

TOWARDS INTEGRITY IN PUBLIC SERVICE IN EASTERN EUROPE AND CENTRAL ASIA¹

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Abstract

Many countries in Eastern Europe and Central Asia are in the process of transforming their civil service systems to meet the aim of serving public interests. This paper discusses current status of this endeavour in the regional countries and provides an analysis of the countries' efforts to ensure integrity in public service by elaborating on the experiences of Armenia, Kazakhstan, Georgia and other states. Particularly, it stresses upon the practices of merit-based competitive recruitment, implementation of performance-based pay systems as well as underlines the importance of ensuring ethical and legal norms to prevent corruption, mitigate conflict of interest and promote core public service values. Author also points out challenges these regional countries are facing today in pursuing these policies and, as such, she considers a misinterpreted notion of professionalism in civil service and weak autonomy of public servants in their decision making among other issues. Accordingly, recommendations are made as to train civil servants on the public service values and enhance their practical ethical skills as well as nurture respect for the rule of law and enforce corruption offences to achieve integrity in the public administration.

Key Words: public service, meritocracy, public interest, conflict of interest, corruption, integrity, Eastern Europe, Central Asia.

I. Introduction

Public services in Eastern Europe and Central Asia are moving towards the new objective of serving the public interests. Professional public services are called to protect the interests of the states from group interests such as political or other narrow interests. Countries

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need to create practical mechanisms to prevent undue influence on the professional servants through the merit-based recruitment, guaranteed employment, objective pay, and autonomy of their decision-making.

Merit-based and competitive recruitment in public service is becoming common in the region, but it rarely involves high level officials. Countries are reforming their evaluation and promotion systems, sometimes aiming to introduce a performance-based pay schemes. However, practical implementation of such performance based practices remains difficult.

Following chapters elaborate on these aspects in more details.

II. Serving the public

Public services in Eastern Europe and Central Asia are undergoing a major transformation and moving from the past objective of serving a tsar or a politbureau towards the new goal of serving the people. However, after several decades of the transition process the notion of the public interest is still not very clear for the citizens or for the so-called elites. Public interests and individual freedoms often remain abstract ideas not supported with operational definitions and rules. In some countries interests of clans – regional, ethnic, family, criminal or other – dominate over the interests of individual citizens or of the nation.¹

For instance, a person from a remote village who took up a job in a state institution in the capital is expected to find well paid and comfortable jobs for his relatives and other villagers irrespective of their merits. This tradition in many countries is much stronger than the formal laws that forbid cronyism. Besides, sanctions for breaking the tradition are much stronger than for breaking the law: the family can excommunicate this person, while there are rarely sanctions for finding good jobs for relatives. In this way, the society may accept illegal behaviour and even push the person to act in the interests of his village against the interests of the whole nation. Changing traditions is a long-term challenge; the law will prevail over the tradition only when the citizens learn about and become convinced in the benefits the rule of law.

Political and democratic processes that are needed to define public interests are only emerging in the region. In mature democracies

¹ Cardona, Francisco, "Evolving civil service systems in Central and Eastern Europe", Sigma. Available online at www.sigmainweb.org.

political debates allow for the opposing views to identify and formulate specific and operational rules that would correspond to the interests of the citizens and, eventually, be reflected in laws. All the Eastern European and Central Asian countries now have the institute of elections in place – more or less free and fair – that constitutes one element of the democratic system. Yet, political parties are very weak, and they rarely represent ideologies of different strata of the societies. Rather, they often act as groups of individuals that organise themselves to gain access to power – and, ultimately, to resources – under any ideological banner of populist nature. There are also countries in the region with one dominant pro-governmental party that does not allow any political debate at all, but rather serve as a PR department for its political leader. Apart from the elections, there also should be many other democratic elements – such as the effective control over the use of the tax payers' money, a free media and fair courts – which are still missing or weak in the region.

As a result, the line between the politics and public service in Eastern Europe and Central Asia is very unclear. Interests of the head of the state – a politician in power of the day or a lasting dictator – are often identified with the interests of the state. The objective of the public service in such conditions also remains unclear and professional bureaucrats may not be able to protect the supremacy of the law against abuses by political interests.

III. Professionalism

Professionalism is one of the standards of public service in modern democracies with competitive economies. In Eastern Europe and Central Asia professionalism is often misunderstood as a synonym of qualification, knowledge, skills or experience. In fact, professionalism of public service should be regarded as the synonym of the profession that is responsible to protect the interests of the state from group interests such as political or any other narrow concerns (Cardona and Erikson, 2015).

One of the tools to ensure professionalism is a clear separation of the professional bureaucrats from the politicians. There is certain progress in Eastern Europe and Central Asia in securing such separation in the legislation i.e. they unambiguously establish definitions in the relevant laws to differentiate between the professional and political officials.

For example, in 2013, Kazakhstan enforced important amendments in the public service legislation that introduced a new model of civil service. The new model is composed of three categories of civil service: corps A that includes senior executive administrative public positions, corps B that includes other lower level administrative public positions, and political public offices whose appointment, dismissal, and performance are of a political nature, and who are responsible for the implementation of political objectives. Corps A was set up to make the public service professional. It currently comprises 539 civil service positions that undergo new, distinct procedure for recruitment, performance appraisal, rotation and training.

In spite of drastic decrease in the number of political offices, it is considered that there are still some important positions that are unreasonably included in the political group, for instance, posts of the Chairman and a member of the Constitutional Court; the Chairman, Deputy Chairman, Secretary and members of the Central Election Commission; Chairman of the Supreme Judicial Council; Human Rights Ombudsman and some others. Besides, the Civil Service Register that establishes position's categorisation is approved by the Presidential Decree, and not by law, and, therefore, there is still much of the discretion.

Table 1. *Civil Service of the Republic of Kazakhstan**

During the Second Round of Monitoring, September 2011		During the Third Round of Monitoring, March 2015
Political civil servants	3 116	439
Administrative civil servants of which:	84 273	97 392
Corps A senior/executive level		539
Corps B lower level		96 853

* Source: 3rd round monitoring report on Kazakhstan, ACN, OECD, 2015.

It should also be pointed out that while there is some progress in the legal separation between the professional and political officials, all countries in the region face an important challenge of ensuring that professional public officials can in practice resist the pressure – and ultimately illegal orders – from the political leaders and, thus, safeguard the rule of law and public interests. For instance,

several countries in the region have seen major dismissals of civil servants following elections' results and changes of governments. In Georgia, for example, after the October 2012 parliamentary elections, the new government has dismissed a large number of civil servants from different administrative bodies and replaced them with acting civil servants. These replacements were mainly carried out without an open competition that might heavily affect the neutrality and impartiality of the civil service. According to Transparency International Georgia, after the elections at least 5 149 employees were dismissed from public institutions, including 3 301 from the central state authorities and 1 869 from the local self-government bodies. Later on, acting civil servants had to take part in the competitions in order to keep their positions (OECD, 2013a; 2015).

Another significant obstacle for the professionalism of civil servants in the region is the lack of autonomy of civil servants in their decision making. Ministers and heads of the state bodies have full power to take all decisions in their institutions. The duties and responsibilities of individual public officials, and their decision-making powers are not well defined. There is no sound data to support this argument, but there is abundant anecdotal evidence showing that low and middle level officials have little, if any, opportunity to initiate decisions, and are only expected to execute orders from above. Apart from politicising the decisions-making process, this system also reduces the attractiveness of the civil service, in general. Skilled and creative individuals who may wish to serve their countries will not be motivated to join the civil service, where the pay is low and individuals cannot make any difference. For instance, almost immediately after the reform of the public service in Kazakhstan that was aiming to ensure stability of the service, the President took a decision about a major restructuring of public institutions, which became a surprise even to the senior public servants, and led to some strange arrangements such as the merger of the public service and anti-corruption bodies (OECD, 2013b).

IV. Meritocracy

Merit-based and competitive selection and appointment of professional public officials is one practical tool to ensure professionalism and limit undue political influence. Basic elements of the merit-based and competitive recruitment of public officials is in place in the most countries of the region. Many countries

have adopted competitive procedures, unified rules, requirement of publishing of vacancies, establishing selection and appeal commissions. Nevertheless, important concerns remain: the competition-based recruitment of new public servants in the majority of countries only applies to lower levels of servants, discretion of heads of state bodies or political leadership remains broad, and recruitment without competition in practice is still common.

For example, in Kazakhstan, centralized testing was introduced for the entry to public service candidates to Corps B or lower positions. This helped to increase the number of applicants: in 2011, 1 950 persons took the tests monthly, in 2012 – 2, 300, and in 2013 – 4 700 persons. A separate procedure was introduced for filling the vacancies in Corps A or senior and executive positions. The applicants willing to be recruited in the Corps A must submit their application to the National Human Resources Policies Commission led by the Head of the Presidential Administration. The applications are screened by the Civil Service Agency, and eligible candidates are invited to sit the test. The National Commission assesses the results and holds interviews, and based on the outcomes it recommends to admit the applicant to the human resources reserve. State agencies seeking to hire a Corps A official organise separate competitions among those included in the reserve. However, former members of the Parliament, full-time members of the maslikhats, political public servants, and judges may be appointed to the administrative public positions by the President without any competition, and this practice is not compliant with the merit-based principle (OECD, 2014).

Another example is Georgia that introduced important changes in the legislation related to the recruitment of civil servants. As such, all vacancies in the civil service, including high level positions, should be filled through competition; all vacancies are published by the online recruitment portal www.hr.gov.ge; temporary appointments without competition are limited for high-ranking officials by one year and for other public servants by three months. However, these new legal provisions have not been fully implemented in practice.

Just as elections do not equal democracy, competitive and merit-based recruitment alone does not equal meritocracy. There are several other mechanisms that are called to promote meritocracy. For instance, many countries around the world are reforming their evaluation and promotion procedures and pay systems. Countries in Eastern Europe and Central Asia are also struggling to introduce

performance evaluations and develop procedures and criteria that will allow evaluating the performance of public officials in an objective manner. However, at present a lot of discretion remains in the hands of the senior managers during the evaluation and promotion of civil servants.

In Kazakhstan, for example, the Presidential Decree issued in 2013 sets out a new procedure for the annual performance evaluation and attestation of civil servants. The new performance evaluation methodologies for Corps "A" and Corps "B" public servants were effective since 2014. The new evaluation rules link incentives and performance results such as bonuses, training or career planning. If the performance of the civil servant is deemed unsatisfactory, he will have to undergo an attestation that will decide whether to keep such civil servant. Each public agency is responsible for the evaluation of their civil servants. When deciding on promotion, opinion of the manager and colleagues (subordinates) will be taken into account. No data is available yet to assess the results of these reforms.

As for the remuneration systems for public servants, they may be used to reward merits and promote performance, or be abused to influence professional officials by their political masters and tame their obedience and loyalty. In Eastern Europe and Central Asia, very high level of the variable part of the pay is a common problem together with lack of objectivity and transparency. In some countries the level of pay is very low, and public officials living on their official salary may seek for other illicit income to sustain themselves.

Some regional countries have recently improved their remuneration systems. For instance, in Armenia, in 2013, the National Assembly adopted the Law on Remuneration for Persons Holding State Positions which establishes a unitary pay system of public service. The Law covers all public officials, including the high-ranking officials, and provides for transparency and predictability of the remuneration. It also regulates provision of bonuses and social benefits for public servants. Bonuses can be provided to public officials based on the results of their performance evaluation, which is conducted twice a year for public officials, and once a year for judges, and for the performance of special tasks. Decision about the bonuses should be reflected in a governmental decision to ensure the transparency. The amount of bonuses is fixed, and it can be as high as one monthly salary; each public official can receive not more

than two additional salaries per year. The salary fund for the public official includes a 10% reserve for bonuses. If there are savings in the salary fund, these savings can also be used for additional bonuses, which are decided by the head of each state body. In addition to the salaries and bonuses, the public officials are entitled to pensions and insurance package, but political and high-ranking officials are not entitled to it. The remuneration rates were also increased significantly.

It is to be noted that many countries attempt to link bonuses and other incentives to the results of the performance evaluations, but the outcomes of these efforts are not well known. Countries are not able to provide reliable information about their remuneration systems, and in some countries in the region this information remains confidential. While performance pay system may appear as an attractive idea, it can be difficult and costly to implement it in practice, especially when civil service is going through major transformation. Consequently, this may undermine the perception of fairness and increases politicisation, which also remains as one of the persisting problems in the region. Besides, experience of some of the western democracies suggests that bonuses cannot provide a very important financial incentive, as, normally, due to budget constraints they cannot be too high or permanent. It is, therefore, important to search for other forms of incentives for higher performance and attractiveness of public service, such as new organisation of work processes, mobility and flexibility at work, higher autonomy and possibility for innovation, access to training and career development (Demmke, 2014).

V. Integrity

Reforms aiming to professionalise public servants should protect them from undue influence from politicians, but they may also turn them into half-gods and isolate from the citizens, if these reforms are not implemented hand in hand with the measures to promote integrity, prevent and punish conflict of interest and corruption, and ensure transparency and accountability of the state institutions.

In these contexts of public service reforms, it is important to clarify core values of public service, update and promote the use of the modern Codes of Ethics for public administration at large and for specific professions with high integrity risks in particular. Recent research suggests that very often training on the core values and

codes of ethics is conducted in a very legalistic and formalistic way in Eastern Europe and Central Asia, and, as a result, is it not effective at all. Governments need to develop and deliver integrity training that is tailor-made for the specific groups of public officials that not only lectures about the legal norms, but also helps to develop practical ethical skills (OECD and Cigma, 2013). Good international practice suggests that the codes of ethics play a soft role in promoting integrity by formulating values and guidelines as opposed to a hard tool to punish bad behaviour.

Conflict of interest (CoI) is wide spread in Eastern Europe and Central Asia, and it requires a very strong attention during the reform of the professional public services as well as when setting the rules for the political officials. Good international practice requires that CoI regulations, prohibitions and limitations for civil servants should provide clear definitions and rules, including enforcement mechanisms and sanctions. Many countries in Eastern Europe and Central Asia have improved their legal definitions of CoI and some have strengthened institutions called to enforce conflict of interest rules. For instance, in Armenia, the Law on Public Service foresees the establishment of a new body – the Ethics Commission for High-Ranking Officials – which will be responsible for detecting conflict of interest violations and preparing recommendations for their prevention. However, overall it is difficult to assess practical implementation of conflict of interest policies as countries do not have relevant statistics.

A large number of countries in the region have also introduced asset declarations for public officials as a tool to control conflict of interest (OECD, 2011). However, very often the focus of these declarations remains narrow, as systems lack sanctions for violation of conflict of interest rules, while proactive public disclosure of declarations is not ensured in all countries. Some states have not still adopted such asset declaration systems: it is striking that Kazakhstan is one of them, despite all its efforts to create an elite core of the senior public officials, thus allowing them to remain hidden from the public scrutiny.

Finally, establishment of clear-cut offences for corruption behaviour in the criminal legislation is a part of the international standards that has a very strong role in preventing corruption and promoting integrity. While in Eastern Europe and Central Asia there is a wide spread tradition of punishment for various crimes, enforcement of

corruption offences is not very strong in practice. In particular, there are very few cases of sanctioning high-level or political officials for corruption, which indicates the weakness of the law enforcement and sends a wrong signal to the society as a whole and to the public officials, specifically. Therefore, it remains of paramount importance to improve the enforcement of corruption offences in order to ensure integrity of the public administration.

In summary, to prevent public officials from becoming too isolated from the citizens, governments should train them about public service values and develop their practical ethical skills. They also need to adopt clear and strong rules against conflict of interest that is very common in the region. Asset declaration systems should cover all high level officials and officials working in the integrity risk sectors as well as be supported with strong sanctions and disclosed for public. In addition, enforcement of the corruption offences against high level officials is also one of the strongest and effective tools to promote integrity in the public administration and in the society, in general.

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