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## **RECRUITMENT IN CIVIL SERVICE SYSTEMS OF EU MEMBERS AND IN SOME CANDIDATE STATES**

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## 1 An Overview of the General Features of EU Member States

The recruitment procedures set up in the EU Member countries' civil service systems attempt to combine two principles that, in some cases, are required by the constitution of the country. One of these principles is the right to equal access of every qualified citizen to the civil service. Every citizen has a right to public employment, provided that he/she meets the general requirements established by law as well as the specific requirements set up in the vacancy notice. The other principle refers to the interest of the public administration in recruiting the best available candidates for the civil service (merit principle).

Some countries lean more towards one of these principles than the other. Countries more influenced by the classical French concept of public administration (Spain, Portugal, Italy, and of course France) tend to stress the importance of the equal access principle, whereas other countries, such as the Netherlands or the Nordic countries, tend to emphasise the recruitment of the best-suited candidates for the position. This is a consequence of the general features of their systems, career or job systems. It must be said, however, that both principles currently appear, in a greater or lesser degree, in almost every EU country. The issue is one of preponderance of the one or of the other as the main feature of the system.

It is worth remembering that countries with a long history of absolutist or despotic political regimes have counteracted by strongly stressing the principle of equal access based on merit and implemented through rather formal, fixed regulations. This reaction was intended as a means to eradicate former practices of nepotism, political patronage, and trade and venality of employment in public offices.

In any case, EU Member countries, irrespective of their particular career or position-based civil service systems, have developed recruitment systems which take both principles into consideration and have designed procedures intended to both select the best available candidates and guarantee the equal access right of every citizen. These systems are known, broadly speaking, as merit-based systems of recruitment carried out through open competition.

### *Politically based recruitment and politicisation*

There are some exceptions to the open competition rule, as in the case of the Netherlands, where vacancies are ordinarily filled according to the free choice of the head of the corresponding department. However, the decision of the head of department, although freely taken, cannot be arbitrary, as he is obliged to select the best-suited available candidate for the position. Specific regulations allow for obviating the public competition general rule also in France and Germany. This possibility also exists in Denmark (similar to the Netherlands) without needing specific regulations because of the high degree of flexibility of their generic recruitment legislation. The case of Belgium is particularly interesting: The civil service statute of 1937 allowed for the government to recruit outstanding individuals without following the general recruitment procedure based on the *concours*. In practice, this authorisation to the Government was the breach on the wall through which massive recruits out of political affiliation were done, in particular those affecting higher positions. Subsequent scandals obliged to amend the regulation by making it more restrictive. A similar exception is UK where the Crown can directly nominate individuals as civil servants without any intervention of the civil service Commission, or in France where the determination of the list of top positions able to be filled in a discretionary way is left up to the government, although this is a prerogative subjected to review by the *Conseil d'État*. Likewise in Germany, Italy, Portugal, Spain and other countries there is a possibility to recruit directly and without *concours* political functionaries (political appointees). Neither in France nor in Germany nor in Spain political recruits can acquire the status of permanent civil servants. From a practical standpoint it is a tradition that in countries like Belgium, France, Italy, Spain and Portugal ministers usually hire out of discretion a rather large number of political or personal collaborators, whereas in other countries, such as Germany and UK, their number is fairly small.

Party affiliation, although it is not a secret, usually it is not made public as silence on political inclinations is a legally, or even constitutionally, protected right of the individuals in some countries and nobody can be obliged to disclose his political persuasions. For instance, everybody could agree on that in Belgium recruitment is quite objective and merit based, but

career advancement is almost unthinkable there without party affiliation. This can be also true for Italy, Spain and Portugal. Reducing political patronage in recruitment for civil services is extremely difficult everywhere. Civil services in Belgium, Denmark, Luxembourg, Ireland, and Portugal have a non-negligible degree of politicisation because of their systems of political parties (multipartidism with a limited number of possible coalition governments). In France, Germany, Austria, Greece, and Spain their civil services become politicised because of the polarisation of political parties with alternation in government being usually limited to two parties. In Italy because of the hegemony of a single party over a long period of time. However other sources of patronage, different from political parties, are also apparent in some countries (Civil Service Unions, churches, etc.). Perhaps the less politicised civil services in EU Member States are those of the UK, Sweden and Finland (with different degrees among them) because of strong deeply rooted national traditions of political neutrality of their professional administration. However, in some of these countries cases of politicisation of the administration have been revealed recently, as political appointees (meant to perform as advisers) have attempted to manage the professional civil service. In the UK in particular the Office of the Civil Service Commissioners (OCSC) on 30 January 2006 responded to questions from the Parliamentary Public Administration Selected Committee on whether or not should the civil servants become more “political”, that is, obviously committed to the programme of the elected government and, consequently on whether or not should the politicians have more say in the appointment of civil servants. The response was that impartiality, a core value of the civil service, would be in jeopardy if the civil service would become more political and that therefore ministers should be kept away of any recruitment procedure. At the same time the OCSC stressed the importance of keeping the distinction between the role of political advisers and the proper civil servants. Political advisers should not have executive or managerial functions and powers. The key objectives, according to the OCSC, still are the preservation of the civil service’s core values of integrity, honesty, impartiality and objectivity and for that to happen the appointment based on merit is a must.

#### *Recruitment of senior managers*

Most EU Member States have senior managers at the top administrative level (civil servants) under different names or titles, with specific recruitment procedures. France selects its top recruits from its ENA (*École Nationale d'Administration*), with concours for entering the school and for recruitment to top positions. Netherlands, which introduced a senior civil service a few years ago, makes its top recruits by mirroring the way they are done in the private sector (i.e. without examination, by announcing the vacancy on newspapers, by taking into account the CV of candidates, interview with a selecting committee or panel, and so forth). Anybody meeting the requirements can participate (either from inside or from outside the administration). In UK, Permanent Secretaries, their deputies and the Under Secretaries and so forth (grades 1 to 5) are mainly drawn from inside the civil service, although in recent times grades 1 to 3 vacancies have been exposed to external competition, mainly through a so-called Administration Trainee and Higher Executive Officer Scheme, which entails an assessment of the application forms and sitting a quite stiff qualifying test. Successful candidates go through an additional series of test, examinations and interviews by the Civil Service Selection Board, which recommends selections to the Final Selection Board, which conducts further interviews. Also in UK the so-called “fast stream” for recruitment was introduced some years ago. The fast stream refers to a process of recruitment of graduates to the civil service, with opportunities for fast track training and promotion. Graduates are generalists and are centrally recruited through the Recruitment and Assessment Service Agency, with tests, interviews and a panel review by the Civil Service Selection Board. The senior civil service is now mainly nurtured from this pool of generalists. In Spain certain positions, considered as senior managerial positions, are occupied by civil servants (certain positions may be open for non-civil servants with the required qualifications and experience) through a selection process based on public announcement of the vacancy and discretionary, but justified, decision of the minister. These appointments are always temporary and the incumbent goes back to his former (or similar) civil service position when removed.

#### *Recruitment of labour contractees*

Regarding public employees who are not civil servants (labour contractees), the general rule seems to be that their recruitment is mainly based on a quite free choice by the government,

which must guarantee transparency and fairness of the recruiting procedure. Nevertheless, in a large number of countries, such as Spain and Italy, due to constitutional requirements every public employee, either recruited under the civil service scheme or under the common labour laws, must be recruited following open competition procedures based on merit.

### *Appeals*

A fairly elaborate system of appeal against decisions on recruitment does exist in most EU Member countries, to the extent that matters linked to the equal right to hold public employment are regarded as one of the public domains more conspicuously and strictly governed by the rule of law. As a matter of fact, the outcomes of these challenges constitute a very important part of administrative court case laws in countries such as France, Spain and Italy. On the other hand, European regulations have an impact here insofar as recruitment for many positions within the civil service in one EU Member country must be open to nationals of all the other Member countries. The European Court of Justice compels EU Members to have systems for judicial review accessible to all civil service candidates, entitling these latter to be informed of the motives of an eventual rejection of their candidacy.

In some countries a distinction between external and internal recruitment also appears. External recruitment is open to every person meeting the general requirements laid down by law and on the basis of the vacancy notice. So-called internal recruitment is usually restricted to civil servants already in office, and is used mainly as a way of promotion, particularly in career-based systems.

## **2 The Career-based System**

The prevailing civil service system in a country has an influence on the contents of its recruitment procedures. In career-based systems, the contents of these procedures basically consist of an examination aimed at checking the knowledge of the candidates, all of them being required to hold a relevant university degree or academic credentials. This knowledge refers particularly to the field of public law (constitutional, administrative, taxation and budgetary legal systems of the country). These subjects are complemented by specific subjects deemed to be relevant for the specific domain where the vacancies to be filled are located (e.g. labour and social security laws for labour inspectors, customs and international trade regulations for customs inspectors, organisational theory and accounting for administrators).

These examinations take place at the beginning of a career. Later on, the mechanisms of mobility and promotion can work, allowing movement from post to post, which will constitute the particular career itinerary of the incumbent civil servant. Candidates are ranked according to their scores obtained in the examinations, the vacant positions being offered to those best scored.

In career systems, usually a probationary period follows recruitment. During this period, lasting between several months and several years, depending on the country's specific regulation, on the corps and on the position to be filled, the newly-recruited civil servant is supposed to participate in a set of general and specific training activities, and can at the same time be tutored at work by a senior civil servant. At the end of the probationary period the civil servant can be dismissed from the civil service, due to unsatisfactory performance, or confirmed as a permanent, lifelong career civil servant.

As a consequence of the progressive convergence between career and employment systems, and of the mutual borrowing of elements between systems, different combinations are emerging. For instance, in the case of a recent democracy such as Spain, one can become a civil servant or public employee through the classical examination of the career system (called *oposición*), or through a mere screening of the C.V. followed by an interview with an *ad hoc* commission (called *concurso*), although this procedure is considered by law to be exceptional and only for very restricted use. Finally, there exists a combination of both (called *concurso-oposición*). Within this mixed procedure a classical examination is undergone in the first instance and a score is obtained. Only those succeeding in the first examination phase (*oposición*) are admitted in the *concurso* phase, where the C.V. is scrutinised in connection with a pre-established set of merits spelled out on the basis of the vacancy notice. These merits are usually related to the candidate's existing professional experience, whereas additional diplomas, academic credentials or training, while useful for the performance in the position to be filled, are not considered

essential. The final score of the whole procedure is a summing-up of scores where, usually, the weight of the examination and c.v. scores are unevenly measured, with most of the weight being accorded to the results obtained in the *oposición* (examination) phase. The outcomes of the *concurso* phase are sometimes only used as a means for resolving the problem of equal scores among candidates. In every case candidates are evaluated by an independent commission made up of representatives of the convening administration (ministry or agency), universities, ministry of public administration, and civil service unions. Decisions by these commissions, whether procedural or substantive, can be challenged before the courts, which sometimes results in a very long and cumbersome process, but which at the same time has allowed the courts to develop a vast body of case law doctrine.

### **3 The Position-based System**

In position-based systems the emphasis is put on selecting the best-suited candidate for the position to be filled. It means that, in addition to the previous academic background and additional educational or training activities participated in by the candidates, the recruitment procedure is also aimed at finding out the personal experience, previous professional achievements, and even psychological characteristics of the candidates, in order to guarantee an acceptable performance standard in the job position from the very beginning. The recruitment procedure is a combination of examination, C.V.'s scrutiny and interviews. The final decision is made by a recruitment commission, or can be entrusted to the head of the convening department. There also exists the right to judicial review of the recruitment decision, either carried out by specialised administrative or common labour courts. In position-based systems there also exists an initial probationary period, mainly aimed at evaluating the adaptation of the newly recruited civil servant to the job position.

### **4 Conclusion: The Basic Structure of Recruitment in EU Member States**

All civil service recruitment schemes in EU Member States assume that:

- 1) The recruitment system is aimed at selecting the best-suited available candidate for a given position within the civil service is sought;
- 2) The country's legal framework acknowledges the right to equal, merit-based access to its civil service or public employment, heedless of race, ethnic group, gender, familial descent, religious beliefs, or political attitudes.

With the above conditions in place, the structure of recruitment is constituted by a set of rules embodying these principles and guaranteeing its effective practical implementation in real life. In this case, the minimal structural elements of an acceptable recruitment procedure, in accordance with the most commonly practised standards of EU Member States, are as follows:

- 1) The rules governing the recruitment procedures are based on open competition among those candidates meeting a set of general requirements, which usually are: citizenship, legal adulthood, relevant university degree or academic credentials, a clean criminal record and physical fitness consistent with the job to be performed.
- 2) Candidates may be obliged to meet specific requirements demanded by the real job to be performed, in terms of knowledge and professional experience. To ascertain this, some sort of examination and CV screening are necessary.
- 3) The competition must be announced and dissemination of the vacancy notice must be ascertained throughout the country, in as wide a way as possible. As a rule, the official gazette is used. Other means like electronic publication and commercial newspapers are used too.
- 4) The vacancy notice includes every requirement for the procedure, in particular a list of subject matters for the examination if there is one, deadlines for submitting applications and certifying documents, and any additional merits which may be taken into consideration by the evaluating commission (for example, valuable professional experience, additional training credentials, certified command of foreign languages, specific computer skills, etc.). A reasonable length of time should be accorded to

candidates either to collect the required documents to be submitted or to prepare for the examination.

- 5) Later on, an independent commission shall be formed to evaluate the candidates. Fairness, objectivity, and due procedure shall be the governing principles for the work of this commission. Any member of the commission having relatives or close friends of a candidate or his/her family is required to withdraw from the commission. Random choice among the list of subject matters for the examination is the rule or multi-choice tests.
- 6) Candidates are entitled to challenge the commission's decision before the courts within a reasonable time deadline. If the decision of the court is at variance with that of the evaluating commission, the former prevails and is to be immediately executed.

## **5. Concise Description of Recruitment and Promotion in Each of the Eight Post-2004 EU Member States and Three Candidate Countries**

In many of the post-2004 EU Member States and candidate countries there is an inadequate legal basis on which to build a modern, politically impartial and professional civil service. This results in high levels of politicisation and management patronage with adverse consequences for professionalism, legal certainty and predictability in decision-making. In countries where the legal basis is more adequate, implementation is slow and in some countries is generally faltering. Political classes in the majority of countries have not yet fully accepted, in practice, the need for a professionally autonomous civil service. Moves are underway to improve recruitment and promotion procedures, which currently are not, in the main, based on open, merit-based competition. Where there are competitive procedures in place, they are frequent exceptions and a lack of consistency in applying them. In other cases they are plainly circumvented. Merit systems appear in general to apply more to initial recruitment and are less used for promotion, which is made more arbitrary by the inadequacies of most appraisal systems.

In the majority of post-2004 EU Member States and candidate countries recruitment based on merit and through competitive mechanisms was not a legal obligation until recently. It is still not mandatory in Bulgaria, Hungary and Slovenia (except for certain senior civil service positions in these two latter countries). With certain variations, it is obligatory in all other countries. The problem is that, even if legislation imposes competitive recruitment based on merit, there are few countries which to a greater or lesser degree comply with such obligation. One interesting phenomenon is that the more a country complies with the requirement of objective recruitment based on merit and competition, the more is it tangible the progress made in professionalising the civil service and the more the civil service becomes attractive for young professionals.

Apart from training, non-pay incentives to foster and sustain staff motivation are generally lacking. This reflects, *inter alia*, the near total absence of inter- and intra-organisation mobility, as a means of enhancing skills and career prospects, and the lack of competitive promotion. All-in-all, however, motivational incentives are weak and, coupled with the politicisation and management patronage that exist, give rise to a situation that is not conducive to attracting well-qualified and talented young people to join the civil service and to retaining them in the medium to long term.

All this leads to a general situation which inevitably militates against the attraction and retention of quality staff and the development of high standards of professionalism, thus adversely affecting the medium to long term development of a more professional civil service and of a more reliable public administration.

In the following pages a short evaluative description of recruitment and promotion systems in eight post-2004 EU Member States and three candidate countries is presented. The facts refer to up to the end of the year 2003, as they are based on Sigma's civil service assessments of 2003 prepared for the EC Comprehensive Monitoring Report and Progress Reports of that year. The case of Turkey refers to developments up to 2005. Further developments are not accounted for here.

## **Bulgaria**

The general requirements for entering the civil service are established in article 7 of the Civil Service Law. Anyone meeting these requirements may be appointed as a civil servant. Specific regulations of each institution (statutes or internal rules of procedure) may establish additional requirements, such as experience inside or outside the administration or specific educational degrees. Competition procedures are not mandatory, but optional. If the appointing authority decides to use competitive recruitment schemes, it must follow certain basic principles set down in the law. A six-month probationary period is also foreseen for any first-time recruit in the administration. Appointment as a paid apprentice is possible to participate in theoretical and practical training in the administration, for duration to be determined by the head of the office.

Although competition is not mandatory, some heads of institutions use it to recruit at the entry level. Competition has been rarely used to recruit senior civil servants. In November 2001 the Parliament amended article 7 of the Civil Service Law, which required that candidates for managerial positions had a higher university education. This requirement is no longer valid. At the same time, article 14 of the Law on the Administration was amended to establish that the basic requirements for entering an administrative post were a minimum educational degree and general, as well as office-specific, experience.

A new article 19a was added to the Law on the Administration in November 2001, along with an amendment to article 14 of the same law. Article 19a enables the dismissal of certain high officials and their deputies at the discretion of their appointing authority. Such officials include heads of state agencies, members of state commissions, executive directors of executive agencies, and the heads of any state institution “functioning in connection with the implementation of executive power”. These positions include a wide range of very diverse responsibilities. Some of them are clearly political and based on the trust of any governing majority, but others are clearly professional and should be unambiguously placed under the civil service law protection against discretionary dismissal. The 2001-2205 government enlarged the notion of political appointees in order to have a freer hand in removing certain layers of managerial civil servants.

Articles 36, 37 and 73-76 of the Civil Service Law regulate the promotion scheme. After accumulating certain official experience, a civil servant can be promoted to a higher rank or position. The length of service necessary to qualify for promotion (three to five years) may be shortened if the civil servant improves his professional qualifications. The existence of a vacant position is a prerequisite for promotion. As a general rule, competition is mandatory when civil servants holding the same rank apply for the same higher position (article 76-2). Managers may decide to promote a civil servant if the incumbent meets the educational and rank requirements. As promotion schemes are not very transparent in terms of processes and results, civil servants are very much dependent on political masters and senior bureaucrats for promotion.

## **Czech Republic**

Under the current scheme, recruitment and promotion are regulated by the Labour Code of 1965, which does not have any special stipulations for civil servants other than those applicable to any employee in the country. Individual ministries and other bodies have wide discretionary powers concerning selection and recruitment. Selection criteria are based on job descriptions. Open competition is not mandatory and is not used on a regular basis, but some institutions publish vacancy announcements in commercial newspapers and use some sort of competitive recruitment mechanism whereby candidates are shortlisted, and those on the shortlist are interviewed by a commission made up of staff members (usually from three to five) of the recruiting institution. The commission proposes one or several candidates to the minister, who does not need to follow such a proposal. Members of parliament are also usually invited to be part of recruitment commissions, in particular with regard to recruitment for positions that are considered to be politically sensitive.

Experience outside public administration can be taken into account when recruiting new employees if relevant to the job description. The qualifications required for a position have to be supported by the relevant certificates. The probationary period can last for a maximum of three months, but it is at the discretion of the head of the appointing institution, at the end of which a form of “service appraisal” is carried out. There is no prospect of appeal against the outcome of

the recruitment procedure, with the exception of alleged discrimination. In this case, since 1 January 2001, the labour administration and ordinary courts can intervene. Current recruitment practices do not guarantee that recruitment is based on merit and carried out through open competition. As in the case of recruitment, at present there are no fixed rules for promotion, which is at the discretion of managers, with the risk of arbitrariness and patronage.

Under the new scheme scheduled to be applied as of 2004 (later postponed up to 2005 and again up to 2007), when the new Civil Service Act (Act 218/2002) will fully enter into force (Act 218/2002 to enter into force in 2007), all recruitment will be regulated jointly by the service regulations of the Director-General of the Civil Service. While appointment on political grounds will be only permitted for senior positions, the discretion allowed in recruitment and promotion may encourage political allegiance. This situation, together with the lack of restriction on involvement in party politics of public employees, may put professional independence at risk.

Act 218/2002 aims to reduce politicisation and increase professionalism in the state administration, and Act 312/2002 in local and regional governments. Concerning the state administration, the new envisaged recruitment system has flaws, even if in principle it could contribute to improving the current situation if implemented. Recruitment will be based on the Personnel Plan (articles 14-16), which is a staffing plan prepared annually by the General Directorate of Civil Service in conjunction with the Ministry of Finance and authorised by the government, where vacancies are identified in the different spheres of service and institutions. When it comes to recruitment, the law distinguishes two phases: preparation for public service and the civil service relationship per se.

*Preparation for service* is governed by labour law and lasts for 12 months. It may be shortened or prolonged upon agreement of the incumbent. Recruitment for “preparation for service” is made through public competition announced by the service authority for the sphere of service. The announcement of the competition has to be published. The general requirements are citizenship, adulthood, clean criminal record, etc. A selection committee made up of three civil servants is then established. No outside observers are foreseen. The competition consists of an interview with the selection committee. The interview may be replaced or supplemented by an examination if the Director-General of the Civil Service so decides. Candidates are listed in an order reflecting their scores. Only those who have scored the highest may enter the “preparation for service” and become candidates for the civil service (but only for the “sphere” concerned). During the “preparation for service” the incumbent reports to a designated supervisor. Preparation for service consists of “performing work”. Although no training is specifically envisaged, the candidate must “concentrate on mastering the basics of performance of service in the relevant sphere of service” (article 22-1). In fact, preparation of candidates for the civil service does include training. At the end of the period there is an oral and written examination (“officer’s examination”) before an examination committee of five members (three civil servants from the relevant sphere of service and two external experts), plus an appraisal by the supervisor. If the candidate fails in the examination, he can repeat it once more. For this examination no order by scores is foreseen, and the candidate either “passes” or “fails”. At the end of the “preparation for service” period the incumbent either becomes a civil servant or is dismissed because of the termination of the labour contract. No judicial review of the appointment is mentioned in the law.

*Civil service relationship* is normally for an unlimited period of time. Tenure is guaranteed to some extent. Only if there are vacant positions in the annual “Personnel Plan” can a permanent civil servant be nominated to fill a position. Article 30 of the new law 218/2002 allows a recruiting manager the possibility of rejecting a candidate for the civil service if he considers that there is a risk that this individual will not comply with the democratic principles of the constitutional order of the Czech Republic or will not perform the service properly. This clause opens the door to arbitrariness.

*Order for filling vacancies by competition in three rounds* (article 31): Participants in the first round include: those returning to duty who used to perform in similar positions (salary and grade); those who are active within the service where the vacancy is located (horizontal internal voluntary transfer); those in lower positions within the service where the vacancy is located (vertical internal promotion with competition); and those coming from “preparation for service”. Participants in the second round are either civil servants from other departments within the same “sphere of service” or civil servants from other “spheres of service”. In the third round anyone



who has passed the officer's examination can participate. This scheme is too closed and protective of existing civil servants and is likely to seriously hamper the renovation of the Czech administration. Perhaps more room for open competition would help such renovation, provided that the entry system is properly regulated.

In general, the recruitment system may guarantee competition based on merit for entering the civil service if conscientiously implemented in practice. In this sense the new scheme is generally up to the standards of EU Member States, although the following issues should be regulated: need for an ordering of scores or merits of candidates for the civil service; absence of judicial review of recruitment procedures; and arbitrariness in the rejection of candidates on the basis of future non-compliance with democratic principles enshrined in the Constitution or of future inadequate performance.

### **Estonia**

Recruitment of higher civil servants is based on merit, but not completely on competitive procedures. For recruiting the remaining civil servants, merit-based competition is not obligatory. In addition, there are several institutions that are not obliged to use open competition to recruit their staff. These include the Office of the President, Chancellery of the Parliament, Office of the Legal Chancellor, Supreme Court and State Audit Office.

The recruitment of higher civil servants has already been tackled in a positive way, although some improvements are still needed. The following civil servants are considered higher officials: head of department, deputy secretary-general in a ministry, director-general of a board or inspection, county secretary. The State Chancellery centralises the recruitment of these officials and has established a procedure which guarantees that the same standards are applied, such as open announcements of vacancies and a certain standardisation of access conditions and recruitment examinations, as well as evaluation of candidates by a central recruitment committee. The committee, which is permanent, has eight members and is composed of representatives of ministries and of the private sector and is chaired by the Head of the State Chancellery. This initiative represents one of the few examples where one of the institutions involved in the management of the civil service system has taken an active co-ordination role among ministries. The announcement of a vacancy is published in the Official Gazette and in commercial newspapers, and includes the terms of reference and a job description prepared by the institution where the vacancy is located. However, there is still excessive discretion for ministers and heads of agencies to recruit higher officials, as the recruiting committee does not rank candidates in accordance with their obtained scores, but only with an "apt" or "non-apt" rate. This practice undermines the notion of competition and gives grounds to some criticism about the politicisation of the higher civil service.

When it comes to recruitment of middle rank and more junior civil servants, no competitive procedure based on merit is obligatory, although many institutions use some sort of recruitment scheme based on public announcements. In that case they follow the procedures set by each recruiting institution, in which an expert committee is usually set up with trade union representative participation. Establishing a probationary period depends on the discretionary decision of the head of the institution.

No clear rules exist for promotion and performance appraisal, and training does not play a significant role in promotion. Promotion is mostly dependent on the discretionary judgement of managers and heads of institutions, although managers tend to view current regulations on promotion as still too rigid. There are limited opportunities for advancement, given the relatively small size of the civil service and the limited number of categories (three basic categories of posts) within it. As a result, promotion appears to take two forms: advancement within the existing category on the recommendation of superiors, and promotion to fill a vacancy in a higher category. As regards the former, the superior appears to have considerable discretion. The criteria used vary between institutions, although they are principally based on past performance, communication and leadership skills, commitment and qualifications. Training is not mandatory for career advancement. Performance appraisal is only loosely linked to decisions about promotion. Promotion to a higher post as a general rule is accessed through open competition, but in practice this is not the case at present in all institutions. In spite of these shortcomings, the staff quality has somewhat improved during the past years and the civil service has become more attractive, although problems still exist in attracting sufficient

candidates for civil service positions, perhaps because of the small size of the Estonian labour market.

## **Hungary**

The civil service status is legally considered as a “special contractual relationship” between the State or local government and the civil servant, although the status of civil servant is awarded by appointment, not by contract. The law establishes the general requirements for entering the civil service (Hungarian citizenship, clean criminal record, level of education, suitable health, and so forth). Recruitment is regulated in a different way, depending on the position to be filled.

*Department Heads:* For recruiting heads of departments, publicly announced open competition is legally mandatory and may be followed by an entry examination, but is not obligatory. Recruitment procedures are set by each ministry. The announcement is usually published in commercial newspapers. A selection committee (usually of three members) may be assembled at the discretion of the recruiting authority to screen CVs and applications. A psychological aptitude test may also be required. Although the committee ranks candidates by their scores, the minister decides on recruitment at his discretion, without having to provide reasons for an eventual departure from the committee’s proposal. No specific arrangements are made for unsuccessful candidates to appeal, as it is alleged that this would remove the protection of personal data of candidates. An additional reason given is that labour arbitration courts can only review disputes between employees and employers, and a candidate is not an employee as the employment relationship has not yet been established. Under this recruitment scheme of department heads, the principles of equal access to the civil service and of competition based on merit are not fully guaranteed, as each ministry sets up its own recruitment procedures and independent review of recruitment-related decisions is very difficult.

*Remaining civil servants:* For the rest of the civil service, open competition is not mandatory, but anyone complying with the general requirements established in article 7 may apply usually upon “invitation” by the appointing authority (the relevant ministry or local self-government council). In practice, a public announcement of a vacancy was used up to 2001 for recruitment in most cases, but this was not an obligation for the recruiting authority. With the recent salary significant increases, the civil service has become more attractive. As a consequence, ministries no longer make public announcements for recruitment, but rely on personal invitations to prospective candidates or on the pool of unsolicited applications they receive regularly (e.g. the Ministry of Education reports receiving some 30 of these applications per month, and the Ministry of Health some 10 per day). In several ministries, officials report that they tend to rely on their own acquaintances first and only if this did not succeed would they publish an announcement in newspapers. Alternatively they resort on education institutions, basically universities, to find “invitees”. Only the general requirements for entering the civil service are checked (Hungarian nationality, State Security record, etc.), and academic credentials (this is the only qualification required for entry into the civil service). These staff are recruited by administrative state secretaries or by department heads. In general, unsuccessful candidates can only appeal against recruitment decisions in very extraordinary cases. The recruitment system for basic civil service positions, as described above, does not guarantee essential civil service principles that are practised in EU Member States, namely equal access and competition based on merit. Under these conditions, the staff quality and professionalism of the Hungarian civil service might be put into question. The Hungarian recruitment system is very vulnerable to any kind of politically biased recruitment decisions and to patronage-driven appointments.

A probationary period is possible, at the discretion of the appointing authority, for a maximum of six months. A probationary period is not legally possible when the recruitment has been carried out through open competition, i.e. for heads of department.

There are many exceptions, but the general rule is that those appointed for positions other than heads of departments are “placed on the payroll” at the lowest salary level. Only after they have followed one year of training and passed a basic public administration examination will they be able to commence their civil service career in the basic category of *drafter* (for those with a university education) or *clerk* (for those with a secondary education), although for the latter the deadline for taking the examination is two years after their appointment. If the trainee (also called “junior civil servant”) does not pass the examination, the civil service relationship is terminated. The National Examination Committee of Public Administration (OKV in

Hungarian) administers these examinations, and the Institute of Public Administration offers the relevant preparatory training. In 2001, amendments to the Public Service Law introduced a compulsory (with numerous exceptions) Specialist Examination for further promotion for those holding a high university degree in law. For promoting to managerial positions the Specialist Examination has been compulsory since 1995. This scheme of basic public administration examination somehow offsets the lack of an appropriate entry competition and examination, but it is not sufficient to guarantee the merit and equal access principles in the recruitment of Hungarian civil servants.

Promotion has several forms and there are several different regulations and partly depends on the length of service. The 2001 amendments introduced a new structure to the civil servant's professional career. In the previous system, promotion was automatic every three years. Under the new system, promotion may be much faster at the beginning of the career (with the objective of attracting young people). It is also possible to be promoted during the last years of service before retirement, by applying the salary multipliers without necessarily going up higher on the hierarchical ladder. This was not possible under the previous system. The new promotion scheme follows a consciously designed, albeit complicated, pay advancement system.

It can be said that there are currently two types of promotion. On the one hand the form most commonly used consists of salary advancement without changing position but by changing title. This type of promotion is subject to certain general requirements set up in legislation: passing the public administration examination at the Institute of Public Administration, a required length of service, and good performance. For promotion there are two established committees in each ministry, one establishing the criteria for promotion and the other administering the relevant internal test. In this case, the proposals of the committee are binding for the deciding authority. Trade unions can participate in the candidate rating procedure, and they usually do. Recourse to the Labour Arbitration Court is possible in promotion procedures. The usual result of this form of promotion is that the concerned civil servant continues doing the same job but displays a higher job title and earns a higher salary. The second kind of promotion consists of climbing the hierarchical organisational ladder, but currently there is a restriction of the number of managers and consequently this form of promotion is rarely used. In this second type of promotion internal candidates for managerial positions must compete with external applicants. Along with these two kinds of promotion, there is a third, consisting of promotion upon proposal of the relevant manager, in principle as a result of a performance appraisal exercise. However, this form of promotion is reputed as being highly subjective and little formalised. Although the promotion schemes are generally more respectful of the principles of equality and merit than the recruitment procedures, there is still room for a better regulation that would make the promotion scheme simpler and more predictable.

## **Latvia**

Recruitment procedures, as regulated in the Law on State Civil Service, guarantee open competition based on merit as the way to enter the Latvian state civil service. Recruitment is the responsibility of each ministry and institution and can be reviewed by the Civil Service Administration. Competition announcements for all vacancies are published in the Official Gazette and usually also in a commercial newspaper of wide circulation in the country. In practice, however, the competition procedure does not always guarantee transparency, and the results can hardly be challenged before external supervision bodies, although recourse to a court is possible according to law. A selection committee of three or four members — usually all of whom are internal staff — is established on an ad hoc basis to assess candidates. The recruitment procedures consist of first screening the curriculum vitae, followed by an oral interview and a written examination (the latter is not compulsory). The scores given by selection committees are not made public, as they are considered to be personal data protected by legislation. A candidate has access to only his own dossier upon request. Either the state secretary, for “ordinary civil servants”, or the minister/prime minister, for higher civil servants, can depart from the proposal given by the Selection Committee without having to give any reason. The recruitment system is therefore rather opaque. An appeal against a recruitment decision can be made first to the Civil Service Administration (although it has a limited effect) and subsequently to the Labour Arbitration Court. Few appeals against recruitment decisions have been registered, most probably because of the opacity of the system, a fact that impedes

making solid grounds for the claim. The claimant or plaintiff candidate to the civil service is virtually defenceless in such a situation.

For those recruited for the first time to the civil service a six-month probationary period is obligatory. During the probationary period a specific initial training must be undergone at the School of Public Administration, at the end of which the incumbent is assessed. In accordance with the assessment, the incumbent can be either awarded civil servant status by the Civil Service Administration or dismissed.

The 2002 amendments to the civil service law reinforced the possibilities for promotion without competition. Former article 8-4 had allowed internal promotion as an alternative to competitive recruitment. This article was amended and now states that “open competition for vacant civil service positions is not obligatory in the cases established in this law”. In combination with article 37, also amended, it is now easier (article 37-1) to appoint a civil servant for any position without competition through discretionary promotion, either for a fixed or indeterminate period. Civil servants can be demoted in the same way. Following this procedure, state secretaries and heads of institutions are nominated without competition and removed at the discretion of the minister. Prior to the amendments they had been nominated by the Civil Service Administration through internal competition and could be removed only for disciplinary reasons. The risk of politicisation of the higher civil service, which already existed, has increased with these amendments.

### **Lithuania**

The 1999 Public Service Law established a recruitment system based on merit and open competition in which legality, transparency and the right to equal opportunity were guaranteed. Each institution concerned was in control of its recruitment processes and appointed the successful candidates. Commissions within each institution dealt with the recruitment process. These commissions were composed of career civil servants and experts, although occasionally political appointees (ministry secretaries or state secretaries) also participated. Candidates were assessed by a written examination. An administrative appeal procedure before administrative courts against appointment decisions were, and still are, possible.

Career civil servants, according to the 1999 Public Service Act, needed to undergo a probationary and training period of up to two years, at the end of which a performance appraisal was to be carried out. This appraisal could lead to either an appointment as a career civil servant or dismissal from the civil service. During the probationary period the civil servant was to be monitored by a senior civil servant and paid 70% of the stipulated salary. This provision disappeared in the 2002 amendments to the Public Service Act, which may diminish the quality of the recruitment scheme.

Recruitment provisions represent the part of the 1999 Public Service Law that was the most resolutely implemented. This is widely recognised as having contributed to enhancing professionalism and reducing politicisation in the civil service, although patronage practices still appear at times in civil service management, particularly at local government level. However, as salaries are relatively low, it frequently happens that young graduates spend two years or so on probation and training in the civil service, and then leave the administration altogether to go to the private sector, where salaries are more competitive.

The amendments to the law, which came into force on 1 July 2002, introduced significant positive changes in existing recruitment procedures. Candidates compete for career civil servant posts by undergoing an examination and interview.

A standard recruitment procedure was established after the 2002 amendments to the Public Service Law which, with slight variations, is applied in all recruitment for the state civil service. Every vacancy is announced in the Official Gazette and on the Internet every Monday and Friday. Announcements are also published sometimes in commercial newspapers. After the expiry date for applications, many institutions convene a meeting with all applicants to explain and discuss the job contents, duties, remuneration, etc. Some candidates usually withdraw from the competition after such a meeting. On an established date a first examination takes place, consisting of an oral interview with the recruitment commission. This interview takes place in each institution in a decentralised way. This first examination is scored from 1 to 10. On a pre-established date a second examination takes place, this time in writing and centrally

managed by the Civil Service Department under the Ministry of the Interior. The written test consists of 100 multiple-choice questions randomly chosen by computer from a database of 1000, which are regularly renewed. Written tests are published at 1 p.m., and candidates can download the test and sit the examination. The results of the test are published at 3 p.m. of the same day on the Internet. The written test is also scored from 1 to 10. Candidates need to score above 5 in either test in order to be considered for the vacancy. The final score is made up of the sum of scores in both examinations, and candidates are ranked by scores. Oral examinations are public, and written examinations are publicly screened through the Internet.

Recruitment commissions are composed of five to seven members: one representative of the personnel department of the recruiting institution; the head of the division where the vacancy is located; two additional representatives of the recruiting institution; civil servants who are experts on the main speciality of the job position; external experts on the same matter; and representatives of trade unions (where they exist). The identity of commission members is published on the day of the first examination. All documents submitted by a candidate are open to him. There are appeal possibilities in the first instance before the Civil Service Department under the Ministry of the Interior and then before the administrative court. Candidates who are good, but who did not score sufficiently to be recruited, are kept in the files and personally invited to apply when a new opening is announced.

Although this reformed recruitment procedure has been used for only one year now, its effects can already be appreciated. It is being widely accepted and is deemed as credible and legitimate by the public and by candidates who have participated in any recruitment under the new system. On average, some 40 candidates regularly apply whenever an opening is announced. In order to further refine recruitment processes, some improvements are being contemplated: 1) to establish totally independent commissions to replace the current recruitment commission arrangements; and 2) to improve the job descriptions currently used.

The same procedures are applied to recruit ordinary civil servants and public managers, including secretary-generals in ministries. Public managers are recruited through “competition on the basis of political or personal confidence” (article 13). Despite the misleading wording in the law, public managers are examined in writing and orally. The only variation is that a managerial candidate prepares an activity programme for the institution concerned and is assessed on this programme during an interview. In fact, only a few public managers are recruited on the basis of personal or political confidence, such as county governors, administrators of municipalities, and their respective deputies.

Subsequent to the 2002 amendments, the need to compete is no longer mandatory, however, for recruiting acting civil servants on a temporary basis. These amendments were intended to simplify the recruitment procedure, but may have the adverse effect of diminishing the guarantee of objective recruitment based on merit when it comes to temporary recruitment. However, the conditions for recruiting acting civil servants are in fact quite strict, and only allow for filling the position of a temporarily absent career civil servant for the period of his absence, which cannot exceed three years.

Promotion and horizontal transfers are possible, and it is not mandatory to compete for promotion, but the individual performance of incumbents must be subject to qualification certification. An evaluation commission is set up in each institution to carry out performance appraisal and to provide proposals to the head of the institution, which are binding in certain cases. The criteria and procedure whereby certificates are conferred on civil servants has been developed by government regulations. However, the criteria are unclear and tainted with subjectivism, and the procedure seems too complex and long. In government regulations there are only four discussion topics, no real criteria, and managerial discretion remains large in assigning qualification categories. It is a shortcoming of the current legislation that promotion is decided almost solely by means of performance appraisal, even if there are two stages for carrying out the performance appraisal exercise, one before the immediate superior and the other before an internal appraisal commission. A more objective competitive procedure would be necessary in order to better guarantee the fairness and transparency of the system.

However, promotion through competition is also possible and used when it comes to filling higher positions. Internal candidates in this case must compete with external ones through a recruitment procedure. These promotion procedures are, in reality, recruitment procedures open

for both existing civil servants and external applicants, in which competition on an equal footing for everyone is mandatory.

## **Poland**

Several recruitment systems and procedures exist, depending on the category of public employment under consideration. Employees under the State Offices Employees Act of 6 September 1982 are not subject to any regulation on recruitment. The same is true for self-government employees under the Act of 6 April 1990, although specific provisions may be contained in some local government units' statutes.

For civil service employees under the Civil Service Act of 1998, the two recruitment requirements are the following (article 5): 1) *openness* — vacancies are publicly announced on the notice board and in the Civil Service Bulletin (article 22); and 2) *competitiveness* — a director-general of a given office selects the best candidate for a post (article 21). The interested person applies to undergo the qualification procedure and, by decision of the director-general of the institution where the vacancy is located, is given an employment contract with a duration limited to three years. During this period, the contractee must perform a "preparatory service" to acquire the theoretical knowledge and practical skills required for the job position. This preparatory period lasts six months and should be concluded within the first 18 months after being hired. The preparatory service is followed by an examination and, if assessed positively, the candidate is awarded a labour contract of unlimited duration. Graduates of the National School of Public Administration are exempted from the preparatory service. The director-general may shorten the period of preparatory service if the candidate demonstrates the knowledge and experience equivalent to that provided by the preparatory service scheme.

For civil servants under the Civil Service Act of 1998, several general requirements are established in article 28. Recruitment as a civil servant represents a promotion for those who are already members of the civil service corps. Candidates for civil servant status must have held the status of civil service employee for at least two years, have completed the preparatory service (or have been legally exempted from it), have been awarded a high level university degree and have demonstrated the command of one foreign language. Recruitment starts with the publication of a vacancy in the Civil Service Bulletin, followed by a qualification procedure detailed in the Prime Minister's Decree of 28 September 1999, and an examination by a qualification commission of five, appointed by the Head of the Civil Service. The highest scoring candidates are nominated as civil servants under administrative law, through an administrative act issued by the Head of the Civil Service. The Prime Minister, in a Decree of 29 October 1999, determined the positions which would be open to civil servants. In May 2003 the nominated civil servants were only 1,111 in number.

The director-general of each institution manages the recruitment process for the civil service corps (civil service employees and civil servants). The Head of the Civil Service supervises compliance with the law, but cannot annul a nomination, although disciplinary sanctions can be brought against the director-general if the recruitment (or promotion) was unlawful. The Head of the Civil Service has an advisory role in the recruitment process, but he does not have the power to impose common standards throughout the whole administration. This is due to the fact that legally there are only two conditions for recruitment: it must be open and it must be competitive. If these stipulations are formally met, the Head of the Civil Service cannot challenge the recruitment process on legal grounds. The elaboration of a common recruitment manual was considered by the administration, but subsequently abandoned. The manual was finally adopted in late 2002, but it is a collection of good practices that are not legally enforceable.

The recruitment process is not documented in detail, which makes it difficult to follow the steps taken by the recruiting institution. Requests for information from the Head of the Civil Service are ignored by institutions more often than not, particularly when there are strong suspicions of political bias in a given recruitment procedure. The Head of the Civil Service has proposed legal amendments which would introduce more stringent reporting obligations. In conclusion, the Head of the Civil Service does not have sufficient legal means to impose common recruitment standards on the civil service corps, and does not have legal powers to properly monitor the recruitment process, despite the fact that the Civil Service Council oversees the selection

process. In addition, the recruitment process cannot be challenged before the court, as the choice of a candidate is not considered an administrative decision.

Recruitment for senior civil service positions, under the Civil Service Act of 1998, is legally considered as a promotion within the civil service, with the exception of cases cited in article 144a of the law, as described above (contract, without competition, under labour law for a maximum of six months) or in the case of “acting managers” (currently some 700 in number). The Constitutional Tribunal (12 December 2002) declared article 144a unconstitutional as it was contrary to the principle of equal access to public office.

Senior civil service positions (article 41) include: director-general, general internal auditor, director of department and their deputies in ministries and central offices, and directors of division and their deputies in *voivodship* offices. In total, on 1 April 2003 there were 1,515 senior civil servant positions in the state administration. A portion of them were vacant. Candidates for these positions must have civil servant status. Under the regulations, the Head of the Civil Service manages directly the recruitment process, and the Prime Minister issues the nomination of senior civil servants. A panel of six professionals (university professors, human resources experts and civil servants) examines the candidates. The procedure starts by agreeing the job description with the relevant institution (which is not always easy), followed by the publication of the vacancy in the Civil Service Bulletin. The Department of Recruitment and Selection within the Civil Service Office then prepares a shortlist of candidates. This department acts as the secretariat for the expert panel. The panel reviews the shortlist, and the selected candidates undergo a written examination in three parts, assessing knowledge, psychological aptitude, and practical problem-solving. A structured interview with the panel is the next step. The candidate who obtains the best result will receive a proposal, but the relevant minister can refuse the best scored candidate without having to give a reason. Rejected candidates can appeal to the Head of the Civil Service against the panel's decision, and then before the administrative court, but the court can review only the formal procedural aspects, not the content of the decision. The entire recruitment process used to take some six to twelve months. The reinforcement of the Recruiting Department in the Civil Service Office and the application of better standard procedures have speeded up the process, which currently lasts some three months.

The majority of current senior position-holders, however, are not civil servants. They have been recruited as “acting managers”, without competitive selection, using the “urgent needs” legal clause. The general rule on mandatory competition was further weakened by the introduction of article 144a of the Civil Service Act in 2002 (see above). If civil servants do not succeed in the relevant competitive selection, other civil service corps members, i.e. civil service employees, can be appointed if they meet the qualification and experience requirements established in the Prime Minister's Decree of 3 November 1999. According to the data in the Civil Service Office, on 1 April 2003 there were exactly 705 “acting managers” appointed without competition and 304 managers appointed (100 of them in 2003) according to the legally established procedure. The remaining managerial positions were vacant.

The Civil Service Act allows for horizontal mobility within and across ministries and institutions of the state administration, and vacancies are published in the Civil Service Bulletin. Transfers can also be compulsory, imposed upon a civil servant under certain conditions if justified as in the best interest of the service. However, in general, horizontal mobility is not practised and is not encouraged.

Given the fact that competitive recruitment procedures are mandatory only for a relatively limited number of positions, the several recruitment schemes, seen as a whole, do not guarantee the professionalism of the civil service and do not sufficiently reduce risks of patronage and politicisation. This is true not only in the case of local self-governments and *voivodships*, but also for the central state administration. In a survey conducted by the Civil Service Office in August 2001 on public opinion of the civil service, it was apparent that “the reliability of the recruitment raised concern because of the tendency to employ friends or family members in public administration structures”. It was also noted in that survey that “selection and careful choice of staff will be limited to managerial structures and to those managing the corps of civil service”.

In sub-national governments, the frequency of politically biased appointments is considered a problem by many observers and authorities, including the Civil Service Office. It is in these administrations, since the decentralisation of 1999, that many acts of public authority take place, such as educational and environmental inspections, granting of building permits, and the like. Some high-ranking officials feel that these administrations should be brought “out of the current political spoils system” and patronage.

Competitive recruitment based on merit is not guaranteed for rank and file civil servants in ministries either. Standards vary from one ministry to another, and the Civil Service Office lacks the legal power to effectively redress breaches of legislation. Only selection (promotion) to senior civil service positions is in law clearly based on transparent competition and merit, but even this legal framework is not a guarantee of competitive recruitment based on merit. The majority of current managers were recruited as “acting managers”, taking advantage of the loopholes existing in the current legal set-up. As from 1 July 2004, only civil servants will be entitled to apply as candidates for such positions, but the majority of those already in such positions were recruited through schemes not clearly based on merit and are currently undergoing a “validation” process. The exception, perhaps, are those who graduated from the National School of Public Administration. They have direct entrance to the civil service corps, and although this group faced restrictions on entry in 2002, their appointment has resumed normally in 2003. This set-up is considered by many as against the principle of equal access to the administration and is being criticised in some quarters while praised in others.

## **Romania**

The Civil Service Statute of 1999 imposed competition as the way to enter the civil service and stated that an examination was necessary. New recruits were due to enter as civil servants on probation (called “*debutante*” in the Statute). At the end of the probationary period, which lasted from 6 to 12 months depending on the category of the civil servant, a “*debutante*” acquired the status of permanent civil servant. A Government Decision of October 2001 set out specific regulations for conducting recruitment procedures. These regulations were not used in the majority of appointments. Another Government Decision, also of October 2001, regulated the probationary period and the manner of evaluating those under probation. Each institution recruited its own staff. The National Agency for the Civil Service (NACS) was unable to impose common recruitment standards or to guarantee the transparency and competitiveness of the recruitment processes, in spite of the dispositions set down in the above-mentioned Government Decisions. The NACS was systematically neglected in recruitment processes.

New civil service legislation, as amended by Law 161/2003, provides in articles 49-52 for a more systematic and better regulation for recruitment to the civil service. Articles 18 and ff. set up the conditions for recruitment to management positions. According to the new legislation, all civil service positions are to be occupied through competitive mechanisms based on merit and assessed by a recruitment commission. The new legislation also sets down the principles upon which recruitment is to be based: open competition; transparency; professional merits and competence; and equal access to public office of all Romanian citizens meeting the legally established requirements. Certain procedural conditions are also set in primary legislation, such as the way of publicising vacancies (Official Gazette), leaving for secondary legislation a more detailed regulation of the procedure in keeping with the general principles of the law. The NACS is to approve the terms of reference for recruitment of general administration civil service positions and to give its opinion concerning positions for specialised administration. In both cases the NACS is to monitor the recruitment process. All recruitment must be carried out in accordance with the annual staffing plan (article 22), prepared by the NACS and approved by the government, which indicates the vacant positions to be filled by means of recruitment and promotion.

Although based on the same recruitment principles, Law 161/2003 provides different modalities of recruitment depending on the category of the civil service position to be filled (high-ranking civil servants, middle managers or ordinary civil servants). The appointing authority also differs depending on the category of the position and whether the position is within the general or special administration.

In order to promote renewal within the civil service, a new modality of entry into the civil service has been established by Law 161/2003 through specific training programmes, in



particular for middle management positions (named as “fast track for young professionals”). Such programmes are determined jointly by the NACS and the National Institute of Administration (INA). Secondary legislation has also been issued in this regard, and INA and NACS have already identified, in collaboration with the relevant ministries and institutions, some 100 positions to be filled in 2003 through this special procedure. This recruitment process should be completed by September of this year. The specific training programmes referred to above will consist of two years’ training, one year in an EU Member State and the other year in Romania.

A new regulation concerning the probationary period (now referred to as “internship”) is provided by the new legislation (articles 50 and 51), establishing clearer objectives and conditions for an internship period that will have both skill testing and training dimensions. The maximum duration of the internship is set at 12 months for civil servants of first class, eight months for those in second class, and six months for those classified in third class. Time spent as a participant in a specifically designed training programme is considered to be part of the internship period. At the end of the internship, the incumbent is either appointed as a permanent civil servant or dismissed from the civil service if negatively assessed.

Article 51-1 of the 1999 Civil Service Statute allowed those appointed to a political post (“positions of public dignity”) to participate in competition for entry into the civil service by taking into account the experience gained while in political office. This privilege was not justified and contradicted the constitutional principle of equality before the law as well as the principles in article 4 b) and c) of the very same Civil Service Statute. This privilege has been abrogated by Law 161/2003.

Article 63 of the 1999 Law recognised the civil servant’s right to promotion to a higher level, class and category if he/she had the required academic credentials and a given length of service, and provided that there was a vacant position. In all cases, in order to be placed on a promotion list, civil servants had to obtain “good” or “exceptional” ratings in a performance appraisal exercise. Managers had wide discretion in these exercises, despite the fact that a Government Decision of October 2001 set out complicated and impractical procedures for the performance appraisal exercise. Competition was not required for promotion, except for the so-called leadership positions (article 68). Promotion to leadership positions (e.g. Secretary-General of the Government, director-generals, department managers, office managers) had to be achieved through competition. However, in practice competition was scarcely used. The same was true for performance appraisal. The regulations for performance appraisal did not take into account the fact that quite developed managerial capacities are necessary to properly carry out performance appraisal. These capacities were scarce in the Romanian public administration and still are for the time being. Consequently, promotion was almost completely dependent on the manager’s discretion. These circumstances prevented the implementation of these provisions of the 1999 Law.

The new legislation defines more clearly the rules on promotion (articles 53-58) and reduces the manager’s discretion. It establishes that promotion to higher positions shall be carried out through competition or examination. Civil servants who meet certain conditions of seniority or length of service (two years in the rank of beginner or four years accumulated in any civil service position or positions) can participate in these promotion procedures, and they are positively appraised in the annual performance appraisal exercise. To promote to high managerial positions, stricter requirements are demanded by legislation concerning the length of service (five years in a middle management position). The fact that civil servants may compete in promotion procedures to positions requiring higher education if they have obtained these academic credentials while in the civil service serves as an incentive for civil servants to improve their education. Government secondary legislation will regulate in more detail the promotion procedures in accordance with the conditions laid down in primary legislation.

## **Slovakia**

In the past, promotion was often used as a means to grant salary increases, without any real change in position or tasks, and neither recruitment nor promotion was clearly based on merit. Under the new Civil Service Law, recruitment and promotion must be based on open competition and on the results of a selection procedure. Direct appointment without competition is only possible for superior officers in a political position and certain other superior officers

(e.g. ministers, one secretary of state per ministry, and ambassadors). Vacancies must be announced in the Civil Service Gazette and in commercial newspapers. All positions in the civil service are open to outside applicants, as long as they fulfil the stated requirements for the position. Professional experience acquired outside the civil service can be taken into account. All selection commissions have to be established by the Chairman of the Civil Service Office (CSO). These commissions must consist of five members, at least three of whom are from the corresponding sector of the civil service. The selection commission assesses candidates on the basis of skills, professional knowledge, and other factors relevant to the vacant position, such as psychological aptitude.

In creating a professional civil service, the Civil Service Law (2002) provides for a screening process for all existing civil servants, within a transition period lasting up until 31 March 2004. This process is to some extent cumbersome, and requires a very substantial commitment from the CSO, which is currently overwhelmed by these procedures. The amendment in 2002 of article 15-15 of the Act allows the Chairman of the CSO to delegate the execution of this task to the relevant ministries and institutions, as explained above. Screening and recruitment procedures, if well conducted, may present the best possible means of reducing the high politicisation that exists in the civil service and of eliminating appointments based on personal or political relationships. The transitional provisions set down a procedure whereby all persons occupying a civil service position at the entry into force of the Act must reapply for their jobs. All those who apply will have to go through the legal recruitment procedure. If they fulfil the requirements for the position, they will be nominated to the interim (probationary) civil service and will have to undergo five days of compulsory training, followed by an examination before a recruitment commission. "Free dismissal" of civil servants is only possible during this transition period through restructuring. Most ministries and institutions are carrying out reorganisations in order to get rid of certain civil servants before the end of the transition period in March 2004. At the same time, they are exerting pressure to amend the law so as to make hiring and firing of civil servants less constrained by legal imperatives.

After the probationary period, all candidates have to pass a qualification examination. To this end, qualification commissions have been created and recruitment procedures approved by Civil Service Office Regulation no. 3/2003 of 15 March 2003. The qualification commission is established within the Supreme Service Office (typically in the ministry) for all service offices within its jurisdiction. The examination must be taken within two years at the latest from the entry into force of the law, and if passed the candidate will be nominated as a permanent civil servant. The nomination to the permanent civil service is within the competence of the Chairman of the CSO. Recruitment procedures have been applied under the new legal system (by May 2003 some 1,600 employees had already been screened and nominated as permanent civil servants in 374 offices at central government and district levels). Some dysfunctional issues have been identified and have led the CSO to propose certain amendments to the Civil Service Act, which affect recruitment in its First Annual Report (April 2002-April 2003) submitted to the government.

Recruitment conducted during the first year under the new law has followed the following pattern: announcement in commercial newspapers, subsequent written test to check the professional technical knowledge of candidates, interview by a recruitment committee (five members), and in certain cases an attitudinal psychological test, carried out on the basis of standard computer software. All candidates are informed about the "success criteria" before sitting the tests. The recruitment commission is only allowed to pose certain standardised questions to candidates. The recruitment commission makes a list of candidates in the order of their scores, and the recruiting ministry makes the appointment. The minister cannot depart from the opinion of the recruitment commission. Finally, the best scored candidates are awarded civil service status by the Civil Service Office, which at the same time provides secretariat services to the recruitment commissions. Complaints about the recruitment process can be submitted to the Civil Service Office, but recourse in appeal is only possible before the court (in practice no appeal has been lodged so far). The recruitment procedure lasts between three weeks and two months. However, the recruitment process is hampered by the lack of expertise in line ministries in conducting recruitment.

## Slovenia

The Law on Workers in State Organs, in force up until June 2003, required the public announcement of vacancies. Usually the announcement was published in commercial newspapers. An amendment to the Law on State Workers in 1997 and a government decree of 1998 regulated the entrance procedures to the civil service by public announcement, and laid down the procedure for selecting candidates: interview by a commission, preliminary checking, and examinations. Depending on the ministry, candidates were asked to pass a written test, the outcome of which was a shortlist. The shortlist was not published. A commission of three (human resources manager, state secretary and secretary-general) made the recruitment proposal to the minister, who decided through a decree in which reasons are usually given. The government took the decision for the appointment of senior officials, but ministers and heads of administrative institutions had this authority in other cases. Appeal before the Labour Court was possible if the formal requirements for recruitment were not been met. Those who confer appointments without competitive selection were not penalised. Lateral entries were possible, but regulations and practices encouraged filling positions through internal promotion and transfer.

A probationary period of up to six months was compulsory for new entrants to positions requiring a university degree. Successful probation was a condition for permanent tenure. Specific training was obligatory during the legally required probationary period. Regulations on transfers also allowed for secondment on a temporary basis. There were no common standards for recruitment applicable to the whole administration.

The new Civil Servants' Act, in force as from June 2003, will provide a better legal basis for recruitment and promotion as far as officials (civil servants proper) are concerned. Public competition will be legally mandatory for their recruitment, and the newly created Civil Service Council will set common standards, appoint recruitment committees, and supervise the procedure. It will be directly responsible for the recruitment of senior managers (director-generals, secretary-generals, chief executives of agencies). The new regulation on competition establishes that recruitment may be based on the candidate's curriculum vitae, written examinations and interviews. In institutions with a sufficient number of civil servants, the head of the institution may form a recruitment committee, or he may decide to conduct the competition personally on a one-to-one basis. In addition, the Law proposes a professional examination in public administration, which would be compulsory in certain cases but not in all. The Administrative Academy, dependent on the Ministry of the Interior, would administer these examinations. In the case of non-officials, the Labour Law would apply and competition would not be obligatory.

Although the new legislation will improve the current situation concerning recruitment, it does not totally address the problems that a sound recruitment system would solve (e.g. competitive recruitment for every position will not be obligatory), and it contradicts constitutional provisions. Effectively, in the new law, public competition is legally mandatory only for officials. Recruitment for non-officials will be made in accordance with labour law and collective agreements, i.e. without competition. If, in accordance with article 122 of the Constitution, all appointments in public administration must be made pursuant to a public selection procedure, making public competition optional for non-officials contradicts the constitutional provision. At the same time, the new law gives to the head of the institution too broad a discretion to form recruitment committees. These provisions work against the transparency of the recruitment procedure and against egalitarian access to public service positions. However, the new legal request for transparent recruitment and the introduction of judicial redress mechanisms may reduce the negative effects of such broad discretionary powers. It is too early to assess these measures; all will depend on the real practices that the new legislation may introduce in the system. As from June 2003 and until the next general political elections, current director-generals and secretary-generals will be "acting managers". Afterwards they will be entitled to reappointment for five years in accordance with the procedure established in the new Civil Servants' Act.

Currently, promotion is based on length of service. It consists of an automatic increase in salary every three years, plus a "collection of points" by attending training activities. Officially classification of posts exists, but the system is not transparent and is much distorted. The new

system will separate posts and grades, and promotion will be based almost exclusively on performance appraisal. No competition is envisaged for promotion, but civil servants (officials) will be promoted by government decision, whereas promotion for non-civil servants will be by ministerial decision.

## **Turkey**

Every Turkish citizen has the right to enter the public service, and no criteria other than qualifications for the office concerned shall be taken into account for recruitment (article 70 of the Constitution). Recruitment for the civil service has to be carried out through merit-based competition, but there are exceptions, such as for ambassadors, state lawyers, public health technical personnel, etc. Articles 48-50 of Law 657 set up the general and specific requirements to be met to enter the public service. The current recruitment and promotion procedure was introduced in 1999, and Government Decree 24744 of 3 May 2002 created a single recruitment centre and set out a recruitment procedure for the entire central administration. Prior to that decree, each ministry and institution recruited its own personnel separately, which was a source of patronage.

The central recruitment centre, named the Student Selection and Placement Centre (ÖSYM in the Turkish acronym), is attached to the Autonomous Council of Higher Education and works in close co-operation with the State Personnel Presidency (Prime Ministry). The centre organises — normally twice a year — a general examination for entering the public service, known as the Civil Service Selection Examination (KPSS). There are two types of general examinations: examination A for experts (requiring a university degree) and examination B for lower-level public agents (requiring a secondary school degree). Concerning the latter group, these public servants are recruited without any further examination based on their score on the general examination and depending on available vacancies.

Usually those who have successfully passed the ÖSYM examination for expert positions (group A as indicated above) must then sit other examinations or undergo further selection procedures organised by individual administrative units within ministries and institutions. These procedures are obligatory if the candidate wishes to choose a given ministry or institution. At ministry level two steps must be followed: the first is an examination and the second an interview. These two steps are commonly administered by a separate recruitment commission for each open position, made up of at least five members who usually are all functionaries of the ministry. This in-ministry procedure — and more concretely the interview — does not guarantee objectivity and equal quality standards in the recruitment process, and is vulnerable to patronage practices. This lack of objectivity is even more pronounced by the fact that the interview is weighted more than any other factor in the overall score of candidates for the public service. The results of all of these recruitment procedures are reported to the State Personnel Presidency. The procedures are reputed as being rife with patronage, although this is seen by current government supporters as more of an historical legacy rather than a recent day problem. Ministries compete to attract candidates, basically by offering better salaries than other ministries can offer. This situation creates problems, and these will be examined below in this report.

Once the recruitment procedures have been completed, candidates must undergo a probationary period, which includes specialised training in the subject area of the relevant ministry or institution. Once the candidates have completed the probationary period, they are either definitively appointed or rejected as civil servants by the competent authority. The competent authorities for definitive appointment in central administration are designated by Law 2451 of 23 April 1981 and by other laws in the case of municipalities or other institutions. These authorities can be undersecretaries, general directors, chiefs, or the council of ministers as a collegial body.

The above recruitment procedure is the ordinary way of recruitment of civil servants in ministries and central state institutions, provinces and municipalities.

Law 657 also foresees that a 3% quota of public positions should be reserved for the recruitment of disabled persons. Individuals suffering any qualifying handicap and wishing to enter the public service must succeed in the relevant competitions organised for this purpose by the different institutions. It is also possible to re-employ without competition those persons who have resigned not more than twice from the civil service, should there be suitable vacancies available. Decisions on this type of re-employment are discretionary, taken by the institutions

and establishments to which the re-employment application has been submitted. Retired personnel can also be re-employed under certain legally set conditions.

Despite certain justified criticisms, all in all the initial entry recruitment into the civil service, subsequent to the reforms of 2002, seems to be mainly based on merit. However, the objectivity and impartiality of current procedures would need to be reinforced in order to really free the system of patronage. All decisions on recruitment and promotion are liable to judicial review by administrative courts, and in fact the majority of cases brought before these courts refer to civil service issues.

*Promotion:* A basic and quite pronounced distinction exists in the Turkish system between promotion and advancement. Advancement is automatic and depends exclusively on the length of service (advancement in grade every three years — provided there are vacancies at higher grades — and in step every year). Advancement can only be suspended for one year as a result of a negative performance appraisal in the preceding year.

Promotion is understood as moving upwards to a hierarchically higher job title. Since 1999, in-service training plus a successfully completed examination are required for promotion. The examination is administered, as for recruitment, by the ÖSYM. However, several independent sources are sceptical about the objectivity of the promotion scheme, as the selection for promotion (being nominated as a candidate manager) is seen as being dependent on discretionary decisions of managers and politicians. From a legal point of view, promotion up to the level of head of department is nevertheless based exclusively on merit. Only promotions to higher posts are formally subject to political decisions.