the tax service): 30 %;
- incompatibilities: 15 %;

- managerial position: 10%;
- knowledge of a minority language: 6%

Total: 71%

3.14

Some fringe benefits exist, such as housing and payment of tuition fees. Personal housing and use of cars are regulated by internal regulations issued by the government.

3.15

There are no special pay arrangements in place for public servants in key areas.

◆ Termination of service

3.16

Public service may be terminated on the following grounds:

- unilateral notice to quit by the public servant (after expiry of a certain term);
- agreement in writing between the head of the administrative organ and the public servant;
- redundancy;
- dismissal for personal reasons (weak performance);
- dismissal as a disciplinary sanction;
- some other reasons determined by the general labour code (pension, sentence to prison for over six months, etc.).

Dismissal for personal reasons and dismissal as a disciplinary sanction can only be pronounced after a formal proceeding.

In the case of a disciplinary sanction, dismissal is pronounced by the head of the administrative organ. Appeal is allowed to a disciplinary commission established by the government. Judicial review can be obtained in a labour court.

Dismissal for personal reasons is pronounced by the head of the administrative organ (for officials) and by the government (for senior officials) after a formal proceeding before a commission within the administrative organ. There is no right to appeal. Judicial review can be obtained in an administrative court.

3.17

Severance pay is applicable in cases of redundancy (for all categories of public servants).

3.18

In cases of redundancy, a solution must be sought first to arrange a transfer to another administrative organ. If this is not possible, the general labour code scheme for redundancy applies, which means:

- protection against dismissal for certain categories (pregnant women, disabled persons, union representatives);
- right to transfer after additional training (if additional training can be terminated in six months);
- guarantee of a six-month dismissal term (employment cannot terminate before expiry of a six-month period following the employer's decision);
- duty of the employer to respect certain objective criteria for determining redundant employees (personal and family circumstances, performance, years of work, education, etc.);
- severance pay (half of the average monthly pay for each year of service).

There have been no practical cases of dismissal for redundancy in recent years (*see 9.10 to 9.12 below*).

4. PERSONNEL MANAGEMENT STRUCTURES AND CONTROL OF STAFFING

◆ Coordination of personnel management

4.1

The overall responsibility for matters related to the personnel management of public servants is divided between:

- Personnel Service, attached directly to the government: personnel databases, opinions on acts of systemisation (except for administrative units);
- Personnel Commission (composed of ministers, chaired by the Deputy Prime Minister): opinions on appointment of senior officials (formally appointed by the government (see 2.2 above), accords regarding acts of systemisation;
- Ministry of Interior (Bureau of Organisation and Development of Administration): preparation of primary and secondary legislation, opinions on acts of systemisation of administrative units, responsibility for execution of LWSO.

4.2

Regulations governing personnel management (LWSO, governmental decrees, and ministerial regulations) are, in general, common to all branches of the administration.

4.3

There is no central body responsible for setting standards to be followed by public servants.

Development of policy on personnel management is mainly carried out by the Ministry of Interior and the Ministry of Finance.

The Ministry of Interior is responsible for preparing regulations on personnel matters. Regulations are mainly issued in the form of governmental decrees.

4.4

A Personnel Commission was established by the government (see 4.1).

◆ Staff involvement in personnel decision-making

4.5

Trade unions are involved in collective bargaining on matters not regulated by LWSO (matters regulated by the general labour code). The basis for calculation of pay is also determined by collective agreement (see 3.12 above). For other matters, trade unions are allowed to express their opinion, but there are no formal mechanisms of negotiation.

There is a vague provision in LWSO (Art. 6) stating that "employees may organise

themselves in a suitable way to give opinions, remarks and proposals to the head of the administrative organ on personnel matters." In practice, this provision is not effective.

A public servant may be represented by the union in a disciplinary procedure.

Consultation of trade unions would also be obligatory in cases of mass redundancy.

◆ **Management and control of staffing**

4.6

Generally, the staffing process is centrally controlled to a large extent.

There is a central plan of new employment issued by the government as part of the "budgetary memorandum" determining the exact number of new posts for each ministry and for administrative units.

There are two governmental decrees regulating:

- staffing procedures;
- internal organisation and schema of typical posts.

Each ministry and each administrative unit has its own "act of systemisation", which is a list of posts required to fulfil all functions. This act and every amendment to it are subject to consent by the Personnel Commission (see also 4.1).

A database, including data on possible or desired transfers and the demand for public servants, is being established right now under provisions of DPEPT by the governmental Personnel Service (see also 4.1).

4.7

Staffing ceilings are determined by:

- the plan of new employment;
- the act of systemisation (see 4.6).

Besides, there is a restriction on new employment even if the two criteria mentioned above are met: first, the head of the administrative organ must verify if there is a possibility of promotion or transfer from the same or from another organ.

4.8

No, money saved by not filling a position cannot be used for other purposes.

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

4.9

Job descriptions and classifications are included in a governmental decree. An internal unit within the Ministry of Interior is responsible for job descriptions and classifications. Some criteria for job descriptions and classifications are set by LWSO (Art. 14 and 15), but they are very abstract and general, relating only to main categories (senior officials

and officials) and naming the posts (titles) within these two categories (without describing particular posts). Otherwise, there are no clear criteria for job descriptions and classifications.

4.10

No obligatory periodic job evaluation, description and classification are legally provided for. Of course, the governmental decree establishing classification of posts can be amended any time if necessary.

4.11

All sectors of the administration, except police, intelligence service, military, customs and diplomatic service, are covered in job descriptions, setting common requirements for comparable jobs in different branches of the administration.

◆ Management and control of pay and salary payments

4.12

Yes, there is a unified pay scheme with some "modifications" in the form of bonuses provided for in sector laws (e.g. tax service).

4.13

Pay is composed of a fixed part and a variable part (performance incentive). The fixed pay scheme is determined by the law (LRS), and there is room for manoeuvre by heads of administrative organs.

On the other hand, the variable part (performance incentive) is determined periodically by the head of the administrative organ according to an assessment proposed by the direct superior of the public servant.

Legislation on public service pay is prepared by the Ministry of Interior. The role of the Ministry of Finance in this field does not differ from its role in any decision-making procedure within the government in the fields which are not the primary responsibility of this ministry. This means that the Ministry of Finance makes objections and remarks to a draft before it is discussed by the government. Remarks and objections must be taken into account by the Ministry of Interior.

4.14

Yes, except for the Ministry of Defence and the Ministry of Interior [system for administering the payroll computerised and common or compatible throughout the entire administration].

◆ Appeal against personnel decisions

4.15

There is only the right to appeal to the court (labour courts are competent for settling most disputes -- except for a few decisions, such as dismissal for personal reasons)

[existing arrangements for individual public servants to appeal against a decision on a personnel matter].

In disciplinary matters, there exists the appeal to the central disciplinary commission established by the government.

◆ **Evaluation of use of resources**

4.16

There are no such arrangements, except for the possibility of publication of reports of the Court of Auditors [arrangements for the public disclosure and scrutiny of the use of public service resources].

4.17

A system of audit of the use of human resources is established only as part of the hierarchical control of superior organs over subordinated organs (e.g. ministries over administrative units), and even this control is inoperative in practice. There is no centralised system of audit of the use of human resources.

4.18

Salary payments are audited by the Budgetary Inspection within the Ministry of Finance and by the Court of Auditors.

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

Constitutional authorisation and enabling powers are given to the government and administrative organs and not to public servants. In principle, the minister is responsible for making decisions in the name of the ministry. For example, regulations (secondary legislation) are issued by the minister. The minister can empower particular public servants within the ministry to adjudicate (to issue concrete administrative acts). Inspectors are the only public servants having direct authority arising from the law (Law on Administration) to adjudicate (decide upon rights and obligations of legal subjects) in concrete inspection matters.

Policemen are empowered by the Law on Police to take measures in the field of public traffic and public order.

Diplomats are empowered to represent the state by the Law on Foreign Affairs.

◆ Requirements to carry out government policy and to obey orders

5.2

There is a provision in Art. 45 of LWSO relating to disciplinary sanctions. The law designates as a severe breach of disciplinary rules the "refusal of the order of the head or senior official". It is not clear what the law means by an order of a "senior official". Thus, the duty to obey orders is implicitly included in the law. This duty is enforced in the disciplinary procedure.

5.3

There are no such safeguards except in the field of adjudication [safeguards for public servants who are asked or required to take administrative actions which they consider to be in conflict with constitutional/legal provisions]. The General Administrative Procedure Law establishes the "principle of independence". According to this principle, when adjudicating in a concrete administrative matter, an official is only bound by laws and regulations and not obliged to follow the orders of his superior or even of a hierarchically superior organ.

◆ **Lines of accountability**

5.4

See 5.1 [levels of public servants with authority to act independently under the law in policy-making, in administrative actions and in service delivery].

5.5

Accountability of ministers: it is quite specific to the Slovene parliamentary system that ministers are individually accountable to parliament. Ten members of parliament can request a discussion (interpellation) on the work of a minister. Parliament can discharge a minister by a vote of no confidence on the proposal of ten members of parliament or on the proposal of the Prime Minister (President of the Government).

◆ **Ability to innovate**

5.6

No special arrangements exist [for encouraging public servants to offer new ideas], except for those related to the pay system (such as the performance incentive).

◆ **Management practices**

5.7

See 5.6 [responsibility and possibilities of line managers to motivate staff and reward good performance].

◆ **Management control**

5.8

No special arrangements [used by line managers to supervise and control the quality of performance, productivity and expenditure within their units].

◆ **Parliamentary accountability**

5.9

Political (parliamentary) control is exercised only in the relationship between parliament and the government. In principle, there is no direct parliamentary control of administrative actions executed by public servants. Political accountability of the government and ministers is exercised in the form of:

- (constructive) vote of no confidence;
- interpellation;
- discharge of a minister;
- parliamentary questions;
- constitutional impeachment (a form of semi-political and semi-criminal responsibility).

Parliamentary inquiry is provided for by the Constitution but only for fact-finding on

which political decisions are based. A parliamentary inquiry commission has the same inquiry powers as the courts. In practice, parliamentary inquiry does not work as an efficient mechanism of parliamentary control of the executive branch of power. It is usually blocked by political quarrels between the ruling party/coalition and the opposition.

5.10

There are seldom any parliamentary reports finding fault with public servants. This only happens in the rare cases when a minister is discharged by a vote of no confidence. In such cases, the new minister usually takes measures against the public servants who were found at fault.

◆ Non-judicial accountability

5.11

Yes, the Ombudsman and the Court of Auditors as independent institutions play an important role in controlling actions taken by public servants.

The Ombudsman is elected by parliament and is an independent institution investigating alleged infringements to human rights by state and local communities' organs.

The Court of Auditors is an independent institution as well, having the competence of "supreme organ of control over state accounts, state budgets and the entire public expenditure".

5.12

The Ombudsman can take no direct action with legal effects but has the right and duty to propose measures to the organ concerned in order to abolish the irregularities. The Ombudsman also has the right and duty to propose disciplinary measures to be imposed upon a public servant. The organ must inform the Ombudsman on measures taken within 30 days. If no measures are taken, the Ombudsman can report to a superior organ or to parliament or publish the report in the media.

The Court of Auditors reports to the government and to parliament. It has the right to propose the discharge or dismissal of responsible persons, including public servants.

◆ Judicial accountability

5.13

Type of action	Court	Reforms
general abstract acts (secondary legislation)	Constitutional Court	-

individual concrete acts (adjudication)	Administrative Court ¹ Constitutional Court (constitutional appeal ²)	completed in 1998
contract	courts of general jurisdiction (civil)	-
liability for contractual and extra-contractual damages	courts of general jurisdiction (civil)	-
liability for damages arising from execution of concrete acts found to be illegal	Administrative Court ³	completed in 1998
criminal acts	courts of general jurisdiction (criminal)	-

5.14 and 5.15

Type of action	Person who can challenge the action	Against whom
general abstract legal acts (secondary legislation)	any person whose "legal interest" is affected	against the organ that issued the act
individual concrete acts (adjudication)	any person whose rights are affected	against the organ that issued the act
contract	party of the contract	against the state or local community
liability for contractual damages	party of the contract	against the state or local community
liability for extra-contractual damages	the person injured	against the state or local community; the state or local community has the right to claim compensation if action was taken with intention or high neglect ⁴
liability for damages arising from execution of concrete acts found illegal	person who challenged the act	against the state or local community
criminal acts	public prosecutor, exceptionally the person damaged	against the public servant who is accused to have committed a criminal act

¹ Appeal is possible to the Supreme Court.

² Constitutional appeal in principle can be raised only against decisions of the Supreme Court taken after appeal to the Administrative Court.

³ Appeal is possible to the Supreme Court.

⁴ LWSO, Art. 51.

No special legal aid is available for individuals or groups of individuals challenging administrative decisions.

6. PUBLIC SERVANTS AND POLITICS

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

6.1

The Constitution states in Art. 42, para. 4, that professional members of defence forces and police must not become members of political parties.

There are no other provisions in the Constitution or laws defining political impartiality. The provision of LWSO prohibiting public servants to be members of executive bodies of political parties was abolished in 1998.

For professional independence see 5.3 above.

◆ Political affiliation and activities of public servants

6.2

See 6.1 [legal restrictions on public servants belonging to political parties].

◆ Contacts with political parties/parliamentary organisations

6.3

Contacts with political parties or lobbies are not regulated by legal provisions.

◆ Role of public servants in policy-making

6.4

An impartial and apolitical attitude is protected by the restricted possibilities of dismissal for personal reasons (*see also 3.16 above*). According to the law, there is no possibility of dismissal for political reasons. Dismissal is always a legally-bound decision (the grounds for dismissal must be explained).

There are no other provisions facilitating an impartial political attitude.

6.5

In general, yes (of course, this is a subjective estimation based on personal experience obtained in some legislative projects) [ministers' use of public servants to provide professional and impartial policy advice]. (Alternative) policy decisions and studies on their impact are prepared by public servants. Final political input is given and final political decision taken by the minister.

◆ Changes of officials on changes of government

6.6

Formally, there were no demotions or dismissals for political reasons. In practice, demotion to a lower position (post) was sometimes a means of “getting rid of” public servants after changes of government. Provisions on the possibility of demotion were rather vague before amendments to LWSO in 1998. Demotion often caused the end of service by decision of the public servant, who did not want to stay on in a lower position. There was a possibility of judicial review, but it was rarely used in practice.

6.7

Replacement of permanent public servants is possible only through dismissal for fault (disciplinary reasons) or for personal reasons (weak performance). In both cases, a formal procedure must be followed and there is a right to obtain judicial review.

Persons performing political functions are not officials but functionaries. In state administration, there are the following categories of political functions:

- ministers;
- state secretaries;
- heads of governmental agencies (services);
- heads of semi-independent agencies within ministries.

These functionaries can be replaced by a simple political decision (ministers are replaced by parliament, other functionaries by the government).

There is only one category of "political officials" introduced by amendment of LWSO in 1988: officials attached to the cabinet of the minister, who come into service under contract and whose tenure is terminated when the mandate of the minister is terminated.

7. STANDARDS OF CONDUCT; MECHANISMS FOR ENFORCEMENT; SANCTIONS

◆ Regulation of administrative functions

7.1

Only the procedure of adjudication (deciding on rights and obligations of legal subjects in concrete cases under administrative law) is prescribed by the General Administrative Procedure Law (GAPL, 1956). There is no law relating to the procedure of regulation-making.

In some laws, there are rules regulating conduct of public servants when using special authorisations to infringe on the rights and liberties of legal subjects through "material acts" (such as the use of weapons or other means of force, access to property, etc.).

7.2

There are no such provisions [laws/regulations dealing with the relations of public servants with the public] except those included in the section of LWSO regulating disciplinary sanctions. "Indecent, insulting or otherwise improper behaviour towards parties" is defined as a severe misconduct (breach of disciplinary rules).

◆ Transparency in decision-making

7.3

Administrative procedure (procedure of adjudication) is open to parties ("right to be heard"), and there is usually a public trial.

Freedom of information is defined in Art. 24 of the Law on Media, stating that "state organs, organs of local communities, individuals performing public functions, public institutions and public enterprises and other subjects performing public service ('sources of information') are obliged to assure publicity (openness) of their work by giving timely, complete and true information on matters within their competence."

Journalists have the right to access information under equal conditions. Information-sharing can be refused only in cases where this information is classified as a state, military, official or business secret in a legally prescribed procedure and in cases where giving information would mean a breach of data privacy or cause harm to a judicial proceeding. Refusal must be in writing and grounds must be given.

Sources of information are responsible for the truth and exactitude of the information provided.

7.4

For freedom of information see 7.3.

Data privacy is regulated by the Data Privacy Law (1990). Personal data can be collected by the administration only under specific authorisation in law (statute) and used only for purposes defined by law (statute).

7.5

According to GAPL, administrative decisions in concrete cases under administrative law (adjudication) must be in writing (except in urgent cases where life or health are endangered; in this case, a decision in writing must be issued within eight days, *post facto*). Reasons must be given explaining the fact-finding procedure, legal grounds and conclusions.

All public servants involved in the procedure need not be identified, only the person who issues the decision -- minister or other head of an administrative organ or a public servant authorised by the head to issue adjudication (inspectors are authorised directly by law).

7.6

No, there are no such arrangements [for encouraging reporting by public servants of wrongdoings and maladministration].

◆ Standards of conduct of public servants

7.7

Minimum obligatory standards and principles of conduct are defined only in the section of LWSO defining disciplinary measures. In this section, breaches of disciplinary rules are enumerated.

There is no code of conduct or anything similar.

Some in-service training programmes on professional ethics are provided by the Administrative Academy and by the School of Public Administration.

7.8

Disciplinary procedure is carried out by the head of the administrative organ in the first instance and by a disciplinary commission established by the government in the second (appellate) instance.

Disciplinary procedure is regulated partly by LWSO and mainly by the general labour code.

According to LWSO (Art. 49), disciplinary procedure is introduced by the head of the administrative organ. Every employee in the administrative organ can propose the introduction of a disciplinary procedure.

Criminal prosecution is carried out by public prosecutors.

7.9

Disciplinary procedure is regulated partly by LWSO and mainly by the general labour code. Procedural guarantees are provided for, such as the right to be heard, right to a public "trial", right to be represented by a trade union, minutes recording the course of the procedure, right to appeal, right to judicial review (before a labour court).

Grounds for disciplinary action (breaches of disciplinary rules) are defined by the law (LWSO, Art. 44 and 45) and by sanctions as well.

7.10

No, there are no such institutional arrangements [for resolving actual, day-to-day ethical problems or dilemmas facing individual public servants].

◆ Mechanisms preventing incompatibilities and conflict of interest

7.11

LWSO (Art. 27) sets up a strict prohibition of senior officials to perform the same or similar jobs for private businesses and companies (e.g. on a contractual basis) as they perform within the administration.

(Lower) officials are allowed to work for private businesses and companies on a contractual basis, but only if they obtain the explicit authorisation of the head of the administrative organ.

For jobs which are not the same or similar as those performed within the administration, there are no restrictions. There are no restrictions for research, scientific and pedagogical work or for work for cultural, humanitarian, and artistic associations.

Inspectors are not allowed to perform jobs outside the administration in the field of their competence.

There are no other mechanisms established to prevent conflicts of public and personal interests. Such mechanisms as disclosure of assets, etc. are established only for functionaries.

7.12

There are no such restrictions [on employment on leaving public service].

◆ Mechanisms for combatting corrupt activities

7.13

There are two main mechanisms of financial control: budgetary inspection and the Court of Auditors. There are no special mechanisms for prevention of corrupt activities.

7.14

There are no special bodies for investigation of corrupt activities.

7.15

See 7.14 [scope, functions, etc. of independent bodies].

7.16

No, there are no special bodies with powers to prosecute corrupt activities.

C. PUBLIC SERVICE DEVELOPMENTS AND CONSTRAINTS

8. PUBLIC SERVICE DEVELOPMENT

◆ Government action on public service development

8.1

There have been no reform initiatives in the field of public service since 1990. There was a major reform of the pay system in 1994. The new scheme was introduced by LRS covering the whole public (budgetary) sector.

There were some minor amendments to LWSO and a major amendment in 1997, which introduced some new ideas and mechanisms, such as:

- "political officials" employed for a minister's term;
- possibility of dismissal (not only demotion) for personal reasons;
- procedural guarantees for dismissal for personal reasons;
- abolishment of detailed job descriptions (moved to the level of governmental decree);
- abolishment of prohibition to be involved in executive organs of political parties;
- possibility of extraordinary raising of coefficient by the government (outside the scheme introduced by LRS).

8.2

Yes, a major reform is in process, including the preparation of a new Law on Public Service (or Civil Service Act). A new draft has already been completed.

8.3

There was a policy document entitled "Starting Points for Reform of the Civil Service" issued in 1996 by the government. This document dealt with all of the major issues of the public service system, such as:

- scope of the public service;
- planning of employment (posts);
- job classification;
- selection procedures;
- pay system;
- rights and obligations;
- trade union activities and collective bargaining;
- strike;
- termination of service.

8.4

The new draft Civil Service Law has already been finalised within the Ministry of

Interior. At the present moment, it is being discussed by this ministry and other ministries, and with trade unions.

8.5

There are no special programmes for government action against corruption.

◆ Staffing strategies to facilitate EU accession

8.6

A strategy to meet staffing needs arising in connection with preparations for EU accession is included in annual plans of new posts. For the year 1998, 50 new posts were planned in the newly established Bureau for European Matters. New posts were planned in some sectors to accelerate work on preparation of accession to the EU -- e.g. 80 in the Ministry of Agriculture.

8.7

No such mechanisms [to ensure stability in staffing of key functions for EU accession], except the guarantee (arising from an agreement with the European Commission) to give to contractual advisors (national experts involved in programmes of assistance included in PHARE) permanent tenure after termination of their contracts.

◆ Resourcing public service development

8.8

Only six public servants within the Bureau for Organisation and Development of Administration (unit within the Ministry of Interior) are working on the reform [public service development/reform].

8.9

Approximately 80 public servants within the Bureau for European Matters, two-three coordinators in each ministry and a number of new posts in different ministries (*see* 8.6) [staff resources centrally allocated to preparations for EU accession].

◆ External assistance and conditions

8.10

There is a project included in the PHARE programme called "Civil Service Legislation".

8.11

No special conditions [externally imposed affecting public service development other than conditions related to EU accession].

D. NUMBERS AND TABLES

9. DATA

◆ Numbers and distribution of public servants

9.1

Total labour force (population of working age 15 years or over -- in thousands)

1994	936
1995	952
1996	947
1997	967

Employed persons -- in thousands

1994	851
1995	882
1996	878
1997	898

State administration – Ministries, Government Offices, Administrative Units

On 1 January 1995, administrative units were introduced in the state administrative system (before that, state administrative functions were carried out by municipal administrative organs), which is the reason for a large increase in state employment in 1995.

Remark: the number includes all persons employed in state administration, not only officials!!

Persons employed on the 1st of January:

1994	20.000
1995	26.029
1996	26.461
1997	28.101
1998	28.638

Local self-government

On 1 January 1995, the activities of 147 newly-established municipalities officially started, of which 11 were city municipalities; in 1998 another 45 municipalities were established, starting their activities on 1 January 1999. The data relate to the number of persons employed in the first 147 municipalities, on 1st of January of the given year:

	Persons employed in municipal administration	Professional functionaries
1995	2051	50
1996	2521	158
1997	2892	336
1998	3054	356

9.2

State administration – Ministries, Government Offices, Administrative Units Persons employed in different bodies on the 1st of January:

	1994	1995	1996	1997	1998
Ministry of Labour, Family and Social Affairs	95	170	187	203	218
Ministry of Economic Relations and Development	209	333	278	298	326
Ministry of Finance	3670	3943	4101	4833	5036
Ministry of Economic Affairs	112	168	152	155	132
Ministry of Agriculture and Forestry	147	289	320	331	350
Ministry of Culture	143	138	146	153	164
Ministry of Environment and Physical Planning	440	1149	1233	1302	1303
Ministry of Justice	888	939	981	991	931
Ministry of Transport and Communications	335	328	340	391	403
Ministry of Education and Sport	317	372	161	169	170
Ministry of Health	74	195	197	211	216
Ministry of Science and Technology	169	193	218	222	233
Ministry of Foreign Affairs	258	267	306	350	377

Ministry of Interior	7564	8031	8225	8447	8459
Ministry of Defense	4729	5638	5693	5940	6081
Government Offices	850	894	932	962	1033
Administrative units	2982	2991	3143	3184	3164

Education

Degree	% 1994	% 1995	% 1996	% 1997
I	3,9	3,6	2,6	2,5
II	0,8	0,8	1	0,9
III	0,9	0,9	0,8	0,7
IV	6,6	6,2	5,8	5,3
V	39,6	38,7	38	37
VI	18,1	19	22	22,4
VII	29,3	30	29,1	30,4
VIII	0,8	0,8	0,6	0,7

I – primary school (8 years)

II – primary school + additional training course

III – 2 years' secondary school

IV – 3 years' secondary school

V – 4 years' secondary school

VI – higher education degree (two-year programme after 4 years of secondary school)

VII – university degree

VIII – masters degree

9.3

No data [vacant positions, 1994-1997].

9.4

There is no information available on the number of employees in the state administration having a working knowledge of foreign languages. English language is still a compulsory subject in the 5-8th classes of primary education, in high school, and also in higher educational institutions and faculties. French and German are optional subjects in high school.

◆ Pay levels

9.5

Basic pay levels

Gross values in Euros, according to the average exchange rate at 30.3.1999

There is a uniform scheme for public employees, set out by the Law on Salary Ratios in Public Institutions, State Organs and Organs of Local Governments (all in gross values). **Remark: this scheme refers to basic pay only!**

Coefficient	Euros
9,00	2.009,14
8,50	1.897,52
7,60	1.696,61
7,20	1.607,31
6,80	1.518,02
6,40	1.428,72
6,00	1.339,43
5,60	1.250,13
5,30	1.183,16
5,00	1.116,19
4,70	1.049,22
4,40	982,25
4,20	937,60
4,00	892,95
3,80	848,31
3,60	803,66
3,40	759,01
3,25	725,52
3,10	692,04
3,00	669,71
2,90	647,39
2,75	613,90
2,65	591,58
2,50	558,10
2,40	535,77
2,30	513,45
2,20	491,12
2,10	468,80

The above coefficients correspond to the following posts (some examples):

2.75	referent
3.25	senior referent
3.40	inspector
3.60	adviser
4.40	senior adviser
4.70	adviser to the head of an administrative organ

5.60	under-secretary
6.00	adviser to the government
6.40	under-secretary of state
6.80	secretary-general
5,60 -	
6,80	head of administrative unit

It should be kept in mind that a public servant can be promoted in a higher salary bracket every three years, the total number of promotions being limited to five. For example, an under-secretary of state can be promoted in 15 years to a salary bracket (coefficient) of 9,00.

9.6

Pay levels in special branches

There are no different pay levels for special branches or for the key areas for implementation of the *acquis communautaire*.

9.7

Average and minimum wage in the private sector, data for January 1999 Gross values in Euros, according to the average exchange rate at 30.3.1999

Average wage	869,88
Minimum wage	358,35

◆ Turnover rates among public servants

9.8

No data [on turnover rates, 1994-1997].

9.9

A change of government does not affect employment in the state administration (*see also 6.6*).

If a minister's function is terminated before new elections take place, only political functionaries (state secretaries) are obliged to offer their resignation to the new minister.

◆ Redundancy and termination rates among public servants

9.10

No staff reductions [1994-1997].

9.11

No redundancies [1994-1997].

9.12

No data [public servants whose service was terminated for reasons other than redundancy, 1994-1997].

◆ Training of public servants

9.13, 9.14 and 9.15

For the entire state administration there is organised training and education available, since a specialised institution was established on 1 January 1997 -- the Administrative Academy. Before that, training and education took place within the organisational structure of a particular ministry. There are no data available on the overall number of participants.

In the period from September 1997 until December 1997, 1874 public servants participated in different forms of training and education organised by the Administrative Academy, of which 366 were foreign language courses.

In the period from January 1998 until July 1998, 1884 public servants participated in different forms of training and education organised by the Administrative Academy, of which 337 were foreign language courses.

In the period from September 1998 until December 1998, 1801 public servants participated in different forms of training and education organised by the Administrative Academy, of which 282 were foreign language courses.

◆ Disciplinary proceedings against public servants

9.16

Disciplinary proceedings in the first instance are being performed within state administrative bodies by the respective heads of these bodies. There are no data being gathered on the overall number of proceedings.

The Disciplinary Commission of the Government of the Republic of Slovenia decides in matters of appeal against decisions on disciplinary responsibility made by the body of the first instance. Between 1994 and 1998 the Disciplinary Commission dealt with the following number of cases:

1994	53
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1995	70
1996	76
1997	79
1998	93

E. THE JUDICIARY

10. DATA ON THE JUDICIARY

◆ Branches; hierarchical structure; distribution of officials

10.1

Branches of courts:

- courts of general jurisdiction (criminal, civil);
- specialised courts: labour and social courts, administrative court.

10.2

Hierarchical structure:

a) Courts of general jurisdiction:

- district (44) and regional (11);
- higher (4);
- Supreme Court.

b) Labour and social courts:

- labour courts of 1st instance (4);
- social court of 1st instance (1);
- higher labour and social court (1).

c) Administrative court:

- 1 administrative court with 4 separate territorial units;
- appeal possible to the Supreme Court (special administrative section).

10.3

Judges - 1994:

Supreme Court of the Republic of Slovenia	24
Higher courts	68
Basic courts	418
Labour and social courts	46

Judges - 1995:

Supreme Court of the Republic of Slovenia	31
Higher courts	78
Regional courts	177
District courts	190
Labour and social courts	52

Judges – 1996:

Supreme Court of the Republic of Slovenia	31
Higher courts	82
Regional courts	188
District courts	212
Labour and social courts	59

Judges – 1997:

Supreme Court of the Republic of Slovenia	32
Higher courts	80
Regional courts	202
District courts	238
Labour and social courts	60

10.4**Officials – 1994:**

Supreme Court of the Republic of Slovenia	8
Higher courts	14
Basic courts	68

Officials – 1995:

Supreme Court of the Republic of Slovenia	1
Higher courts	11
Regional courts	41
District courts	44

Officials – 1996:

Supreme Court of the Republic of Slovenia	1
Higher courts	15
Regional courts	43
District courts	43
Labour and social courts	1

◆ Integrity of judges

10.5

Yes, there are constitutional provisions guaranteeing the independence of judges (Art. 125) and the permanent function of judges (Art. 129).

The legal position of judges is regulated by the Law on Judicial Service (LJS, 1994).

10.6

No, there is no such constitutional request [laws regulating the judiciary need special voting to be passed or modified in parliament].

10.7

Judges are appointed by parliament on the proposal of the Judicial Council. The Judicial Council is composed of 11 members: five members are elected by parliament on the proposal of the President of the Republic (among university professors, attorneys and other lawyers), and six members are elected by judges.

Judges' tenure is permanent and their function can only be terminated for disciplinary reasons.

Judges are promoted to higher salary brackets and to higher grades by decision of the Judicial Council, except in one case: promotion to the grade of supreme judge is pronounced by parliament on the proposal of the Judicial Council. Promotion is not automatic: it depends on appraisal by personnel councils established by regional and higher courts and in the Supreme Court.

10.8

Salaries of judges are regulated by LJS, while other employees of the judiciary fall within the general salary scheme under LRS, with some additional bonuses.

Pay levels are shown for each level of court. Pay levels depend on a judge's promotion to higher grades and to higher salary brackets. It is important to note that all judges receive a 50% bonus to their salary, which is also presented in the scale below.

Gross values in Euros, according to the average exchange rate at 30.3.1999:

District courts:

Pay levels in Euros	Pay levels in Euros (50% bonus included)
1192,795	1789,193

1252,435	1878,653
1312,075	1968,112
1341,895	2012,842
1383,643	2075,464
1431,354	2147,032
1526,778	2290,167
1628,166	2442,249

Regional courts:

Pay levels in Euros	Pay levels in Euros (50% bonus included)
1341,895	2012,842
1383,643	2075,464
1431,354	2147,032
1526,778	2290,167
1628,166	2442,249
1753,409	2630,114

Higher courts:

Pay levels in Euros	Pay levels in Euros (50% bonus included)
1723,589	2585,384
1801,121	2701,682
1872,689	2809,033
2069,500	3104,250

Supreme Court of the Republic of Slovenia:

Pay levels in Euros	Pay levels in Euros (50% bonus included)
1974,076	2961,115
2045,644	3068,466
2218,599	3327,899

10.9

No data [turnover rates among judges, 1994-1997].

10.10

No replacements [of judges following a change of government].

◆ Court proceedings

10.11

Matters resolved in regular courts:

1994:

civil disputes	31557
economic disputes	20818
administrative disputes	1196
criminal proceedings	20154
economic crimes	1511

1995:

civil disputes	25083
economic disputes	16106
administrative disputes	1090
criminal proceedings	14032
economic crimes	787

10.12

No data available [average process time for a court proceeding, 1994-1997].

10.13

Free legal aid is available for defendants in criminal proceedings.

◆ **Training of judges**

10.14

No data available [training programmes for judges and other judicial officials on EC law and application of EC legislation].