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STRUCTURAL ELEMENTS FOR RECRUITMENT IN EUROPEAN CIVIL SERVICE SYSTEMS

By Francisco Cardona — June 1998

An Overview of the General Features of EU Member Countries

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.

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 of employment in public offices.

In any case, EU Member countries, irrespective of their particular career or employment 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.

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.

Regarding public employees who are not civil servants, the general rule is 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.

In general, in the majority of the countries, the number of candidates admitted to public administration is restricted by the budget.

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 This document has been produced with the financial assistance of the European Union. The views expressed herein are personal to the author, and can in no way be taken to reflect the official opinion of the European Union and do not necessarily reflect the views of the OECD and its member countries or of the beneficiary countries participating in the Sigma Programme.

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.

The Career System

The prevailing civil service system in a country has an influence on the contents of its recruitment procedures. In career 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 the better 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.

The Employment System

In employment 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. 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 employment systems there also exists an initial probationary period, mainly aimed at evaluating the adaptation of the newly-recruited civil servant to the job position.

Conclusion: The Structure of Recruitment

Let us suppose two conditions:

- 1) That a recruitment system aimed at selecting the best-suited available candidate for a given position within the civil service is sought;
- 2) That 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.

If the above conditions were in place, the structure of recruitment would be 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 countries, could be as follows:

- 1) The rules governing the recruitment procedures should be 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 c.v. 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.
- 4) The vacancy notice shall include every requirement for the procedure, in particular a list of subject matters for the examination, 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 shall be required to withdraw from the commission. Random choice among the list of subject matters for the examination should be the rule.

Candidates shall be entitled to challenge the commission's decision before the courts within a reasonable length of time. When the decision of the court is at variance with that of the evaluating commission, the former shall prevail and be immediately executed.