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FORMER YUGOSLAV REPUBLIC OF MACEDONIA

PUBLIC SERVICE AND THE ADMINISTRATIVE FRAMEWORK

ASSESSMENT MAY 2008

Introduction

Since the June 2007 assessment report[1], the former Yugoslav Republic of Macedonia[2] has experienced some political instability, but this situation lay dormant while priority was given to the country's two major external challenges: membership in NATO and EU accession. When the prospect of NATO membership fell through (NATO Summit in Bucharest, April 2008), the focus shifted to the unstable political situation.

The Accession Partnership adopted by the European Council on 18 February 2008 identified eight key priorities (benchmarks) for progress in Macedonia's preparations for EU accession; these benchmarks must be met in order to demonstrate the candidate country's readiness to undertake accession negotiations. Public administration reform is included in those benchmarks. To ensure the implementation of this reform, the government adopted by the end of June 2007 an Action Plan[3], which incorporates specific measures and activities in the related areas. Relevant institutions and committed reformers have started to develop these activities.

In the meantime, the political crisis intensified, parliament was dissolved, and early legislative elections will be held on 1 June 2008. Even if some work can continue to be developed at administrative level, this new situation raises concerns about the possibility of meeting the tight deadlines established in the Action Plan, which also requires political decisions and additional legislation. It remains to be seen whether after the elections the political situation will become clearer and whether it will be possible to fill the gap created by this crisis.

1. Legal Status of Civil Servants

1.1 Does an appropriate legal basis exist, defining the status of public servants in a way that is compatible with prevailing standards in EU Member States?

Although in the past year no relevant changes have been introduced in the primary legislation governing the legal status of civil servants, this year's assessment highlights the legislative initiative to create a separate legal statute for civil servants working in the court system, in view of its possible impact on the overall civil service system.

A draft Law on the "Court Service", which was apparently foreseen or envisaged in both the 2005 Strategy for Judicial System Reform and in the Law on Courts enacted in 2006, was prepared by the Ministry of Justice, discussed with trade unions, adopted by the government and submitted to parliament for processing and approval. Only the dissolution of parliament has prevented the adoption of this new draft law.

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1 http://www.sigmaweb.org/dataoecd/40/11/39672282.pdf.

2 In this report, the former Yugoslav Republic of Macedonia will hereafter be referred to as "Macedonia".

3 The Action Plan includes "measures and actions for implementation of the key priorities of the Accession Partnership".

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This new draft law has apparently not been "endorsed" or clearly supported by either the bodies representing the judiciary at the highest level (Supreme Court, Judicial Council) or by the most representative trade unions of public employees (let alone by the Civil Service Agency). If eventually adopted, it will separate the civil service of the court system (from the top positions to the lowest jobs) from the almost unified state civil service system established by the Law on Civil Servants (LCS), thus creating a specific statutory regime for a group of no more than 2500 public employees.

Even though there are some good reasons to consider a specific legal regulation of the so-called "Court Service" with regard to a limited number of aspects (job classification, structures for human resources management in the court system, etc.), the proposed law does not seem to be limited to such justified specificities, but rather entails a very complex and detailed regulation (which in many aspects would be more appropriate for secondary legislation). This regulation is apparently aimed at creating the conditions for removing court civil servants from the authority of the Civil Service Agency – CSA (in Macedonia, this body stands outside the government's remit and influence and reports solely to parliament). A separate management would also be created and placed in the hands of the Judiciary's "Budget Council" (operating under the Supreme Court) and of a new "Council of Court Administration", to be comprised of court administrators and presidents (a quasi-CSA but less professionalised). It is unclear whether the Ministry of Justice would also play a role in this separate framework.

In any event, it seems that the factor underlying this initiative is the long-lasting claim of court staff for a substantial increase in remuneration, which has become more acute in recent years given the significant increase in the remuneration of judges (and possibly of other groups of the state administration civil service). This claim has been supported by a series of strikes, which could resume after the elections. In any case, what seems clear is that, should this draft law be passed by the next parliament in its current form and content, it would lead to a parallel civil service system and reduce the opportunities for co-ordination and mobility. Moreover, it could lead to additional attempts to remove other groups from the progressively reduced scope of the LCS.

Conclusions

If the draft Law on Court Services is adopted, the situation reported in previous assessments related to the scope of the LCS could be aggravated (lack of unity and coherence since some sectors are regulated by the Labour Code or by special laws using the Code as subsidiary legislation). What is needed is to produce an agreed text that could effectively enhance the quality and efficiency of the court service (court administration) and provide a set of reasonable and justified specific rules for the management of its human resources, without putting into question the fundamental principles and basic structure of the recently established civil service.

On the other hand, the LCS should be reviewed in order to accommodate the special features of some sectors within the civil service (such as those of the court system) and to provide some flexibility in the remuneration scheme, if and when necessary and justified. General problems require general solutions instead of case-by-case solutions that would damage the overall coherence of the system.

2. Professionalism of the Civil Service

2.1 Are civil servants' recruitment, rights and obligations defined, regulated and enforced in such a way as to ensure their commitment to constitutional and public-law values, such as legality, impartiality, political neutrality and integrity?

Recruitment

Open competition is mandatory for all civil service employment, and principles such as equal access, equal conditions and equitable representation (as established by the Ohrid Agreement) are guaranteed by law.

However, the highest positions are reserved for appointment by the governments – central and local – or by other constitutional bodies, despite the requirements set out in the Law on Civil Servants – LCS (in particular, the requirement limiting the access to such positions to those already holding "managerial" positions in the civil service). Apparently the system developed in the LCS for ensuring the professionalisation of these top positions is not working properly, or at the least the system is not flawless and still allows several ways of circumventing these requirements.

In principle, two alternative options could be considered: 1) establish the conditions under which recruitment for these positions (secretaries-general or state secretaries) could be opened up to candidates with no managerial experience in the civil service itself, but with relevant and demonstrable professional experience acquired outside the public service; or 2) strengthen the supervisory role of the Civil Service Agency (CSA) so that the Agency is more clearly responsible for ensuring compliance with the rules and requirements set out in the LCS, even by initiating the relevant judicial procedures against unlawful decisions of the governments (central and local) or other constitutional bodies in this area. However, the latter would require legal amendments to empower the CSA to assume this role.

As for the remaining civil service positions (including expert and managerial positions), the CSA, which is responsible for the first stage in the selection/recruitment process ("professional examination"), has made considerable progress in the past year in refining and modernising systems and procedures for the pre-selection of candidates for any given position. The amendments recently introduced in the two main regulations (rulebooks) governing these procedures (*Rulebook on the Criteria and Standards and the Procedure for Selection and Employment of Civil Servants* and *Rulebook on the Manner, Procedure and Criteria for the Expert and Trainee Examination*), as well as improvements in the technical instruments used by the CSA, are positive steps towards a more objective and accurate assessment of the qualifications and merits of candidates for vacant positions; these improvements have in turn resulted in a substantial increase in applications.

However, the CSA lacks mechanisms to effectively follow up and oversee the second and/or further stages of the recruitment processes, which are entirely managed by the relevant bodies and state authorities, so as to fully ensure that the final outcome of any given recruitment process is totally free of the possible influence of political affiliation, patronage or cronyism. In fact, not only independent observers but also managers of the CSA recognise that despite the legal rules and the efforts made by the Agency, final decisions on the recruitment of civil servants are still pretty much influenced by such factors. The basic professional qualifications of potential candidates are now tested and ensured by the examinations carried out by the Agency, but there is still some distance between the principles of merit and equal opportunities as laid down in the law and the reality of the recruitment processes. It is to be noted that in the recently adopted Strategy for Prevention and Repression of Corruption, elaborated by the State Commission for Prevention of Corruption (SCPC), the "*establishment* of a merit system" in the civil/public service is still considered as one of the top priorities for the immediate future, and the relevant Action Plan indicates several actions (including some changes in the LCS and other laws) to be implemented in the years 2008-2009 in pursuit of this objective.

As pointed out in previous reports, an additional factor that often enters into contradiction with the pure "merit" system is the putting into practice of the principle of equal representation ("Ohrid Agreement") of the various minorities, which, while stated at a constitutional level, provides additional room for partisan-influenced recruitment (given the existence of parties representing such minorities, which have always been a part of coalition governments). The General Secretariat of the Government is responsible for the management of a budgetary sub-programme (K-5) aimed at the recruitment of civil servants from minority groups. A total of 474 candidates (20 Macedonian and the remaining 454 members of various minorities) were recruited by the General Secretariat under this programme. Selected candidates were then transferred to ministries or state organisations. Even taking into consideration the political reasons that support the equal representation policy, it should also be mentioned that this policy undermines the merit system and on the whole it does not protect citizens' rights.

In the Ombudsman's Annual Report for the year 2007, and based on complaints filed by participants in civil service recruitment processes as well as by civil servants in active service, it was reported that in 2007 appointments made without respecting the legal provisions stipulated by the Law on Civil Servants were "more frequent". Also, in a number of cases the authorities responsible for the final decision on recruitment had failed to complete the selection process with the effective hiring or appointment of one of the candidates who had been shortlisted by the selection commission, which is a possibility that had not been envisaged in the LCS.

Although the CSA has been more effective in enhancing and improving the instruments and mechanisms ensuring a more efficient and objective selection of candidates for vacant positions in the civil service, the fact that the role of CSA is fundamentally limited to the first stage of a multi-step recruitment process still leaves room for final recruitment (employment) decisions based on criteria other than merit.

The requirement that applies to all candidates for top positions (secretaries-general / state secretaries) concerning previous work in managerial positions in the administration seems to be having the

undesirable effect of increasing the politicisation of recruitment for managerial positions (thereby circumventing the purpose of the rule).

The legal and procedural mechanisms for ensuring that recruitment for all civil service positions (including managerial positions) is based solely on merit should be strengthened, while the rules concerning appointment to top positions could be reconsidered, with a view to providing a more realistic mix between the guarantee of minimum professional qualifications and the necessary discretion of the appointing authority (government or equivalent authority in other state institutions). A legal compromise solution may be better than the current unlawful practice.

Promotion

No positive developments are to be reported in this area since the previous assessment. Vertical promotion based on the objective evaluation of merit, experience or performance is not envisaged in the civil service legislation, and the civil servant is therefore required to participate in a new open competition for any higher position. No "internal" competitions are foreseen in the LCS as a first way of filling vacancies.

In the absence of such a mechanism, ministries and other authorities frequently resort to the mechanism of "re-assignment" (instead of open competition) to fill a vacancy. For the civil servant appointed to such a position, the re-assignment quite often constitutes an actual promotion, but it is nevertheless not subject to objective rules and criteria and is carried out without transparency.

On the contrary, the practice of demotion (re-assignment to a lower position) seems to have become too common and has led to an increase in complaints submitted by the civil servants affected by such demotions. Through these demotions, civil servants are re-assigned to positions of lower rank and responsibility, freeing the higher positions for other civil servants to fill through "re-assignments". Although the possibility of such demotions is foreseen in the LCS, it is only in specific situations (an "unsatisfactory" rating in the performance appraisal, organisational changes involving the suppression of positions, etc.), and evidence gathered during the assessment mission points to a potential abuse of this legal possibility in connection with changes in the political management of many civil service bodies.

With regard to horizontal promotion, the main mechanism in the law is the "career development step" (art. 38), which entails the right to the payment of a "career supplement". Advancement on the stepladder (comprised of a total of four steps) requires three years of work experience in the previous step plus a positive mark in the performance assessment. However, due to its financial implications, the "career supplement" has not yet been implemented (see below).

The absence of a system allowing for vertical promotion (to higher posts) based on merit is possibly discouraging civil servants and potential candidates from joining the civil service and is considered to be an important weakness of the current civil service framework, because it favours bad practices based on the abuse of the less transparent mechanisms of re-assignment and demotion.

For vacant positions other than that of junior associate (in the expert group) or junior officer (in the expert-administrative group), internal and public competition between candidates from any civil service body should be set as the first step. Competition that is open to external candidates should be arranged only if the internal competition fails to produce a suitable selected candidate for the relevant position. This solution could increase motivation through internal competition, improve mobility, and help to eliminate or reduce forced redeployment.

Obligations, Rights and Duties, with special reference to Impartiality

Obligations, rights and duties of civil servants are established by the LCS in line with commonly accepted standards.

However, the approval of the new Law on Conflict of Interest (2007)[4] – which does not apply to civil servants (doubts remain as to whether even officials in "appointed" positions are included in its scope) and which derogates from the provisions on this issue formerly laid down in the Law on the Prevention of Corruption (which also applied to civil servants) – has created a legal gap in the regulation of conflict of

[4] *Official Gazette*, no. 70/2007 of 5 June 2007.

interest in the civil service and of compatibility/incompatibility of civil service work with other jobs or private activities (commercial or professional).

Regarding the implementation of disciplinary rules, compared to 2006, the number of disciplinary procedures against civil servants in which the CSA participated rose dramatically – to 142 in 2007 compared to 44 in 2006 (representing an increase of more than 300%). Based on data from the 2007 Annual Report of the CSA, 114 of these procedures were completed in 2007, while 22 continue to be carried out in 2008; the CSA has no information on the final outcome in six procedures, since the concerned bodies have not yet submitted to the CSA their final decisions on disciplinary measures to be applied to the civil servants concerned. Almost half of the cases that were completed in 2007 (66 out of 114) resulted in fines amounting to 10-30% of the civil servant's salary; in nine cases the civil servant was demoted to a lower position for a duration of 6-12 months; and in six cases termination of employment was pronounced. In 30 cases the proposal to initiate a disciplinary procedure was rejected, in two cases the disciplinary procedure was temporarily postponed pending completion of the criminal procedure against the civil servant, and in one case the civil servant resigned in the course of the disciplinary procedure.

Rules in the Law on Civil Servants concerning incompatibilities and conflict of interest affecting civil servants in managerial or expert positions should be reviewed and strengthened, so as to cover the gap created by the new Law on Conflict of Interest, which derogates from the relevant provisions in the Law on the Prevention of Corruption.

Grievances

Although the statistical data and information provided in the Annual Report of the CSA indicates an improvement in the efficiency of the special second-instance commission in the CSA, the Ombudsman[5] expresses scepticism "in terms of protection of civil servants' rights" regarding the activity of the Appeals Commission, operating within the remit of the CSA. The fact is that, of the 835 cases reviewed by the Appeals Commission in 2007, only 104 were in favour of the appellants. Moreover, the Commission does not provide any information on the level of compliance of first-instance bodies with the Commission's decisions. In addition, it has now been confirmed that the new Administrative Court has no competence (jurisdiction) to adjudicate cases related to the legal status, rights and obligations of civil servants, and these cases will continue to be dealt with by the basic courts (competent for general labour rights and conflicts). The sole exception to this rule applies to acts of nomination, appointment or dismissal of officials in civil service positions provided by appointment by the government, parliament or other constitutional bodies (mostly secretaries-general and state secretaries in ministries and agencies), unless otherwise regulated by law.

There are recurrent doubts about the effectiveness of the mechanism of the CSA's second-instance commission for administrative appeals related to first-instance decisions on civil service matters.

The CSA should undertake an in-depth and substantive review of this mechanism to determine whether and to what extent it is providing an effective protection of the individual rights of civil servants, as well as ensuring compliance with civil service duties and obligations. This review could be part of the project currently being carried out by the State Administrative Inspectorate to assess the overall effectiveness of the various second-instance commissions. The Inspectorate's assessment could include draft recommendations with regard to the improvement or abolition of the CSA's Appeals Commission.

Professional Independence from Politics

Despite the provisions in the LCS and other legal instruments applying to the civil service, the actual situation concerning recruitment (employment), re-assignment and promotion/demotion of staff holding positions in the civil service does not guarantee the professional independence of civil servants from politics and partisan influence.

The perception of this issue of relevant organisations observing the functioning of the public administration in Macedonia (e.g. NGOs working on transparency or anti-corruption issues) or otherwise interacting with it (e.g. chambers of commerce) is that the public administration is still pretty much in the hands of political

[5] The 2007 annual report is available on the Ombudsman website: http://www.ombudsman.mk/comp_includes/webdata/documents/Izvestaj-2007-ang.pdf.

parties and politicians (spoils system) and that recently the situation has deteriorated even further in terms of professionalism in the civil service.

A more consistent implementation of the legislation with regard to the recruitment/employment of new civil servants and the introduction of clear systems and rules governing promotion within the civil service are still very much needed to strengthen professional independence from politics.

Integrity

The new and separate Law on Conflict of Interest adopted in June 2007 (previously this matter was dealt with by the Law on the Prevention of Corruption) does not cover professional civil servants but only applies to elected or appointed public officials.

Thus, the legal framework on the integrity of the professional civil service is now made up of the relevant provisions in the Law on Civil Servants, supplemented by the Code of Ethics. This framework is clearly insufficient for ensuring integrity in the civil service. Rules on incompatibility and conflict of interest are entirely missing, and the Code of Ethics and the rule setting as a disciplinary offense the receipt of "gifts or other benefits" are not sufficient.

The legal and regulatory framework for integrity in the professional civil service, as set down in the civil service legislation, should be reviewed and enhanced, and the CSA should be empowered to play a more active role on this front.

Salary System and Pay Determination

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

With regard to the civil service (some 12,500 staff), the Ministry of Finance is still working on an evaluation of the budgetary impact of full implementation of chapter IV of the LCS. It is focusing in particular on the impact of the introduction of the "career supplement" (a supplement worth 5% of the "position supplement" and awarded for every three years of effective service, subject to "positive assessment of performance") and of the system of "rewards" (bonuses for positive performance appraisal).

Although eventually no funding was earmarked in the state budget for 2008 for the introduction of these two components of the salary system for the civil service, the Ministry of Finance considers that it is still possible to implement them in 2008 (through a budget reallocation, to be decided after the June elections). Otherwise, these components will be implemented as from 2009. In any case, no legal measure was adopted to postpone the implementation of this part of the salary scheme, as had occurred in previous years. Thus, according to the current legal framework, the career supplement has been due since 1 January 2008.

The salaries of the remaining public employees (40,000 on the payroll of the Ministry of Finance, plus 20,000 employees transferred to municipalities, plus 25,000 in the health care sector) are regulated by the General Law on Salaries and a nationwide collective agreement for the public sector. However, the Ministry of Labour is preparing a new Law on Salaries in the Public Sector, with assistance from the World Bank.

Since 2002 and in accordance with the World Bank's recommendations, a process to revise the salaries of various professional or sector-specific groups (referred to as "decompression") has been implemented, with the aim of equalising the salary conditions for similar jobs across various sectors or improving the remuneration conditions of certain groups (education, social services, public officials in political or politically appointed positions, etc.). According to some trade union sources, while the agreed and implemented salary increases have significantly improved the salaries of particular groups (judges and prosecutors, middle to high-ranking civil servants and managers), for the vast majority of public servants these increases have been fully "neutralised" by inflation; and in a number of cases (lower positions) the increases have been so minimal that real salaries have actually decreased.

The Ministry of Finance keeps a tight control over the use of budgetary appropriations for personnel costs, including control of new recruitment, through its competences concerning the management of the state budget.

Government decisions regarding the actual value of salary points are adopted and published each year in the *Official Gazette*. The salary point value for 2007, for example, has remained the same as in the last three

years (40.1 MKD or approximately 0.65 EUR per salary point). In line with its policy to raise the salaries of the public administration by 30% in three consecutive years, in September 2007 the government amended the decision on the value of the salary point for 2007. As from 1 September 2007, the value of the salary point for civil servants increased by 10%; it is currently 44.11 MKD or approximately 0.72 EUR.

With regard to the civil service, the implementation of the "career supplement" and "rewards" based on performance, previously scheduled for January 2008, has again been postponed in practice until later in the year (if the new parliament decides to allocate the necessary resources, which were not foreseen in the original budget for 2008) or until 2009.

The Ministry of Finance should ensure the finalisation of its work in the assessment of the budgetary impact of these measures in time for the new government to make the relevant decisions in the course of elaboration of the budget for 2009.

The new draft Law on Salaries in the Public Service should be finalised by the Ministry of Labour – in close consultation with relevant bodies, namely the Ministry of Finance and the Civil Service Agency (to avoid conflicts with the salary system for the civil service) – and forwarded to parliament for approval. This new law should complete a transparent system for remuneration of all public servants. For the time being, the draft is not yet available and it is therefore not possible to assess its content.

Performance and Career Development

2.3 Do sufficient and reasonable mechanisms (basically mobility, training and motivation) exist for good performance and career development within the civil service so as to make it attractive?

Performance Appraisal

Implementation of the performance appraisal system introduced by the Law on Civil Servants (LCS) continued in 2007, but the aggregated results for this year were not available in time to be taken into account in this year's assessment.

However, it is to be noted here that in 2007 the Civil Service Agency (CSA) undertook additional actions to address the problems and difficulties experienced in 2006, when a significant number of public authorities failed to submit their mandatory reports on the annual appraisal of civil servants to the CSA.

According to data concerning the 2006 appraisal (prepared by the CSA in June 2007), the appraisal of civil servants was carried out in that year in 36 state bodies (out of 50) and in 47 municipalities, comprising a total of 5,555 civil servants (4,540 in state bodies and 1,015 in municipalities). In state bodies, 55.17% of the civil servants were appraised as "excellent" (and 43.03% as "satisfactory"). In municipalities, 42.66% were appraised as "excellent" and an additional 50.83% as "satisfactory".

When compared with external perceptions of the professionalism and performance of the civil service, the figures concerning the appraisal of civil servants may indicate that the performance appraisal system, as it is currently practiced, may well require further refinements if it is to become a key instrument for improving the overall performance of the civil service.

Training

While the CSA is slowly developing its capacity to plan and supply basic general training for all civil servants, for the time being the CSA's training unit is still reliant on foreign donors' support and funding.

With the aim of elaborating a much-needed overall long-term strategy for civil service training, the CSA has been collecting updated information from ministries and other civil service organisations on their own and specific training schemes and activities. The CSA is now planning to develop the overall strategy and have it ready for approval by fall 2008.

The CSA is also engaged in discussions with the Ministry of Finance on the actual implementation of the provision laid down in article 24.3 of the LCS, according to which the funds needed to cover the needs arising from civil servants' "right and duty for professional development and training" are to be provided by the state budget. The CSA has requested the Ministry of Finance to include in its instructions on the elaboration of budget proposals for 2009 a recommendation to ministries to include a budget line worth 0.5% of the total personnel costs, to be specifically spent on training.

Conclusions

While there has been evident progress in the quality, transparency and objectivity of the first stages in the recruitment system (for which the CSA is directly responsible), the overall situation concerning recruitment based on equal access and merit has not improved significantly, due to the great margin of arbitrariness of the final recruitment authorities and the lack of effective legal consequences and remedies in the event of unlawful behaviour in their employment decisions. For the highest positions (secretaries-general and state secretaries), politicians (ministers and others) are still able to circumvent the legal provisions concerning the professional requirements that candidates must meet.

In general terms, advances in the process of depoliticisation and professionalisation of the civil service have been limited since the last assessment. The issue of the lack of adequate and transparent internal promotion systems (based on merit, experience and performance) has not yet been addressed.

Budgetary constraints are still preventing the implementation of the salary components that are related to career development (years of satisfactory service) and to outstanding performance (rewards). Also, the lack of budgetary funds keeps civil service training dependent on funds provided by external donors.

3. Management of the Civil Service

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

Central Management Capacity

In addition to progress made through technical and substantive innovations in the management of the first stages of the process of recruitment of candidates for vacant positions throughout the civil service, the Civil Service Agency (CSA) has also been capable of developing and elaborating a series of new legal instruments (at the level of secondary legislation) aimed at rationalising administrative organisation and strengthening the quality of some of the key instruments in use for this purpose.

In September 2007, based on a proposal by the CSA, the government adopted a new Decree on the Principles for Internal Organisation of the Bodies of State Administration[6]. The decree should also be applied in independent state bodies and in municipalities, if not otherwise determined by law. It introduces several novelties, which should improve to a certain extent the position of the CSA in giving its consent for the rulebooks on the internal organisation and systematisation of the positions in the bodies covered by the LCS and decrease the possibility of differing interpretations and organisation of the same functions in different bodies. For the first time, the decree contains an article defining the content of the rulebooks on internal organisation (the type and number of organisational structures and their competencies, responsibilities and mutual relationships, as well as the manners and forms of management), and so hopefully in future the rulebooks will at least follow a unified format. The common organisational structures within the bodies are the departments and units, and the decree now specifies in which conditions they may be created, thus providing an additional tool for implementation of the CSA's control function.

A major novelty of the decree is the introduction of units on strategic planning, policy development and monitoring, human resources management, and internal audit. In ministries the creation of units on strategic planning and policy development and monitoring is mandatory. Such units are not within any department and are directly accountable to the state secretary. The internal audit units should be established in all bodies based on the same principles as for the human resources units and strategic planning and policy development units, but they are accountable to the political head of the body. The decree also introduced project units for implementation of a certain project for its duration, and the project staff are engaged for a limited period of time, which cannot be longer then the duration of the project. The decree allows other types of organisational units only in several specified bodies within the ministries of Internal Affairs, Agriculture, Finance, Foreign Affairs and Defence. The deadline for adjustment of the current rulebooks to the provisions of the new decree was the beginning of March 2008, but this deadline has for the most part not been met.

A new Decree on the Description of Civil Servants' Positions, also adopted in September 2007 by the government[7] on a proposal of the CSA, replaced the Decree on the Description of the Positions and

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6 Published in the *Official Gazette,* no. 105/2007, and its amendment of December 2007 in the *Official Gazette*, no. 146/2007.

7 *Official Gazette*, no. 106/2007.

Correspondence of the Jobs to the Groups and Positions Established in the Law on Civil Servants of 2000. The new decree provides, in a somewhat modernised wording[8], descriptions of all positions defined in the LCS (including the new positions of municipal secretaries), organised according to a) accountability and objectives, and b) major tasks and responsibilities. These descriptions should represent the basis for the job descriptions included in the rulebooks on systematisation of jobs. The deadline for adjustment of the current rulebooks on systematisation of jobs to the provisions of the new decree ended on 6 March 2008, but to date the implementation of these adjustments has been very limited.

Following the adoption of these two decrees, the CSA prepared and adopted in September 2007 Guidelines for Preparation of the Rulebook on Systematization of Jobs. The guidelines aim to establish a standardised procedure for preparation of the rulebooks and common criteria to be followed in the elaboration of job descriptions. They establish clear steps for the preparation of the rulebooks, link the rulebooks to the performance appraisal exercise, establish recommendations for the minimum years of experience required for positions defined in the LCS, and require the elaboration of a sound justification for the adoption of a new addition or amendment to the valid rulebook. The justification, to be sent to the CSA, would be based on functional analysis, linked to strategic plans and work programmes, EU integration and NATO membership requirements, and other reform or legislative requirements. However, the implementation of this document would certainly require qualified and skilled personnel in the HRM units of the bodies as well as improved knowledge and skills within the CSA. In its 2007 Annual Report, the CSA stated that it had carried out 14 workshops in Skopje and Bitola for 140 civil servants at central and local levels during October-November 2007 for preparation of the rulebooks on internal organisation and the systematisation of jobs.

These developments show that the CSA is finally trying to play its leading role in improving civil service management. However, the CSA, which has a mandate to ensure the uniform application of the civil service legislation not only across the state administration but across all state bodies served by civil servants, is still facing many difficulties in making sure that the system is being applied in accordance with homogeneous standards. Ministries and other state authorities still demonstrate an important degree of arbitrariness with regard to important aspects of the system. Moreover, comprehensive implementation of the old and new regulations is still needed.

Internally, at the beginning of December 2007 the CSA adopted a Code of Behaviour of CSA Employees to serve as additional guidance to the provisions of the Code of Ethics of Civil Servants. This is an interesting initiative to improve ethics which could be disseminated throughout the public administration.

Also at the beginning of December 2007, the CSA adopted a Communication Strategy. The document had been prepared in 2005 by the DFID project on public administration reform. The aim of the Strategy is to raise the (so far low) profile of the CSA in the eyes of the public and increase both its credibility and the public's understanding of its competencies, key services and the values it promotes. The Strategy targets a number of interested parties: civil servants, citizens, the media, NGOs, MPs, politicians and senior civil servants in central and local governments, donors and training providers. It identifies several communication instruments and provides several short-term and medium-term recommendations, while keeping in mind the restricted resources at hand.

As underlined in previous reports, the fact that the CSA is an autonomous state body accountable to parliament, while the main political responsibility for the civil service belongs to the government, weakens the CSA's capacity to fully perform its relevant role.

3.2 Are staff numbers and personnel costs controlled and published?

Staffing and Control

The most reliable and accurate data on staffing in state administration bodies, as well as in other bodies and institutions within the scope of the civil service, are still those made available by the Ministry of Finance. However, these data contain only information that is relevant for payroll purposes, and the ministry does not have centralised date for a significant number of public servants (who are not civil servants) – namely, the employees working in health services (whose salaries are paid from an extra-budgetary fund), who number about 25,000, and employees in municipalities (i.e. staff other than the 20,000 staff transferred from the state administration, whose salaries are still managed by the Ministry of Finance).

[8] Terms such as strategic plan, policy development, policy advice, policy proposals, implementation of the budget, etc. are now common in the descriptions.

The CSA has established a central Register for the Civil Service, which contains additional data concerning the staff who have civil service status. The Register is still being developed and improved.

Control over staff numbers is carried out, within the scope of the civil service, through two main instruments. The first is referred to as "systematisation", which is information on staff that every state body (and local administration) has to elaborate and submit to the CSA and to the Ministry of Finance for approval. The second is the annual budget and, more specifically, the appropriations for personnel costs in every organisation funded by the state budget. Compliance with budgetary limits is monitored and ensured by the Ministry of Finance, but parliament may at any time during the period of execution of the budget process and adopt reallocations (or "supplementary credits"). Therefore, in theory there is a way for the initial budget ceilings that have been set for personnel costs to be changed during the year for specific professional groups or particular organisations.

On the other hand, in Macedonia there is not any sort of centralised or at least co-ordinated "planning" of staff needs, either for the short-term (next fiscal year) or for the medium-to-long term. Every organisation may carry out its own planning, but the central control of the staffing situation and staffing needs takes place in the course of the processes of approval of the "systematisation" and of elaboration of the state budget.

Another problem is the lack of data and information about temporary staff. Neither the CSA nor the Ministry of Finance has reliable data on this group of staff. The perception is that the number of temporary staff is increasing out of any effective control.

Mechanisms and instruments for controlling (permanent) staff numbers and the possible increase are in place, under the joint co-ordination of the Ministry of Finance and the CSA. These mechanisms allow a relative degree of control of overall personnel costs in the state budget, as well as in every individual ministry or institution funded by the state budget.

However, what seems to be missing is an effective mechanism for the overall planning of human resource needs across the entire civil service, or at least across the entire state administration for the medium-to-long term. For that purpose, the Register of Civil Servants must be developed and include additional information on public employment in Macedonia.

3.3 Do staff representatives participate in decision-making and control concerning personnel management matters?

Staff Representation

The Law on Civil Servants (LCS) recognises that civil servants have the right to establish and be members of trade unions "under the terms and in a manner defined by law" (art. 33).

Therefore, the rules applying to civil service bodies are the same as those applying to any other employer or employment centre (Labour Law). Based on these rules, there is a tradition whereby the government and the trade unions negotiate nationwide collective labour agreements for the entire public employment. The last agreement was signed in January 2008, between the government and one of the trade union confederations in Macedonia, the Confederation of Free Trade Unions. This agreement was strongly contested and rejected by the Trade Union of Administrative Workers (which belongs to another confederation – the CCM).

It can be stated that social dialogue within the public sector (between central and local governments and trade unions) is underdeveloped.

Conclusions

Although the Civil Service Agency (CSA) has made significant progress – with the support and in co-operation with the Secretariat General of the Government and the Ministry of Finance – in laying down the new regulatory instruments needed for more professional and efficient management of human resources in state bodies (particularly in bodies pertaining to the state administration), its position, role and actual capacity to ensure the uniform implementation of the new statute for civil servants and the more professional management of human resources across state bodies in practice are still weak.

This weakness of the CSA is particularly problematic with regard to ensuring respect for some of the basic principles and rules governing the civil service, as well as for the legal rights of individual civil servants (or civil service candidates), by all state authorities and bodies. Apart from the functions that the CSA is

legally empowered to perform, which are confined to some sort of "ex ante" supervision and approval – systematisation and the recruitment of staff under its direct responsibility (first stages in the recruitment process) – the CSA lacks sufficient enforcement powers and capacities.

Despite the signature of a new (and much contested) collective agreement in early 2008, there is very little social dialogue between governments and trade unions representing public employees.

4. Legality and Accountability

4.1 Do administrative practices and the general legal administrative framework guarantee the principle of legality in administrative decision-making, and are they sufficient and appropriate to guide civil servants and make them accountable for their performance?

Constitution and Legal Framework

Based on the principles and provisions laid down in the Constitution (principles of the rule of law, equality before the law and legality in the action of public powers; citizens' rights, including the right to appeal against individual legal acts issued in the first instance by an administrative body; judicial protection of the legality of individual acts of state/public administration), the general legal administrative framework in place in Macedonia contains, formally, many of the instruments that guarantee the principle of legality in decision-making:

- The organisation and powers/competence of executive and administrative bodies (including the central government and administration, local governments and organisations exercising public powers by delegation), as well as the administrative apparatuses of constitutional institutions staffed by civil servants (the Presidency of the Republic, parliament, the Constitutional Court, the court system and the Judicial Council, the Public Prosecutor, and the Ombudsman, etc.), are all regulated by laws or equivalent legal instruments (such as the rules of procedure of parliament). Those legal instruments confirm the constitutional principle of legality in the action of public powers, in compliance with the Constitution and with relevant laws.
- A Law on Administrative Procedure, which is currently being reviewed, contains provisions to ensure that decision-making in administrative matters is carried out "on the basis and within the boundaries of the law", and with due respect to the "legally safeguarded rights and interests" of the parties involved in an administrative procedure. This law foresees, as a general rule, the right to appeal against a first-instance decision to an appeals commission set up within the administration itself.

Other specific laws (on Personal Data Protection, Free Access to Public Information, Law on Administrative Disputes, etc.) are in place to guarantee specific constitutional rights vis-à-vis the actions or decisions of the public administration.

The Constitution also provides for the role of the Public Prosecutor to defend the public interest in cases where unlawful administrative decisions may grant rights or satisfy party interests to the detriment of public interests.

Quality of Legislation

The government's programme known as "Regulatory Guillotine" ended in 2007. As part of the "Regulatory Guillotine" project, at the beginning of March 2008[9] the government adopted a decree abolishing the regulations covered by the project. The decree lists a total of 341 regulations that would no longer be in force (decrees, rulebooks, decisions, guidelines, classifications, etc.). These regulations had been adopted by the former Executive Council of the Assembly or by the government, as well as by ministers and other officials who headed state administrative bodies in the period 1974 – 2003.

The draft Law on Amending the General Law on Administrative Procedure (sent to parliament but not yet been passed due to the subsequent dissolution of parliament and the new elections scheduled in June 2008) is one of the legal instruments stemming from the above programme. This draft law aims to shorten the terms

[9] The decree was published in the *Official Gazette*, no. 34/2008 of 13 March.

for decision-making on administrative files, establishing the cases in which the silence of the administration will be considered as an approval of the request, and to introduce other measures to promote the use of information technology in the management of administrative procedures. However, administrative procedures are still highly formalised and a more in-depth review of the law may be considered.

With regard to the quality of legislation in general, and in particular in the areas of general administrative framework and civil service, while it seems that all of the basic pieces of legislation are already in place, there are a number of flaws and inconsistencies, not only between the old (even pre-constitutional) legislation and the new legislation, but also between legal and regulatory texts promulgated in the last few years.

However, the main problem remains at the stage of implementation, which is closely related to the weak quality of the legislation and the poor implementation of regulatory impact assessments. In Macedonia, there is a general perception and a concern voiced from different sectors about the actual implementation of (especially) all of the new legislation enacted in recent years. If we are to assess the quality of legislation also from the viewpoint of its "implementability", the situation in Macedonia seems to still be far from satisfactory. This may cast some doubts about the capacity of Macedonia (in particular, its public administration and judiciary) to ensure the appropriate implementation and enforcement of the EU *acquis*. For instance, several observers are concerned about a visible excess in the number of laws and amendments to laws being enacted every year, while in reality the work of civil servants across the state administration is becoming increasingly formal and bureaucratic. Civil servants avoid taking any risks when interpreting or applying norms, and frequently do not bother about trying to resolve the actual problems underpinning the files in fairness and in accordance with the legal framework.

Hence, further efforts are needed on this front. Some of these efforts are being led by the Sector for Policy Analysis and Co-ordination within the General Secretariat of the Government. This sector and the Sector for Strategy, Planning and Monitoring have as their main priority the strengthening of the general capacities of the civil service with regard to the process of European integration. To this end, it has lately taken on more direct responsibility (whereas formerly it relied on the work of project teams funded by foreign donors) to organise and deliver a number of training programmes for civil servants from all ministries, covering such topics as strategic planning, policy development (a Policy Development Handbook was published in January 2007), relations with civil society (a Code of Good Practices on Financial Support to Citizens' Associations and NGOs has already been used in the awarding of grants under the 2008 budget), citizens' charters (with pilot experiences having been implemented in 13 ministries and nine state administrative bodies and a "government portal" created in the Government Secretariat, which gives access to information on services and quality of services), electronic registration and public consultation of draft regulations through relevant websites (to be compulsory as from January 2009), and introduction of Regulatory Impact Assessment (RIA).

Concerning RIA, the government has already adopted relevant guidelines and a technical manual and, as from 2008, its Secretariat has been focusing on the organisation and delivery of specific training courses aimed at creating in every ministry the capacity to undertake good quality "preliminary" or "full" impact assessments. However, the adoption of laws under an urgent procedure (in which RIA is not mandatory and consultation is almost non-existent) continues to undermine the quality of legislation; this is the main reason for the too high number of amendments in new legislation.

Transparency in Public Administration

The legal framework aimed at improving transparency is almost complete and is being reviewed in order to better ensure its objectives and/or align them with other legislation and with EU regulations and international conventions). This is the case of the Law on General Administrative Procedure, the Law on Free Access to Public Information and the Law on Personal Data Protection.

Regarding the Law on Free Access to Public Information, at the time of the Sigma mission the annual report of the Commission on Free Access to Public Information was not yet available. According to the law, this report can only be published after it has been debated and adopted by parliament, and these conditions have not yet been fulfilled. However, the Foundation Open Society Institute-Macedonia (SOROS) published in November 2007 a report on the implementation of the Law on Free Access to Public Information, entitled "A Wall of Silence". This report is based on the monitoring of implementation of the law in the period from September 2006 to September 2007 and highlights several problems related to this implementation; for instance, *(1)* central and local bodies were not ready or fully ready to implement the law, despite the

expressive *vacatio legis* provided; *(2)* in many bodies no official had been appointed to handle the requests for information; *(3)* the lists of public information that had to be developed and updated under the law were either not prepared or were not fully prepared or updated; *(4)* many requests were denied on the grounds that the information requested represented classified information; and *(5)* for 40% of the submitted requests the holders of the information requested provided no response.

The report also contained recommendations for improvement of the law and its practical implementation and identified training as a powerful instrument that could be used to ensure the exercise of the constitutionally guaranteed right of access to public information.

The Commission on Free Access to Public Information also stresses the need for training the official persons in charge of the implementation of the law. It also reports that out of 330 appeals that it received in 2007, 142 were approved and 103 were withdrawn because the information required had been provided.

A number of measures have been adopted by the government to increase transparency in the work of public administration, namely with regard to the process of elaboration of new regulation. The drafted amendments to the Law on General Administrative Procedure and to the Law on Personal Data Protection could also contribute to this aim of increased transparency.

However, there are many claims that transparency is lacking in many aspects of the government's and public administration's business, especially in regard to public procurement and the sale of state property. There is also a lack of transparency with regard to the assets to be declared by public officials and high-ranking civil servants at the time of taking up duty and when leaving office. Although these declarations are now made public on the SCPC's website, a number of cases have been reported of misleading or incomplete declarations, as well as declarations made extemporarily.

The activity of the Commission on Free Access to Public Information should be strengthened and the law must be effectively implemented. For this purpose, a training programme is needed.

Protection of Legality by Civil Servants

The Law on Civil Servants (LCS) applies to civil servants working in all state institutions (not only in institutions depending on the government). While the LCS establishes the rule that civil servants are subject to the orders and instructions of their hierarchical superiors that are issued in accordance with the Constitution, laws and applicable regulations, it clearly states that civil servants are in any case obliged to perform their duties in accordance with the Constitution and the law. The LCS gives them the right to request written confirmation of an order that they consider to be unlawful and to disobey a hierarchical order which, if executed, would constitute a criminal offence. However, an unlawful action by a civil servant may give rise to personal liability for any damages caused to a third party (whether intentional or as a result of gross negligence) and may, in some serious cases, constitute a criminal offense.

In any event, the actual position of civil servants vis-à-vis their hierarchical superiors – and in particular politicians or political appointees heading ministries and other state institutions – is quite weak. Additional measures would be needed to ensure the independence of civil servants in exercising their duties at the service of citizens, as well as their accountability in case of unlawful behaviour or decisions.

Control and Review of Administrative Decisions

The Ombudsman

The Ombudsman plays a relevant role in monitoring the activity of the administration and is gradually being accepted across all public institutions and by the public. Its capacity is also improving and a mechanism to follow up the implementation of its recommendations was agreed with the government.[10]

Administrative review

According to the legislation in force, as a rule first-instance administrative decisions can be appealed to and reviewed by the appeals commissions established in each state administration body. However, the actual

10 For more information on the Ombudsman, refer toSigma's assessment report on the public integrity system in Macedonia.

effectiveness of this mechanism is now under review by the Ministry of Justice, as several reports and studies undertaken by the State Administrative Inspectorate have revealed that, in many cases, this review mechanism might simply delay the adoption of a decision or prevent the access of interested parties to judicial review.

The State Administrative Inspectorate, on the other hand, is a mechanism of control, which focuses mainly on examining the way in which administrative units and bodies manage administrative procedures.

Judicial review

However, the most important development that has taken place over the past year is the actual establishment of a (central) Administrative Court, made up of 19 judges (including the president), which has taken over the jurisdiction formerly assigned to the Supreme Court. The creation of this new and specialised court was accompanied (in 2006) by the adoption of a new Law on Administrative Disputes (administrative court proceedings).

The new Administrative Court started its operations on 1 January 2008 and, at the time of the assessment, the court had a staff of 14 civil servants (six of them temporarily seconded from the Supreme Court). It is envisaged that by the end of this year the Court's own staff will reach the number of 24, but it will still take some time to fill the total number of positions in the Court's "systematisation" (104). As for judges, the Court will be completed this year with the appointment of three new judges. Some of the judges of the Administrative Court have already served as judges (none of the judges of the Supreme Court dealing with administrative law cases accepted to become a member of the Administrative Court), while others were appointed from among jurists with more than five years' experience as practicing attorneys or as staff of the Supreme Court.

The Court has organised its work in six chambers of three judges each; all of the judges are competent to deal with specific types of administrative law cases.

The Administrative Court received from the Supreme Court a backlog of 6,664 cases (since May 2007, the Supreme Court ceased to process any new cases) and in the two first months of operation it concluded 494 cases. Of these 494 cases, 50% were adjudicated in accordance with the demands of the claimants.

The Administrative Court does not have jurisdiction for disputes related to individual rights and obligations of civil servants, with the sole exception of decisions on appointment or dismissal of the highest senior positions (secretaries-general in constitutional or government institutions and state secretaries in ministries). Also, the Court does not have jurisdiction for adjudicating cases related to the legality of general normative instruments (regulations), since this jurisdiction is reserved for the Constitutional Court.

An important aspect of the Law on Administrative Disputes is that access to the Administrative Court is open not only to individuals or individual entities directly affected (in terms of their rights or legitimate interests) by administrative decisions, but also to organisations and associations (trade unions, consumers' associations) representing collective interests.

Another interesting development is that the Administrative Court is elaborating a communication strategy with administrative bodies, with the aim of raising awareness of the Court's jurisprudence and of thereby avoiding wrong decisions in similar cases.

The Ministry of Justice is also undertaking an analysis of the effectiveness and performance of second-instance (appeals) commissions in the state administration, which are now seen as being potential obstacles to the rapid access to judicial review of administrative decisions and as lacking any significant added-value in terms of ensuring the legality of decisions made by administrative bodies.

Liability and accountability

Article 11 of the Law on General Administrative Procedure sets the principle of "responsibility" as one of the overarching principles governing decision-making in administrative matters. All state bodies (administrative bodies and other state bodies when deciding on administrative matters) are responsible for any damage caused by making unlawful decisions or by unlawfully refusing to undertake appropriate activity. Also, article 75 of the LCS declares the liability of the respective "body" (those bodies listed in article 3, where civil servants work) for the "material" damages caused by a civil servant to a third party, in the course of performance of his/her official duties. In turn, individual civil servants are liable vis-à-vis the

state body in which they work for any damage "to the body" caused intentionally or as a result of complete negligence in carrying out their duties. When the damage was not caused intentionally or if compensation for the damage might "jeopardise the existence of the civil servant and his/her family", the minister or head of the relevant state body may completely or partially release the civil servant from his obligation to compensate for the damage.

Conclusions

Although the basic constitutional and legal administrative framework is in place, and contains necessary provisions for ensuring the legality of administrative actions, the actual functioning of the Macedonian administration still does not seem to be sufficiently transparent, efficient, objective and impartial; a number of practical loopholes too frequently allow overly discretional or, in some cases, even arbitrary decisions.

Furthermore, the procedures and mechanisms foreseen in the legislation for the administrative or judicial review of administrative decisions do not seem to be working effectively, from the standpoint of the guarantee of legality of decisions and the protection of the rights of individual citizens and entities interacting with the administration. In particular, the effectiveness of the mechanism of second-instance administrative appeals commissions has now been put in question.

However, the actual start of operations of the new Administrative Court at the beginning of 2008 has the potential to strengthen the legality and accountability of public administration authorities, especially in a number of case-sensitive areas (e.g. public procurement). Support must be provided to the Court so that it can eliminate the remaining backlog of cases and improve its control on the activity of the administration and reinforce the rule of law.

Final Conclusions and Recommendations

- Basically, the principles of the legal administrative framework in Macedonia are in line with European practices, and the institutions for developing, implementing and controlling this framework are in place.
- In the past year the situation has slightly improved in some areas. In this regard, some positive steps should be highlighted: improvement in the judicial review of administrative decisions, with the entry into operation of the new Administrative Court; progress in the first stages of the process of recruitment of new civil servants and in professional and trainee examinations managed by the Civil Service Agency (CSA); enhancement of CSA capacity in co-ordinating the implementation of the Law on Civil Servants (LCS).
- The political impetus aimed at obtaining better and quicker results through a more managerial approach – looking at the real needs of citizens and entrepreneurs, reinforcing monitoring mechanisms for the implementation of legislation, and using wide consultation mechanisms to improve the overall quality of governance (at least regarding economic issues) – has continued in the period under assessment, with the key role being played by the Secretariat of the Government (Sector for Political Analysis and Co-ordination). However, this approach should not put at risk the full respect of the law and the guarantee of individual rights.
- As in the previous report, professionalism and depoliticisation of the civil service remain concerns. Political interference and cronyism in the process of recruitment for vacant positions, as well as the non-transparent practice of re-assignments and demotions, are still too frequent. It remains to be seen whether after the coming elections (and depending on the political changes in the government) a new wave of dismissals of managers will again occur, as happened at the very beginning of the current government.
- Ethics in civil service should be strengthened. The loophole created by the derogation of the new Law on Conflict of Interest from provisions in the Law on the Prevention of Corruption with regard to the professional civil service (not covered by the new Conflict-of-Interest Law) needs to be eliminated by amending the relevant sections of the LCS.
- The scope of the Law on Civil Servants (LCS) remains a problem and could even be aggravated by the approval of the draft Law on the "Court Service", which puts in question the application of the

LCS to staff working in the court administration. The classification system should be made more flexible, so as to accommodate the various organisational realities and justified traditions in some of the public powers to which the civil service statute applies (i.e. the judiciary). At the same time, this system must ensure the uniform and uncompromised implementation of basic civil service principles, as set out in the LCS, across all state authorities (state administration and constitutional or independent public bodies).

- The scope of the Civil Service Agency (CSA) is also problematic, as it is defined by the narrow scope of the LCS. In the short term, this scope should be extended to include all functions in the state administration and in the long term to include all non-political public employment (within the government).
- The institutional positioning of the CSA – under parliament – does not seem to be the most suitable for the performance of human resources management of the civil service, which is a main responsibility of the government. The capacity of the CSA must be strengthened, mainly in terms of more numerous and better qualified staff.
- The use of short-term contracts under the Law on Agencies for Temporary Employment has increased flexibility in hiring staff whenever necessary. However, as previously reported, a matter of concern is the misuse of such contracts for the performance of either permanent functions or managerial functions. The situation must be closely monitored, because it risks creating serious problems in the near future. For the time being, the exact dimension of the use of these contracts is unknown.
- The current civil service system does not provide either incentives for better performance or opportunities for promotion based on merit. The introduction of internal competition – and giving it preference over open public competition, except for lower positions – could enhance motivation by increasing career expectations.
- The civil service salary system lacks competitiveness, as the salaries are still low, and it is not fair, as it is not a unified system. The envisaged implementation of the career supplement, possibly in the second half of 2008, could have a positive impact on motivation, depending on the fairness of its implementation and the accuracy of the tools used to assess performance. The objective of increasing salaries by 30% in three years should be closely monitored because it seems that inflation is growing in a way that could annul the effects of such an increase.
- The performance appraisal system, which has been implemented (although not in every civil service organisation) in recent years, should be re-assessed in terms of its practical results, not only because it is supposed to provide essential inputs to the salary system and to career development, but also because there is some evidence at this stage that the system might have been used not so much to measure and encourage performance but to better "position" the majority of civil servants so that they will receive salary increases when the "career supplement" and "performance-related rewards" are eventually implemented.
- Training needs to be further developed, financed, assessed and co-ordinated. Clear priorities must be defined. The comprehensive strategy that is now being prepared by the CSA should enable the development of professional qualifications and skills of state civil servants in all civil service authorities, improving their ability to ensure a uniform and consistent implementation of legislation (especially *acquis*-related legislation) and to perform a more transparent and efficient management of the public administration and services.
- The system in place, which aims to protect legality in the actions of the public administration and in the management of the civil service, has some shortcomings that need to be resolved. In-depth and substantive reviews of the functionality and actual performance of second-instance administrative commissions (including the commission set up within the CSA for decision-making affecting the status of civil servants) should be undertaken and completed within the year, so that appropriate decisions can be made on this front.
- A framework and conditions need to be developed for the establishment of constructive social dialogue on civil service matters, mainly between the government and organisations representing civil servants, and for ensuring the participation of staff representatives in key aspects of human resources management.